

PUBLIC HEARING

before

**ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS, PENSIONS
AND VETERANS' AFFAIRS COMMITTEE**

on

**ASSEMBLY BILL 1308 and ASSEMBLY BILL 1309
and
SENATE JOINT RESOLUTION 16**

(Divestiture of State Public Pension Funds in South Africa)

Held:
July 10, 1984
Assembly Chamber
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph Charles, Jr., Chairman
Assemblyman Thomas W. Long, Vice Chairman
Assemblyman Harry A. McEnroe

ALSO PRESENT:

Senator Wynona A. Lipman
Assemblyman Alan J. Karcher
Assemblyman Willie B. Brown
Assemblyman Eugene H. Thompson

New Jersey State Library

Donald S. Margeson, Research Associate
Office of Legislative Services
Aide, Assembly State Government, Civil Service, Elections,
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ASSEMBLY, No. 1308

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Assemblymen KARCHER, BROWN, THOMPSON, WATSON,
CHARLES, BRYANT and Assemblywoman GARVIN

AN ACT concerning the investment of certain State funds and
amending and supplementing P. L. 1950, c. 270.

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 5 of P. L. 1950, c. 270 (C. 52:18A-83) is amended to
2 read as follows:

3 5. There is hereby established in the Division of Investment a
4 State Investment Council which shall consist of **[10]** 12 members.

5 Within 10 days after the effective date of this act each of the
6 following agencies, namely, the Board of Trustees of the Public
7 Employees' Retirement System, the Board of Trustees of the State
8 Police Retirement System, the Board of Trustees of the Teachers'
9 Pension and Annuity Fund, the Board of Trustees of the Police
10 and Firemen's Retirement System of New Jersey and the Con-
11 solidated Police and Firemen's Pension Fund Commission, shall
12 designate one of their respective members to serve as a member
13 of the State Investment Council herein established. The five mem-
14 bers of the council so selected shall serve as such for a period of
15 one year from the date of their selection and until their respective
16 successors are in like manner selected. **[Each of the remaining**
17 **5]** *Five* members of the State Investment Council shall be ap-
18 pointed by the Governor for a term of five years and shall serve
19 until his successor is appointed and has qualified; except that of
20 the first appointments to be made by the Governor hereunder, one
21 shall be for a term of one year, one for a term of two years, one

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

22 for a term of three years, one for a term of four years, and one
 23 for a term of five years, and they shall serve until their respective
 24 successors are appointed and have qualified. The term of each of
 25 the members first appointed hereunder by the Governor shall be
 26 designated by the Governor. *Two members of the council shall be*
 27 *appointed jointly by the President of the Senate and the Speaker*
 28 *of the General Assembly from among the members of the Legis-*
 29 *lature, not more than one of whom shall be of the same political*
 30 *party, and who shall serve during the two-year Legislature in*
 31 *which they are appointed.*

32 At least three of the five members appointed by the Governor to
 33 the council shall be qualified by training and experience in the field
 34 of investment and finance. No member of the State Investment
 35 Council *appointed by an agency or the Governor* shall hold any
 36 office, position or employment in any political party nor shall any
 37 [such] member benefit directly or indirectly from any transaction
 38 made by the Director of the Division of Investment provided for
 39 herein.

40 The members of the council shall elect annually from their
 41 number a chairman of such council. Any member of the council
 42 so elected shall serve as such chairman for a term of one year and
 43 until his successor is, in like manner, elected. The chairman of the
 44 council shall be its presiding officer.

45 The members of the council shall serve without compensation but
 46 shall be reimbursed for necessary expenses incurred in the perfor-
 47 mance of their duties as approved by the chairman of the council.

48 Each member of the council *appointed by an agency or the Gov-*
 49 *ernor* may be removed from office by the Governor, for cause, upon
 50 notice and opportunity to be heard at a public hearing. Any vacancy
 51 in the membership of the council occurring other than by expira-
 52 tion of term shall be filled in the same manner as the original ap-
 53 pointment, but for the unexpired term only.

1 2. Section 6 of P. L. 1950, c. 270 (C. 52:18A-34) is amended to
 2 read as follows:

3 6. The Division of Investment established hereunder shall be
 4 under the immediate supervision and direction of a director, who
 5 shall be a person qualified by training and experience to direct the
 6 work of such division. The director of such division shall be ap-
 7 pointed by the State Treasurer from a list of one or more persons
 8 qualified for such office and submitted to the State Treasurer by
 9 the State Investment Council; provided, that the State Treasurer
 10 may require the submission of an additional list or lists. Each list

11 so submitted by the council shall also contain the qualifications of
 12 each person whose name appears thereon who shall be certified by
 13 the council to the State Treasurer as qualified for the office of di-
 14 rector of such division. The detailed qualifications of each person
 15 so named by the council shall be contained in such certification.

16 Any director so appointed shall serve without term but may be
 17 removed from office (a) by the State Treasurer, for cause, upon
 18 notice and opportunity to be heard at a public hearing, or (b) by
 19 the State Investment Council, if ~~seven~~ eight or more members
 20 thereof shall vote for such director's removal from office.

21 Any vacancy occurring in the office of the Director of the Division
 22 of Investment shall be filled in the same manner as the original
 23 appointment.

24 The director of said division shall devote his entire time and
 25 attention to the duties of his office and shall not be engaged in any
 26 other occupation or profession. He shall receive such salary as
 27 shall be provided by law.

1 3. (New section) There is established in the Division of Invest-
 2 ment in the Department of the Treasury a Citizens' Investment
 3 Advisory Committee to consist of six residents of the State to be
 4 appointed for terms of two years as follows: two members to be
 5 appointed by the Governor, two members to be appointed by the
 6 President of the Senate and two members to be appointed by the
 7 Speaker of the General Assembly. Not more than one of each
 8 group of two shall be a member of the same political party. Of
 9 the first six members appointed, one of each group of two shall be
 10 appointed for a term of two years and one for a term of one year.
 11 All members shall serve after the expiration of their terms until
 12 their respective successors are appointed and shall qualify. Vacan-
 13 cies shall be filled in the same manner as the original appointment
 14 but for the unexpired term only. Members shall serve without com-
 15 pensation but shall be entitled to reimbursement for expenses in-
 16 curred in the performance of their duties.

17 The Citizens' Investment Advisory Committee shall organize as
 18 soon as practicable after the appointment of its members and shall
 19 annually select from among its members a chairman and a vice-
 20 chairman. The Division of Investment shall provide the committee
 21 with reasonable administrative, professional, technical and clerical
 22 staff assistance, subject to the availability of funds.

1 4. (New section) The Citizens' Investment Advisory Committee
 2 is empowered to:

3 a. Consult with and advise the State Investment Council and the
4 Director of the Division of Investment with respect to the work of
5 the division and its investment policies and practices;

6 b. Conduct studies regarding investment policies and practices
7 as it shall determine or as the State Investment Council or the
8 Director of the Division of Investment shall request;

9 c. Monitor the investment policies and practices of the division
10 with regard to compliance with the investment principles specified
11 in this act;

12 d. Conduct public hearings with regard to the investment policies
13 and practices of the division or in conjunction with any study it
14 may undertake;

15 e. Maintain a continuing review of the investment policies and
16 practices of other states and public and private entities; and

17 f. Issue reports and make recommendations with regard to the
18 work of the Division of Investment and its investment policies and
19 practices to the Governor, the Legislature, the State Investment
20 Council and the Director of the Division of Investment.

1 5. (New section) It is the fiduciary responsibility of the State
2 Investment Council to preserve the capital and realize the greatest
3 possible returns on investment, commensurate with acceptable
4 standards of risk and prudence, for the pension funds under its
5 jurisdiction, and this responsibility shall be the primary and under-
6 lying criteria for its pension investment policies and practices. In
7 carrying out this responsibility, the council shall establish policies
8 and practices governing investment decisions for the pension funds
9 in accordance with the supplementary principles described in this
10 section. Each pension investment decision shall be made in con-
11 formity with at least one supplementary principle in each case
12 where the resulting investment or divestment offers a risk, rate of
13 return, opportunity or other condition of investment which is equiv-
14 alent to, or more favorable than, an alternative investment decision
15 that is not in accordance with the supplementary principle.

16 The supplementary principles governing the investment of pen-
17 sion funds are as follows:

18 a. Investments shall be made with full recognition of their social
19 and ethical consequences, and no investment shall be made in a
20 security of a public or private entity if the activities of the entity
21 serve to undermine basic human rights or dignities, or if the entity
22 engages in substantial business in a country which condones or en-
23 courages policies which serve to undermine basic human rights or
24 dignities, or if the entity has been judicially determined to be a

25 violator of any international, federal or state law regarding human
 26 rights, environmental protection, occupational safety and health or
 27 labor relations;

28 b. Investments shall be made in securities which are issued by
 29 public or private entities located within the State of New Jersey;

30 c. Investments shall be directed to the promotion of the economic
 31 development of the State of New Jersey and shall be designed to
 32 have a positive impact on such factors as employment, wages, State
 33 and local tax bases, inter- and intra-state trade and economic
 34 activity, revitalization of urban centers, and the diversity of the
 35 State's commercial and industrial character;

36 d. Investments shall be directed to the promotion of new or ex-
 37 panding businesses within the State of New Jersey;

38 e. Investments shall be directed to the promotion of small busi-
 39 nesses within the State of New Jersey which are owned or con-
 40 trolled by socially or economically disadvantaged individuals as
 41 defined by section 8 (d) of the federal "Small Business Act," Pub.
 42 L. 95-536 (15 U. S. C., sections 637 (a) and 637 (d)) and any
 43 regulations promulgated pursuant thereto;

44 f. Investments shall be directed to the promotion of the avail-
 45 ability of new or rehabilitated housing within the State of New
 46 Jersey for persons of all income ranges; and

47 g. Investments shall be directed to the promotion of alternative
 48 energy resources and systems and energy conservation programs.

1 6. (New section) The State Investment Council shall annually
 2 adopt and file with the Legislature an investment strategy plan,
 3 which shall set forth plans and procedures by which the council
 4 expects to meet the goals and objectives of the investment princi-
 5 ples described in this act.

1 7. (New section) The State Investment Council shall file with the
 2 Legislature a quarterly report describing its investment trans-
 3 actions of the previous three-month period and the degree to which
 4 the transactions conform to the annual investment strategy plan.

1 8. (New section) The State Investment Council shall adopt rules
 2 and regulations to implement the investment principles specified
 3 in this act and shall bring the pension investments into compliance
 4 with these principles within two years after the effective date of
 5 this act, except that nothing in this act shall be construed to require
 6 the premature sale, redemption, withdrawal or divestment of any
 7 investment in effect on the effective date of this act.

1 9. This act shall take effect immediately.

STATEMENT

This bill sets forth a new investment strategy for public pension funds as recommended in a report to the Legislature by the sponsor on January 25, 1984.

The bill requires the State Investment Council, which guides the Division of Investment in the management of the six State pension funds, to make investments within the State of New Jersey to meet a number of goals whenever the expected rate, risk or terms of the in-State investment are commensurate with those available for other investment opportunities. While the bill establishes the principle that the primary responsibility of the council is to preserve the capital and realize the greatest possible returns on its investments, commensurate with acceptable standards of risk and prudence, the bill nonetheless requires the council to follow a number of supplementary principles when setting investment policy.

In addition to the principles governing investment in New Jersey, the bill also provides that the council refrain from any investment in companies or countries with poor records of compliance with basic standards regarding human rights, employment practices, labor relations, health and occupational safety and environmental safeguards.

The bill also adds two legislators to the 10-member council; establishes a Citizens' Investment Advisory Committee; and requires the council to adopt regulations to implement the new principles and to prepare an annual investment strategy plan.

ASSEMBLY, No. 1309

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Assemblymen BROWN, CHARLES, KARCHER, THOMPSON,
WATSON, BRYANT and Assemblywoman GARVIN

AN ACT concerning the investment of certain public funds.

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Notwithstanding any provision of law to the contrary, no
2 assets of any pension or annuity fund under the jurisdiction of
3 the Division of Investment in the Department of the Treasury
4 shall be invested in any bank or financial institution which directly
5 or through a subsidiary has outstanding loans to the Republic of
6 South Africa or its instrumentalities, and no assets shall be in-
7 vested in the stocks, securities or other obligations of any company
8 engaged in business in or with the Republic of South Africa.

1 2. The State Investment Council and the Director of the Division
2 of Investment shall take appropriate action to sell, redeem, divest
3 or withdraw any investment held in violation of the provisions of
4 this act, except that nothing in this act shall be construed to
5 require the premature sale, redemption, divestment or withdrawal
6 of an investment.

1 3. Within 30 days after the effective date of this act, the Director
2 shall file with the Legislature a list of all investments held as of
3 the effective date of this act which are in violation of the pro-
4 visions of this act. Every three months thereafter, and until all
5 of these investments are sold, redeemed, divested or withdrawn,
6 the Director shall file with the Legislature a list of the remaining
7 investments.

1 4. This act shall take effect immediately.

STATEMENT

This bill requires the divestiture of all investments of the State's public pension and annuity funds which are directly or indirectly linked to the Republic of South Africa. In view of the fiduciary responsibility of the State Investment Council to manage funds in a prudent manner, the bill sets no deadline for divestiture, but requires the council to file quarterly reports on its progress in reaching complete divestiture.

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SENATE JOINT RESOLUTION No. 16

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator LIPMAN

A JOINT RESOLUTION urging the government of South Africa to reconsider and rescind its present policies of apartheid and accord all of its citizens basic humans rights and privileges of equality.

1 WHEREAS, The Legislature of the State of New Jersey is aware
2 that the government of South Africa has, for a long period of
3 time, carried out the policies of a system known as apartheid;
4 and

5 WHEREAS, Apartheid, as it exists in South Africa, legally limits
6 the freedoms of black citizens of that nation, in such basic areas
7 as where blacks may work, what skills they may learn, pensions,
8 sick leave, disability benefits, the right to organize collectively,
9 the right to marry and the right to live in a place of their own
10 choosing; and

11 WHEREAS, This deprivation of basic human rights and govern-
12 mental oppression of a majority of its own citizens results in,
13 among other indignities, a situation wherein the almost 18 mil-
14 lion black residents of South Africa, constituting a vast majority
15 of that nation's population, earn less than 25% of the income
16 of that nation, and have little or no voice in the governmental
17 affairs of that nation; and

18 WHEREAS, Racism in this South African form is an anathema to
19 all of mankind and represents a policy no less horrible than that

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted May 14, 1984.

20 perpetrated by the Fascists and Nazi leaders in Europe during
 21 the decades of the 1930's and 1940's in which millions were
 22 murdered in the name of racial supremacy; and

23 WHEREAS, This Legislature is also aware that many prominent
 24 firms in the United States have substantial investments in busi-
 25 ness endeavors in that nation, which allow them to reap large
 26 profits which are engendered by the cheap labor market provided
 27 by the apartheid policies of South Africa which forces black
 28 citizens of that country to work for vastly substandard wages;
 29 and

30 WHEREAS, This Legislature strongly feels it to be in the best in-
 31 terest of this State and this nation to urge not only that the
 32 South African government eliminate its present policy of apar-
 33 theid and treat all of its citizens equally and accord each the
 34 same, basic human rights to which they are entitled, but also
 35 to urge those United States business firms with investments or
 36 operations in South Africa to carefully review those holdings
 37 with a view towards divesting themselves of those holdings;
 38 now, therefore,

1 BE IT RESOLVED by the Senate and General Assembly of the State
 2 of New Jersey:

1 1. The State Government hereby urges the government of South
 2 Africa to reconsider and rescind its present policies of apartheid
 3 and accord all of its citizens basic human rights and privileges of
 4 equality; and

1 2. The State Government urgently requests United States firms
 2 with investments or holdings in South Africa to carefully reconsider
 3 those investments or holdings with a clear view towards divesti-
 4 ture of same, on the grounds that continued financial participation
 5 in South Africa encourages that nation to continue its systematic
 6 violations of human rights under the apartheid system; and

1 3. The Governor, the Honorable Thomas H. Kean, "[reviewed]"
 2 "shall review contracts with" firms presently conducting business
 3 with this State who have South African investments or holdings in
 4 order to make those firms aware of this Legislature's position
 5 relative to that government's violations of human rights and this
 6 Legislature's further desire to have those firms consider a complete
 7 divestiture of investments or holdings; and

1 4. This Legislature, in considering and adopting this resolution,
 2 wishes to emphasize that it continues to be concerned about the

3 deprivation of human rights of all peoples, wherever situated, and
4 declares its intention to continue to speak out for the human rights
5 of all peoples on this Earth; and

1 5. Duly authenticated copies of this joint resolution be for-
2 warded to the President of the United States, the United States
3 Ambassador to the United Nations, the members of the United
4 States Senate, and the members of the House of Representatives.

1 6. This joint resolution shall take effect immediately.

ASSEMBLYMAN JOSEPH CHARLES, JR. (Chairman): Good morning, ladies and gentlemen, this public hearing will now begin. My name is Joseph Charles, and I am Chairman of the Assembly State Government Committee. Other members of the Committee here with us today are Assemblyman Harry McEnroe, to my far right, and Vice Chairman of the Committee, Tom Long. Other Committee members who are not present this morning are Assemblymen Bob Franks and Richard Zimmer.

We meet in this Chamber to hold a public hearing on four pieces of legislation which propose different measures against a single evil. That evil is a deliberate refusal by certain governments, notably the government of South Africa, to recognize the basic individual and political rights of whole classes of their countrymen, including rights that are commonly assumed to belong to men and women as human beings.

The steps that each of these bills propose to take in opposition to this evil are different. I will defer to the sponsors regarding a description of the specific contents of each bill. However, I note that none of the provisions in the bills appear to be in conflict with each other. So, the Legislature can, without inconsistency, enact or adopt any or all of them.

This public hearing will be conducted in the usual manner. Anyone who has indicated an interest in speaking today has had his or her name placed on a speaker's list and will be given time to make a statement. It would be helpful if before beginning their remarks, speakers identify themselves and the organizations they represent -- or the affiliations that bring them here today. Speakers should be aware that the Committee is reviewing more than one bill today, and it would be of assistance to the Committee if they would identify the specific piece, or pieces, of legislation to which their remarks are directed.

After the speakers have completed their statements, Committee members will have the opportunity to ask them pertinent questions. I understand that some speakers will be joined by other persons, just for the question and answer period. I would ask the speakers to introduce their companions to the Committee at the end of the speaker's remarks. For the record, those persons should then identify themselves

and the organization with which they are affiliated, in addition to any position they hold with the organization.

The proceedings of this hearing will be transcribed. However, it would be very helpful to the reporters and to the press if all speakers sign the Committee's witness list, located at the entrance to the Chamber. It would also be helpful if they submit a written copy of their statement.

I am very pleased to note that roughly 35 individuals have indicated an interest in addressing the Committee today on the important matters before us.

In addition to those who are with us today, several people, whose obligations prevent their appearance today, have indicated a strong interest in appearing at any future hearing the Committee may hold on this matter. Among this group are legislators who have sponsored similar legislation in other jurisdictions -- Massachusetts, Connecticut, Pennsylvania, and the District of Columbia.

The Committee may be interested to know that the sponsor of the Pennsylvania legislation is unable to be here only because the livestock bill he is sponsoring is under legislative review today in Harrisburg.

In light of the value of the testimony of these and other absent speakers, and also in view of the likelihood that we may be unable to give all of the people on today's speaker's list the opportunity to be heard, it is likely that the Committee will hold another public hearing on these bills at some time in the future. The time of the next hearing will be announced in due course. However, in order for as many people to be heard today as possible, I would appreciate it if speakers would limit themselves to no more than 15 minutes of speaking time.

We will continue without breaking for lunch, and conclude today's hearing in mid-afternoon.

I would like to thank all of you who are in attendance today for this very important matter, and I am looking forward to a very informative public hearing.

I think we will start the public hearing by calling Speaker Alan Karcher first, to explain his bill to the members of the Committee who are present.

I should add before you start, Mr. Speaker, that I believe everyone has received a copy of the witness list. I intend to follow that list, more or less. However, I have had some specific requests; because of time constraints some people have requested that they be moved up, or back, on the list. To the extent that is possible, and in fairness to those who have seen this list and who have planned their day based on it, I will use what I hope will be good judgment in juggling the list.

Speaker Karcher?

ASSEMBLYMAN ALAN J. KARCHER: Chairman Charles, first of all let me thank you for this opportunity, and also to commend you and the members of the Committee for taking your time in mid-summer to hold this hearing on what I obviously consider to be a matter of great importance, and something that should be a top priority here in the State.

Let me also tell you that I have a prepared statement. I think the members of this Committee, during their initial scheduling of this bill, heard my statement at that time, so I will submit it for the record. There is no need for me to go into it in depth today.

Therefore, let me take my time to discuss the context in which I think the State of New Jersey, through the State Government Committee of the Assembly, must consider this legislation.

First of all, to put this into context, let me remind everyone that we in the Legislature have just concluded, a week or so ago, what we consider to be the most important function of the New Jersey Legislature, and of New Jersey State government: the process of keeping the government running through our annual appropriations.

The budget this year was more than seven and one-half billion dollars, and the time and attention -- this is the point I wish to make -- that is given to that budget vastly exceeds anything we do with regard to legislative activity. I cannot tell you precisely how many days the Appropriations Committee met this year. Suffice it to say

they worked for at least two and one-half to three months, holding daily hearings.

Two years ago, in 1982, that Appropriations Committee took 104 separate days to work on the New Jersey budget. Those hearings deserve, warrant, and command a great deal of public exposure and public participation. They are covered by the press everyday. The proceedings are recorded on a daily basis, and reviewed on the nightly news and in the media to a very great extent.

The point I want to make, most emphatically, is that the State pays a great deal of attention to this, and there is a great deal of public limelight given to the appropriations process. We are talking about an annual function that involves an amount of money that is less -- substantially less -- than we are talking about when we speak about the pension funds that are available for investment by the State of New Jersey.

In contrast, in juxtaposition if you will, to the process that goes on for the annual appropriations, I challenge anyone to tell me, or to explain to me, that they have ever been provided with the opportunity to have any input whatsoever in pension investment. I challenge anyone to tell me that there has been any public exposure, public participation, or public discussion about the investment policies of this State. Yet, pension investment far exceeds the ramifications and consequences -- to the 360,000 public employees of this State, and also to every citizen of this State -- of the annual appropriations process, in a more perpetual and continuous manner.

What we hope to accomplish through Assembly Bill 1308 is to bring to the pension investment policy of this State the same type of attention, the same type of public participation, and the same type of public consciousness regarding what we are doing with those funds, as we do with other aspects of government. I have used the appropriations process to highlight this involvement.

The first principle of A-1308 is that government should not, and certainly cannot, operate -- if we are to be considered a just, equitable, and fair society -- in a moral and ethical vacuum. The concept of trying to say that what has been applicable for 100 years is

somehow still applicable, or should still be applicable, I think is outmoded and has long ago become a standard that is no longer operable in what we like to consider to be our enlightened and sensitive society.

The so-called prudent-man rule, taken to its logical conclusion, is nothing more than a John DeLorean mentality: That one has to gain the greatest rate of return on the dollar. As I said, if we were to follow that kind of thinking to its logical conclusion, maybe we would be looking at some very exotic investments, just as Mr. DeLorean looked at them.

The point is, we in New Jersey, and we in society, have to say there is some standard, there is some ethical, moral and legal standard, that should govern our investment policy. And, I would suggest that 1308, with its supplemental guidelines, provides us with the opportunity to put into place a standard for those of us who are part of government, and for those of us who are citizens of this State, so that we can be proud and satisfied that we are operating with a total outlook and not a narrow or confined outlook when we invest our funds.

I would like to point out that when we talk about investing our funds, we are investing funds which are contributed by, and which are the funds of, our public employees. Our public employees are not simply the members of the Investment Council. They are a very diverse and pluralistic group. They comprise a substantial number of people, men and women, who I know, from personal experience, find the concept of investment in certain countries, and in companies that do business in those countries, as personally repugnant. I think we have to raise our sensitivity and our standards to accommodate that sensitivity.

Let me also highlight that my bill goes beyond just the question of moral and ethical standards. What it does on a broader basis is say that we in New Jersey should have an additional sensitivity to the needs of New Jersey, that we should -- not being parochial and narrow in our view -- have a "New Jersey first" position and orientation with regard to our own economic well-being and our own economic health.

When we look at our investment policy, we can no longer look at what is an outmoded and outdated standard. What we should be looking at is a standard that, number one, has an ethical and moral component to it. Number two, it should have as its guidepost, as its northern star, "What is best for the people of New Jersey?" We are talking about, number one, no kind of concessionary investment; number two, nothing below market rate of return; and, number three, nothing that jeopardizes the financial fiscal health of the pension portfolio. We are talking about investments that are New Jersey oriented and that will guarantee the same rate of return, the same stability, and the same security. That is basic to this bill.

We have worked for two years on this legislation. We have had a number of criticisms, some of which was very constructive criticism. We have had any number of comments. We have invited as much public participation and public input into the drafting of this legislation as possible. And, we have now come back -- and this is not the first draft that deals with pension investment by any stretch of the imagination -- with what we think is the finest draft of all. We have taken into consideration -- after the extended hearings which have taken place over the last two years -- drafting and coming up with a bill that answers every constructive criticism that has surfaced. We think we have been able to do that.

I would just like to conclude -- and I am open to any questions -- by pointing out that a new flexible investment policy in New Jersey will allow our pension fund -- which is the greatest resource and the greatest asset we have under our jurisdiction and control -- to contribute to the initiative for economic development in this State, so that we can begin to undertake some meaningful urban policies. This resource and asset is the greatest one we have, out of the almost \$10 billions of dollars we have in the State. Under our jurisdiction, we can control this for sensible target investments that will help this State grow, keep it in the vanguard, keep it healthy, and keep it prospering by concentrating on what we have here in New Jersey.

We will also be able to do those things we have talked about for a number of years and have not had the financing to do. We have not been able to raise the financing for these things. I will mention two to begin with: The Import-Export Bank, which is something that is important to New Jersey. These funds might have, and I say "maybe," the potential for investment. New Jersey's pension funds may be able to help get that off the ground. The same thing is true with regard to the potential for the infrastructure bank New Jersey might develop by using the pension funds as a guarantee, at a very, very good and healthy rate of return. That is also something that can be undertaken.

Let me conclude by going back and mentioning the moral and ethical component of this. I wish to commend my colleague, the Deputy Speaker, Mr. Brown, for his sensitivity -- and more than his sensitivity, his interest, concern, and commitment to seeing that New Jersey's pension policies -- pension investment policies -- move into the broad sunlit upland, if you will, from where they have been. There must be a statement of principle concerning those funds. We in government must set the standard. If we want people to have some kind of consensual agreement as to what this government stands for, we should set those standards high. Mr. Brown, in his bill, attempts to set that standard, and he does it in a very constructive way.

I just want to leave you with a quote that I saw the other day; it is from a very, very distinguished and great American citizen. I think in many ways it reflects what we are talking about here today, particularly Mr. Brown's bill. It is a quote from Martin Luther King. He said: "Many white Americans of good will have never connected bigotry with economic exploitation. They have deplored prejudice, but tolerated or ignored economic injustice. But, the negro knows that these two evils have a malignant tincture."

What we are trying to do with these two pieces of legislation -- Mr. Brown's and mine -- is to have a divorce from that malignant tincture. With that, let me conclude, and thank you for the opportunity to testify.

ASSEMBLYMAN CHARLES: Thank you, Mr. Speaker, for those remarks.

I have a couple of questions to ask. You have indicated that you have worked on your legislation for a number of years, and you have done a lot of work in connection with it. I know we have other speakers on the list today who are going to give some of the particulars about some of the financial aspects of this.

Just generally speaking, is there a model anywhere around the country, from any state government or from any municipal entity, which shows that legislation such as this works, or that it can work? I am talking about the "New Jersey first" aspect of this.

ASSEMBLYMAN KARCHER: I think you can see, and you will see from some of the testimony, if I understand what is going to be presented here today, that New Jersey-- I would like to be able to tell you that New Jersey is on the cutting edge of this and is the absolute vanguard, but we are not. We are in the front ranks by considering this legislation at this time, but there are those who have done this before us.

I think that the State of New Jersey and the members of the Committee can look to some models in California, Massachusetts, and Connecticut. You can look to their experiences during your deliberations. There are those who have gone before us, and they have some practical and empirical data that they can give us on how well it has worked.

I think I also see on the list of witnesses today a man who I had the opportunity to hear some months ago at the Mortgage Bankers' Convention, Mr. Wallace Ford from New York. He testified on the ancillary, secondary, and tertiary benefits of in-state investment with regard to construction. I found his testimony to be enlightening and exciting, as to the secondary effects of investment within the state.

There has also been a study done in California, where money has been invested in construction. And, I just want to take a moment, Mr. Chairman, if you will indulge me, to point this out. We have had a sort of taboo, or some type of stigma on investment in real estate mortgages, and I have no idea why that has occurred. Maybe it comes from a bad experience 20, 30, or 40 years ago, which caused a stigma to be attached to this type of investment.

However, I would suggest to you that all the empirical evidence points the other way: That there is no safer or sounder investment, which is sensitive to inflation, than real estate mortgages -- nor is there a more stable investment than real estate mortgages. Not only that, but investment in construction, whether it be industrial, commercial, or residential within the State of New Jersey -- if the pension funds underwrite this construction, or help to underwrite it -- will bring in a good market rate of return. What my bill provides for is a good market rate of return. There will be no concessionary investment, and no discounts. All we are doing is to say that the pension fund will be another source of available capital to underwrite that construction.

On top of the return that my bill says will be the market rate of return, these are the types of secondary benefits that are provided: For every dollar's worth of improvement that goes into the ground, there will be a dollar's worth of taxable ratable, upon which is applied, in perpetuity, an assessment and a tax rate that generates tax revenue for the municipality and for the county.

In the construction process, you employ people who pay income taxes. You are doing this either privately or through a corporation that pays taxes on their profit from the construction work. You are creating jobs in the supply market, in piping, in electrical conduits, in wood, in brick, in concrete, in steel -- in everything that generates jobs, which generate taxes. On top of that, they are furnished with appliances, which create more jobs. This also generates, in many instances, more revenue by way of the sales tax, income tax, etc., from those people who make these products.

All in all, the secondary benefit of taxes that go to the State, county, and municipality are somewhere between eight and eleven percent. So, on top of the market rate of return for the pension fund, you are creating an additional tax revenue in the first year of at least eight to eleven percent, and that money, once again, goes into public treasuries which help to pay, in salary, the very public employees who are the beneficiaries of the pension fund.

So, there is a terrific secondary effect because of investment in the State.

ASSEMBLYMAN CHARLES: Do we have any data -- or any idea -- concerning just how much of the public pension funds, now managed in New Jersey, go into the type of investment strategy you are talking about -- albeit not by strategy or by design, but maybe just by happenstance?

ASSEMBLYMAN KARCHER: Well, we do have-- For the last two years this has been something that has been of concern to me. I don't want to suggest that the public pension funds of New Jersey should completely exclude investment in mortgages. That is far from the truth. What we have is a very significant section -- a very significant portion of the investment portfolio -- in Ginnie Mays, which are government guarantees of mortgages, or government guaranteed mortgages themselves. We are buying them anywhere from the hundreds of millions of dollars to the multiple billions of dollars at any given time.

My criticism of that is that we buy them wholesale. So, what we may be doing with our New Jersey pension money is to underwrite housing construction projects in Arizona, Texas, or California which really do not inure to the benefit of the State of New Jersey. Whereas, with just a little bit of sensitivity, targeted marketing, or targeted purchasing, we could tell the same brokerage that gives us the wholesale Ginnie Mays, which are underwriting construction in Nevada, California, and Colorado, that we want those funds to be invested in mortgages -- we want a package of Ginnie May mortgages -- that are New Jersey oriented, that cover mortgages guaranteed by the Federal government, but located within our State. We haven't done that. So, what we have been doing, in effect, is to invest in mortgages, but in mortgages that subsidize the economic growth of the sun belt. We have been counter-productive to New Jersey's best interest. I think that has been very myopic and short-sighted, and we can change that very easily.

ASSEMBLYMAN CHARLES: I think one of the features in your bill that needs elaboration and explanation from you is the provision in the bill which stipulates that the State Investment Council should be expanded by two members -- two legislators -- and also that a

citizen advisory council should be created. I think the Committee would appreciate some response from you as to what your thinking was when you put that in the bill.

ASSEMBLYMAN KARCHER: The thinking on that, Mr. Chairman, was the same type of thinking I tried to highlight and emphasize in my prefatory remarks regarding the comparison between how New Jersey handles its investment policy, and how it handles its annual appropriations process. On the one hand, we have an appropriations process which is extremely open and democratic. It is a process where we invite and encourage as much public knowledge and participation as possible. To the contrary with regard to investment policy, what we have done is to hide it from the light of day, and it has become something where we say, "Oh, leave that to the experts. Let them sit in their oak paneled office somewhere and decide what we are going to do with \$10 billion dollars -- whatever they think is best." We have sort of just given them an imprimatur or a rubber stamp.

By adding two additional public members, which are provided by recommendation from the Legislature, we are creating a legislative oversight component and we are opening the investment decisions to more public responsibility and responsiveness. Of course, the advisory council is designed so that there would be a citizen council that looks at the investment policy with an objective, non-compulsive viewpoint.

For instance, the members who sit on the Investment Council will be governed by the standards that we set forth. If they say, "Well, we are constrained in many instances," the Advisory Council would be able to look at that objectively, without the constraints that are normally associated with investment policy and investment regulation. It would provide an objective, disinterested overview and citizen oversight, if you will, because there would be no personal connection with the Investment Council. I think, most of all, it will be designed to make sure that the Investment Council itself lives up to the standards we set, so that the Council would always honor the responsibility it has to be cognizant of its ethical and moral responsibility, as well as its money-making responsibility.

ASSEMBLYMAN CHARLES: I have one more question before I ask my Committee members if they have any questions. There is a provision in your bill which says the investment strategy you are talking about should be implemented within a two-year period. I know there is some controversy surrounding, number one, whether it can be done in the first place; and, number two, just how long it will take to do what you are talking about regarding investment and divestment. This two-year period that you provide for in the bill -- I assume that is based on some examination or analysis you have done. If it is, I would appreciate it if you would share that with us.

ASSEMBLYMAN KARCHER: Well, we should look, Mr. Chairman, at a number of things. No one argues, or says, that the State of New Jersey should take a loss on what they have presently invested. We think that a two-year period of time is a long period of time, really, for New Jersey to shift gears. Actually, in the financial world 30 days is a lifetime sometimes, when one considers what goes on in investment policy. We think two years is more than a lifetime, in that we could withdraw certain investments and replace them in a structured, intelligent, designed pattern without being under any abnormal pressure or constraints that would jeopardize any potential profits. By the same token, we should have an orderly withdrawal from such investments and an orderly replacement.

A two-year period of time, given the nature of the money market and the nature of the financial world, is more than adequate. We are not talking about anything precipitous. This is one of the criticisms that came up in the original discussions, and we have tried to answer and address it. We are not looking for any precipitous change in policy that may cause, because of the fluctuation in the market, a hardship, or perhaps even a substantial loss. We don't want that.

What we have done is to provide a time period that is long enough so that there can be a measured, intelligent, designed withdrawal and substitution of investment.

ASSEMBLYMAN CHARLES: Does anyone have any further questions? (negative response) Thank you, Mr. Speaker, for your remarks.

ASSEMBLYMAN KARCHER: Thank you, Mr. Chairman and members of the Committee.

ASSEMBLYMAN CHARLES: We will next hear from our Deputy Speaker, Assemblyman Willie Brown, on A-1309.

ASSEMBLYMAN WILLIE BROWN: Thank you very much, Mr. Chairman. I too would like to commend your Committee for taking up such a serious issue, and for the participation and courtesy you have extended to the public. I would like to commend all of the individuals who have come here today to participate in this process. I think in the legislative process and the democratic process, it is very significant that everyone should have input into the process, whether we agree or disagree. I think this is the place where we should address those viewpoints. I would just like to commend all those who are participating today in this process, especially you, Mr. Chairman, and your Committee.

Mr. Chairman and members of the Committee, I feel very strongly about this issue, and I hope that you too will be moved, as I am, to do whatever is possible to eliminate apartheid in South Africa.

That the apartheid system in South Africa is an abomination is not in question. No man or woman of conscience in this country can condone a system that forces approximately 87 percent of the populace of a country to live on 13 percent of the land, that bans labor unions, and that commits a myriad of other social atrocities. This point can hardly be overstated.

The apartheid policy of the illegal government of South Africa, and its yield in human indignity and suffering is morally outrageous. South Africa is the only country, other than Nazi Germany, with an explicitly-stated policy of systematic racial repression.

Because of this, I have been moved enough to sponsor Assembly Bill 1309. The list of injustices institutionalized under the apartheid policy is a long and continuous one. It is easy to pick up the thread with a few examples:

A segregated school system that affords free and compulsory education for whites, but non-compulsory and fee-based education for blacks, and that underlies an estimated 69 percent to 29 percent literacy rate disparity between nonwhites and whites.

An economic system that reserves skilled and supervisory positions for whites, and prohibits an effective nonwhite labor organization. This is a system where, for every unemployed white, there are 20 unemployed blacks. This is a system where per capita income for whites is 18 times higher than black per capita income.

This is a system of segregation laws that racially separates a multiplicity of public services and facilities.

This is a system, a broad system of internal security, that suppresses public advocacy, dissent, and freedom of the press.

This is a system, a homeland system, that forces 83 percent of the nonwhite population to live on 13 percent of the poorest land.

What is still worse and more intolerable, is the infinitely of violence, cruelty, and brutality suffered by individuals as a result of the apartheid policy.

The list is far more extensive, both in scope and depth, than I will attempt to articulate. I will leave this to other speakers who can better address each specific issue.

I have introduced legislation, A-1309, that would require the divestiture of all investments of the State's public pension and annuity funds which are directly or indirectly linked to the South African regime.

Businesses which are involved in South Africa are not only profiting from an immoral, repressive system; they are directly playing an active role in maintaining the system and are, themselves, perpetrators of apartheid.

United States corporate investment, including loans, in South Africa has totaled about \$5 billion in recent times, or roughly one-fifth of all foreign investment; clearly, continued United States investment in South Africa is thereby supportive of South African economic growth and the well-being and related strength of the government.

United States corporations have come to dominate the sectors of the South African economy most vital to its health and growth, and most strategic when considering the country's vulnerability: Petroleum, computers and high technology, mining, and heavy engineering.

Finally United States involvement in South Africa has helped bolster the confidence of South Africa in the status quo. This includes maintaining its racially unjust policies.

New Jersey should no longer tolerate a situation in which the 365,000 members of the six State Pension Funds, many thousands of whom are black, are asked to subsidize the policies of racial injustice practiced in South Africa.

New Jersey can set a socially responsible standard of conduct, along with Massachusetts, Michigan, Nebraska, Connecticut, the District of Columbia, and the cities of Philadelphia, Wilmington and Grand Rapids, which have enacted laws that require the withdrawal of public funds from companies that do business in or with South Africa and with banks that make loans to South Africa.

There are approximately 6,350 companies listed on the major exchanges in this country. Of that number, less than 200 do business with South Africa, and these companies are apt to be heavy industrial, or mature companies whose future growth rate might be lower than smaller companies.

Furthermore, the threat of violent upheaval heightens the risk of investing in South Africa.

Divestiture of public pension funds should be a gradual but firm process to ensure that the funds are reinvested in ventures providing an equal rate of return so as to protect the 365,000 employees who derive pensions from the funds. Alternative sources of investment exist, many of which are closer to home. There is no economic reason for not divesting. Assembly Bill 1309 allows for a two-year period to divest from South Africa.

Mr. Chairman and members of the Committee, no one is saying to pull out overnight and lose money. What is being said is, we can take a profit, get the money out, and put it in New Jersey -- so that the message becomes strong and clear: That we do not condone apartheid. The State can and should be a standard for public pension funds.

Other states and cities have felt it morally necessary and financially feasible to oppose the inhumane conditions and policies of

South Africa, as you will hear from other speakers. Why not New Jersey, and when New Jersey?

Our entire history of government, as well as our heritage as a people has been dedicated to the principles of self-determination and human equality. My bill, Assembly Bill 1309, is an affirmation of the principles of our history.

Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Thank you, Assemblyman Brown. Obviously, the question that comes up in connection with your bill is, what about the companies that do business in South Africa -- the banks that do business in South Africa -- which are Sullivan Principle signatories? Should they be given an exemption from this prohibition?

ASSEMBLYMAN BROWN: I think, Mr. Chairman, that they are the ones who are familiar with the whole process and the whole policy of what goes on in South Africa, and the unique type of constitution they have. There should be no real exceptions.

Then there is the question of whether these rules have been that significant. Implementation of those Principles has been questioned, and they are somewhat outdated. As I analyze and have done research on the Sullivan Principles, they are totally irrelevant to the South African government and its constitution. They would probably be more applicable if we were looking at the United States Constitution, or something to that effect.

The Sullivan Principles, to some degree, tend to support the separate but equal concept, which was struck down in this country decades ago. So, I would have difficulty with supporting anything near the so-called Sullivan Principles.

I think Sullivan himself has somewhat disagreed with his own Principles. I think it has been proven that his Principles do not work, and we question their implementation by some of those companies who have suggested they are willing to adhere to those Principles.

ASSEMBLYMAN CHARLES: The debate goes on as to whether or not this type of legislation is symbolic and will not, in fact, produce any change in the type of government that exists in South Africa. On the other hand, it might cause some impetus on the part of the minority

government of South Africa to rethink and change its structures. Do you think this legislation is symbolic, or do you think that, in point of fact, if enough states and people of conscience do this type of thing, indeed some pressure will be put on -- undeniable pressure -- the South African minority government to change and open up its process to all races?

ASSEMBLYMAN BROWN: Sure, I think when we look at history, history has dictated and suggested that if anyone in the world has really tried to have an impact on any country, they can bring that country to the bargaining table to take a look at their policies. If there is any intention on the part of that government to improve its system, and if they don't do it under economic pressure, I would question whether they would do it at all.

So, my argument would be that if this does have an impact upon their policy, then it will have been a positive move. And, if it doesn't, then it suggests that taxpayers in this country, especially in the State of New Jersey, should not support a country that is not willing to change their policy in spite of the economic impact that this legislation and other legislation will have.

If they are willing to continue their policy and lose their economic profits and benefits, then that is more reason why we should support legislation of this nature, and make sure it is enacted, not only in New Jersey but throughout the United States.

ASSEMBLYMAN CHARLES: Before I ask any other questions of Mr. Brown, I would like to ask the Committee members if they have any questions they would like to ask Assemblyman Brown.

ASSEMBLYMAN McENROE: Mr. Chairman, I have a comment to make to the Assemblyman. I reviewed the bill carefully, and I have one concern. The bill itself addresses the concern that I think we should have, regarding the policy of the Union of South Africa which relates to its policy of exclusion of blacks from the mainstream of government. But, it does not address the guarantee that I think all of us would like to see as being an implicit part of this: That the public pension moneys be protected. My question really is, 1309 was introduced under your sponsorship; is it closely tied to Assembly Bill

1308, introduced by the Speaker? Without 1308 in place, it seems that 1309 is a statement of policy, but it really doesn't provide guarantees for public pension moneys being invested in a prudent, safe manner in the future.

ASSEMBLYMAN BROWN: I think the difference in the two bills is, one, 1308 more or less talks about the divestiture and 1309 points directly to South Africa. That is one of the major distinctions. It also allows a two-year withdrawal period. So, it does allow a certain period of time for that to take place.

ASSEMBLYMAN McENROE: Thank you.

ASSEMBLYMAN LONG: Assemblyman Brown, let me apologize in advance for somewhat of a rhetorical question. Some of the correspondence I have been receiving in the mail addresses the concern that divestiture by a major industry could be counter-productive, in terms of the apartheid theory.

Now, in your statement-- And, I must commend you for a very comprehensive statement. Perhaps you could expound upon your thinking, because I am sure that later on we are going to hear this kind of a concept put forward: That this bill, although conceptually very sound, may have a reverse effect.

ASSEMBLYMAN CHARLES: If I could just add to that, the argument seems to be that it will just produce an investment gap that will be filled by some other anxious investor from some other country or from somewhere else. That is the argument I think you are talking about.

ASSEMBLYMAN BROWN: I think there are two or three contributing factors here. One points out, and statistics show this, that investment in South Africa does not necessarily produce the greatest return. There is a substantial amount of high risk involved. The fact is, their policy -- the so-called union or organization, or whatever -- has had a lot of confrontations, which suggests that, number one, it is a bad risk in the first place to invest in South Africa.

Number two, they have a smaller number of companies that are considered major companies, and a very small percentage of those

companies actually invest in South Africa, which suggests that the investments in South Africa are not necessarily that great. There are only certain industrial companies that invest in South Africa.

As far as the benefits go, we question the number of employees that actually benefit from United States' industry investment in South Africa. There is a small percentage of individuals, and you will find these employees who happen to be lucky or fortunate, or whatever they want to be considered, are a small percentage of the real population of South Africa. So, it is not really as counter-productive from my point of view and argument as a lot of people will lead you to believe. I think when we talk about the majority, then we would definitely be talking about something that would be detrimental to the population of South Africa.

When you just look at the percentage -- you are talking about 83 percent of the entire population -- the fact is, they live on 13 percent of the land, and even of the land that has been allocated to them, a lot of plots have been taken away. I even question the small salaries they make. If you look at the disparity that exists between the amount of money whites are paid and the amount nonwhites earn in those industries, it is very significant.

When you look at the United States' industries that have established an educational system, research shows that a lot of the information the nonwhites receive is different. There is misinformation on this. They don't qualify in top supervisory positions because of misinformation. The whites who have less of a degree, or less information, still become supervisors and hold top policy-making positions in those companies. So, I would question whether withdrawal would have a great impact. I would argue that it would harm a small percentage, if any, and I would think that the economic impact, and the force that we in the United States could hopefully bring upon that county would be more significant once legislation of this nature is enacted throughout the 50 states in the United States.

ASSEMBLYMAN LONG: Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Brown, for your comments. I would like to invite you, Deputy Speaker Brown, and Speaker Karcher to join us here at the table for as long as you are here. I would welcome your participation on this panel. I think you would be helpful in getting at some of the issues and opening up, in a clearer way, some of the other testimony we will be receiving here today. I would appreciate your presence here.

We will hear next from Ken Kirkland, from the National Conference of State Legislatures. Ken?

I think Ken, as I understand it, is going to give the public and the Committee an overview of what is going on nationally with this type of legislation on this issue.

KEN KIRKLAND: That is correct. For the record, Mr. Chairman, my name is Ken Kirkland. I am the Director of the Fiscal Affairs staff of the National Conference of State Legislatures in Denver. The National Conference of State Legislatures is the official organization of the nation's fifty state legislatures and the legislatures of the territories of the United States. Our role as staff to the NCSL is to monitor, analyze, and present to legislatures the results of surveys and studies that we do in order to keep them abreast of what their counterparts in other states are doing.

One function that falls to me particularly is the tracking and monitoring of legislation affecting pensions in the United States.

This is the second time you have been kind enough to invite me out here to talk on this particular topic. The first time was a little over two years ago. Two years ago, at the Speaker's Pension Investment Policy Conference, I was a member of a panel which presented to your Legislature some initial studies we had done on the results of pension--

(At which time witness has trouble with microphone and discontinues speech until trouble is rectified)

Let me repeat what I started to say. Two years ago, I had the pleasure of being out here to speak at the Speaker's Investment Policy Conference. At that time, we conducted an initial survey of changes in pension investment legislation among the states. In that

time period there had been an extraordinary upsurge in interest on the part of state legislatures in pension investment policy, which had largely been an arcane subject left to boards of trustees, state treasurers, and investment experts, but which had increasingly become a matter for public purview. That trend has continued from that time to the present day. While the rate of change is not as great today as it was two years ago, it continues to be an object of interest to legislatures.

Much of this interest has been manifested in two different areas. One area has been an increased broadening of investment possibilities for pension funds. This has primarily been the case in states who had a very limited legal list. Often, it was not unusual for a state's law to specify a very limited and specific set of investments, and only those investments, available to the pension fund. Typically, these were highly conservative lists: Fortune Five Hundred companies, and Double A and Triple A rated bonds.

This has not been a problem in New Jersey, because New Jersey has had, for a number of years, a variation of the prudent-man law -- or prudent-person law, as it is now generally called -- which gave them access to a wide variety of investments.

The second area legislatures have taken an interest in has been in the targeting of investments, primarily for social and economic purposes.

This particular legislation, A-1308, addresses directly the concerns that other legislatures have expressed around the country.

It is difficult to characterize all the legislation which has been passed in the last couple of years; but, by our count, well over half the states have some form of targeted investment. Sometimes that is specified in certain types of investment: For example, in-state mortgage investment, a preference for certain kinds of in-state investment, and sometimes for intra-capital, or other kinds of specified investments.

It is not common -- although there has been some interest in this -- to have in-state preference expressed for investments. One area in which New Jersey certainly would be in the forefront of

Legislation in the United States would be in the combination of expressing an in-state preference for investments, which has been adopted in certain other states -- notably California -- with some kind of mechanism for forcing action and compliance with that preference.

One of the reasons why California's in-state preference -- although it is now over a decade old -- has never had much impact on investment policy in California has been because there is no mechanism for oversight and no mechanism for enforcement in effect. The preference is there. It is written into the statute, but no one is charged with ensuring that it is, in fact, a principle for investment policy.

The one group who took an interest in California State government concerning this, the Pension Investment Council -- which was created in the Governor's office, under Governor Brown -- was abolished under Governor Deukmejian. Its staff found other occupations, and there has been no replacement of the Council.

So, this citizen's advisory council, and the requirement that the Investment Council develop and report to the Legislature on its plans for implementing the investment plan, represents a noticeable trend towards enforcement and oversight, which other states do not have.

But, even where these things have not been done, there has been interest. One I would like to point out, for example, is that there has been a concern in legislatures, whether it is targeted investment or other kinds of investment, that the pension funds should make themselves more fully accountable to the legislatures.

A couple of years ago, testimony which was presented to you, and which was written up -- and I won't go into it now -- expressed the point of view that pension funds were increasingly going to be held accountable for their actions by elected officials, and that certain areas which had long been exempt were going to be held to the same standards of accountability that other parts of state government were being held to.

I note that this trend has been increasing in the United States in the last couple of years, since I last testified here. Even

states as diverse as Texas, on the one hand, this year passed legislation requiring the state teacher retirement system and the state public employee retirement system to develop written investment guidelines, submit those investment guidelines to the legislature, and prepare quarterly reports for the legislature, indicating to what extent they were meeting those guidelines, and how they were being addressed. This suggests the concern that even a legislature, which has the reputation of being fairly conservative, has developed over how these funds are performing.

Similarly, in Mississippi this year -- which is not normally a hotbed of foreign policy invasion -- the Mississippi Evaluation and Expenditure Review Committee conducted a study on the performance of their investment fund, and concluded that absent written guidelines and absent any kind of formal evaluation process, it was difficult not only for the legislature, but also for the Board of Trustees of the Public Employment Retirement System to explain how their investments were performing, and what effect they were having. So, I lay that out to you first. There is a considerable interest in investment performance in not only its economic dimension but, in some cases, its social dimensions as well.

You will hear from a number of other speakers today about South African divestiture. Let me just address that very briefly. There have been, in states, roughly three separate approaches to the question of South African investment.

One of them has been what the California Teacher Retirement System calls its "concerned shareholder approach." Rather than push for divestiture, their concern has been to try to exercise their voting rights as shareholders in corporations that do business with South Africa, to try to aggregate those votes with other pension funds, foundations, university endowment funds, and others who are concerned, to try and effect changes at the Board level. This took form, for example, when a bank in Seattle, which is now part of the Bank of America, was discovered to be active in South Africa. There was a movement, spearheaded in part by the California Teacher's Retirement System, to elect State Senator Julian Bond to their Board of

Directors. This was not noticeably successful. Senator Bond ended up with about 11 percent of the shareholder votes cast, and was rather overwhelmed by the shareholder proxies being cast by management.

One of the trustees of the retirement system has expressed to me the point of view that while this was a useful thing and it draws attention to their concerns over South Africa, they are not convinced that it is the most effective way; but, it is an approach. So far, it has not been widely adopted.

A second approach has been to divest those companies who did not sign the Sullivan Principles, or who, if they did sign the Principles, fall below certain specified ratings in complying with those principles. That essentially is the thrust of the Connecticut divestiture legislation. It is part of Nebraska's divestiture legislation. Michigan and Massachusetts, as you well know, have passed total divestiture legislation, much like the legislation proposed by Assemblyman Brown, which does not distinguish between those companies who are Sullivan signatories and those who are not.

In both of these cases, and in others as well-- For example, the Massachusetts divestiture legislation, as it was passed, specifies not only the divestiture of companies who do business in South Africa, but it also specifies the divestiture of companies whose activities contribute to oppression in Northern Ireland.

There are other provisions in investment laws, specifying companies who are labor violators, environmental violators, or other kinds of violators, and this kind of legislation has either been proposed or passed in quite a few states. South African divestiture is not yet a national trend. It is noteworthy that well over half the states had legislation introduced on this topic at least once, and in some cases more than once, over the last three years.

In addition to the hearings here and in Pennsylvania, Rhode Island, this year, appointed a special legislative commission to study the question of South African divestiture. The Ohio Senate held hearings on South African divestiture. South African divestiture was discussed, and I suppose it is anyone's guess as to what constitutes a serious political initiative in states ranging from Oregon to Texas. So, this is clearly an issue which is very much on people's minds.

In all cases, it seems to relate to a larger issue, and that is, to what extent the pension funds are going to be recognized for their non-economic impacts.

It is important to note that pension funds, while they are trust funds and they are employee funds, are ones whose performance affects not just public employees, but also the citizens and taxpayers at large. While public employees are guaranteed their benefits under a defined benefit retirement system, such as is held here in New Jersey and, indeed, in all the states in the United States, a failure, or a shortfall of investment performance, does not cost the employees their benefits. Those benefits are guaranteed by law and upheld, in most cases, by the constitution of the State. If there is a failure of investment performance, it is made up by the taxpayers of the state, who must increase the employer contribution to the pension fund. So, the quality of the investments made by the pension fund affects more than just the public employees.

That is the primary reason why legislatures have taken an interest in this area. Twenty-seven states changed their investment laws in 1982, another dozen or so changed them in 1983, and several more have passed legislation this year, and, indeed have other proposals up. Just as recently as June, California passed a constitutional amendment which significantly broadened their power to invest pension funds in order to improve rates of return.

In November, Wyoming will have, for the second time in two years, a constitutional amendment before its voters which would give the Wyoming Pension Fund the right to invest in stocks as well as bonds for the first time, which suggests Wyoming still has a way to go in broadening its fund, but the issue is the same.

I see no end to this trend. As an observer of state legislatures, I suspect that the pressure for accountability is going to be continually strong.

About three years ago, in a story in Business Week magazine, one of the trustees of the California Teachers Retirement System said, "When I first became a trustee, this was perhaps the most invisible job in the world. Once a month we came up to Sacramento, voted on

policy, had lunch, and then went home." He said, "Today" -- and this was three years ago -- "our every move is scrutinized. Our policy decisions are questioned. Our meetings have gone from an hour or two to all-day-long hearings, with testimony from interested parties." Perhaps that is not such a bad thing, at least judging from the way other legislatures have attacked this issue, and judging from the way this Legislature is considering this issue. It seems that this is going to be more and more the case, just like what has happened with previous sacrosanct areas, which have ranged in some states from the budget itself, which used to be entirely an executive prerogative, to certain parts of the budget such as highway funds, which in some states are still regarded as being part of the highway department and not necessarily something the legislature should involve itself in; to debt policy; oversight of the state; and, in some cases, localities' issuance of debt; on up to the pension funds.

Properly speaking, these belong in the public view and they belong under the purview of legislators; because, surely, if the pension funds fail, the legislators are going to be held accountable for those funds.

In the interest of time, I will now conclude.

ASSEMBLYMAN CHARLES: Thank you, Ken. Just to follow up on that last point you made about the performance of the pension funds and the investment -- the earnings and the dividends that are returned -- what has been the experience in the states that have gone to an investment-strategy type of legislation, as proposed by Speaker Karcher? Has the return to those pension funds suffered, or has that been a positive experience?

MR. KIRKLAND: I would say it is probably a little early to tell in some cases. Some of the investments, for example, when they shift from the conventional stock and bond investment to a venture capital partnership or other kinds of more exotic investments, often take several years to mature and it is difficult to tell.

The second point is that pension funds are so massive, even if all new investment money goes into certain targeted kinds of investment it is often several years before the total of new

investments still represents a significant part of the fund. A \$10 billion pension fund, even \$100 million of targeted investment, while significant in terms of economic impact, doesn't make much of a difference to the rate of return in the overall fund, and it often takes a while.

But, in general, there does not seem to be any negative experience to date with targeted investment; and, indeed, some of these kinds of investments, such as the Ohio Public Employees Retirement System investment in the-- Well, from a venture capital point of view, Ohio invested in a fast-food chain, called G.D. Ritz's, in its very early stage. G.D. Ritz's recently went public and the Ohio investment in it is now worth approximately four times what it was originally. So, presumably that is a good sign.

ASSEMBLYMAN CHARLES: I have a question about enforcement. We are talking about legislation here that requires certain things of companies. Under the legislation, the pension fund would be required to only invest moneys in companies which do not do business in South Africa. What kinds of mechanisms or enforcement provisions do other states have to back up this prohibition, on top of the oversight that you talked about? Has there been any other kind of enforcement provision included in legislation?

MR. KIRKLAND: I am not aware of anything beyond the divestiture itself. There are obviously some action-forcing mechanisms, where the pension fund is required to report back to the legislature on its progress in meeting these particular goals. I know that is the case in Connecticut, where the Treasurer is required to report back to the legislature on a regular basis.

Beyond that, there is no particular thing. There is probably lots of room for activity. For example, in a somewhat different area, in Massachusetts, this year, when they passed their tax amnesty legislation, they also increased the penalties for delinquent taxpayers, and among other things provided that delinquent taxpayers not only had to make their payment in back taxes, but they could also be sent to jail in some cases; and, the people who were found to be delinquent taxpayers could, in cases where they were licensed by the

state, have their licenses lifted, or, if they did business with the state, could have a prohibition put on contracting goods or services with the state. Presumably, that same kind of action-enforcing mechanism is available to states involved in the South African area as well.

ASSEMBLYMAN McENROE: Mr. Chairman, through you, I have a question. Mr. Brown, the sponsor of Assembly Bill 1309, has provided some background information, and part of it indicates that in the State of Wisconsin, the University of Wisconsin was required to divest \$11 million of its own investment when the State Attorney General made a decision that the investments in South African corporations were in violation of the state law prohibiting investment in areas where there was racial discrimination. Has the National Conference addressed that question, or is there any of that activity in other states? Are they forcing Attorneys' General to make those decisions, and is it a matter of importance on your agenda?

MR. KIRKLAND: Let me answer those questions separately. As a matter of policy for the National Conference, it is not. The National Conference of State Legislatures, as a rule, does not adopt positions of policy affecting internal decisions of states. When the NCSL adopts policy statements at the behest of its members, those generally tend to address federal issues, or other things. Aside from a list of reform principles, which the NCSL adopted several years ago, and which mainly had to do with efficient and effective functioning of state pension systems, the investment side has not been addressed.

We do monitor such activity. There does appear to be, as I said, a growing interest in South African divestiture on the part of legislatures.

As to the specific cases, such as the Wisconsin case, not all states -- indeed a minority of states have laws like Wisconsin's, prohibiting investing in racially discriminatory practices. So, there would be, in many cases, a lack of statutory authority for an Attorney General to act upon. I don't foresee a specific case, like Wisconsin's, becoming a national trend, because in most cases the states do not have that kind of legislation on the books.

ASSEMBLYMAN McENROE: Thank you.

ASSEMBLYMAN CHARLES: Assemblyman Long, do you have a question?

ASSEMBLYMAN LONG: Yes. Mr. Kirkland, with regard to the in-state preference in California that you alluded to, I recognize that your role is not one of a policy-maker or anything like that, but I gather that the only negative aspect of that particular concept is the absence of monitoring, and also disciplinary procedures are not in place if that concept is not adhered to in California.

MR. KIRKLAND: Yes. From the point of view of the implementation of the policy, it was not a roaring success. The viewpoint in California among those who favor and wrote this particular legislation into law, was that it remained largely a pious wish as long as it was in the statute books without some kind of monitoring mechanism. And, indeed, other kinds of legislation, such as the current piece of legislation which requires a preference for in-state residential mortgages as a pension investment, have a very elaborate reporting system attached to them which forces both the state and local pension funds to report back to the legislature, either as to their progress in meeting the requirement, or as to their reasons for preferring alternative forms of investment. It doesn't mandate the investment, but it does put the onus on the pension fund to explain its actions.

I gather that the mechanism involved here, in A-1308, is very similar. It doesn't mandate a specific kind of investment, but it does require that there be some explanation as to the investment policies, and how and why the choices were made by the Council.

Mr. Speaker, Mr. Chairman, thank you very much.

ASSEMBLYMAN CHARLES: I would like to thank you on behalf of the Committee for coming here and sharing your information with us during your testimony on this subject. I guess everyone should know that Ken is here from Denver, is that correct, Ken?

MR. KIRKLAND: Yes, sir.

ASSEMBLYMAN CHARLES: One thing before you leave, I would--

ASSEMBLYMAN KARCHER: (interrupting) You should say he is lucky enough to be from there.

ASSEMBLYMAN CHARLES: I would like to make a request. If you would send us -- if you have any -- information concerning this whole issue of targeted information, or any data you have on this subject, it would be helpful to our Committee when putting together our final report, and it would also help us to have a better understanding of all the particulars involved.

MR. KIRKLAND: I would be glad to do that, Mr. Chairman. Thank you.

ASSEMBLYMAN CHARLES: Our next speaker will be Mr. Al Wurf, Director of the American Federation of State, County, and Municipal Employees.

ASSEMBLYMAN CHARLES: I would like to make a request. If you would send us -- if you have any -- information concerning this whole issue of targeted information, or any data you have on this subject, it would be helpful to our Committee when putting together our final report, and it would also help us to have a better understanding of all the particulars involved.

MR. KIRKLAND: I would be glad to do that, Mr. Chairman. Thank you.

ASSEMBLYMAN CHARLES: Our next speaker will be Mr. Al Wurf, Director of the American Federation of State, County, and Municipal Employees.

AL WURF: Mr. Chairman, first I want to thank you for being here. My name is Al Wurf. I am Director of the American Federation of State, County, and Municipal Employees. At the outset, let me say that I support both bills and feel they are an addenda to each other.

I have been sitting here with great impatience, great emotion, and with great anger hearing the arguments of whether the divestiture of investments of South Africa would have a bearing on the moneys that we have in the pension plan. I want to point out, before I go into that, that a great members of our union are black. A great many citizens who are not black take issue with the investment of moneys in South Africa. As I sat here, I kept thinking of the morality that is involved when you talk about skulls, bones, and people in shanties -- in short, slave labor -- and making money on slave labor.

I would submit to you, Mr. Chairman, that those of us who are in the labor movement, or at least in the American Federation of State, County, and Municipal Employees, have attempted for twenty-five years to get the corporations of America, the people from other countries, and the people of our country, all of whom invest in one fashion or another, out of South Africa and not to subsidize that type of government. The question asked here is what effect it will have on the economy of that country. I assume if enough of us get indignant, it will have an effect. If we in New Jersey get indignant, it may or may not have an effect.

But again, I want to repeat, it is morally wrong to invest in South Africa. It is morally wrong to tell black workers of this State that their money is being invested in South Africa. I would submit to you, Mr. Chairman, that if this was happening to any other group, such as the Jews -- I happen to be Jewish so I can throw that in easily -- Irish, Catholic, or Protestant, we would not be sitting here talking about the goddamned thing. We would impose embargoes. But it happens to be black people, and, Mr. Chairman, that is what happens to black people unless enough of us, unless you and the legislators here, get indignant about it.

Recently I was at a dinner where the Governor talked about his involvement and his father's involvement and their concerns about the Holocaust, their concerns about the state of Israel, their concerns about people who are muzzled, killed, maimed, and so forth. I don't see this issue any differently. I expect the Governor to support this bill and I expect his followers to support a bill to divest itself from South Africa.

In terms of the A-1308, very frankly, I had the occasion to meet with the head of the Investment Council here, and although I was going to denounce that whole apparatus, he happens to be a nice man, and I said that maybe he ought to get a public relations apparatus to tell the public what you are doing there. But as of now, we public employees, who have our moneys in the pension plan, really don't know what the hell is happening. We really have no handle on what is happening. Hopefully, the expansion of the committee and hopefully a

citizens advisory committee would give us some idea of what is going on. We are entitled to know. It happens to be our money.

In the last number of months, as all of you are aware, we public employees were in a state of trauma. The Governor had recommended, after an advisory committee recommendation, that benefits be cut. Because we didn't have the information we needed, we attacked and sometimes we attack without information -- probably most of the time we attack without information -- and we didn't make as good a case as we should have. Then the other day, I got a report, taken from the Money Market Directory, which shows, and which is a credit, I suppose, to the Investment Council who does it in secret and in back rooms, that New Jersey Division of Investment increased its funds from \$6,150,000,000 in 1982 to \$9,000,000,320 in 1983; in short, they picked up \$3,000,000,000. Had we had that information -- had the Investment Council given us that information -- we would have made a better case, although I think we won our case in terms of the argument of cutting pension benefits for all public workers.

So again, I think it is wrong to invest money in South Africa, particularly public moneys and particularly moneys that belong to workers. I understand that there are about 75 companies in New Jersey that have investments in South Africa, which raises a dilemma with the legislation here that investments take place in New Jersey. I look to you, Mr. Chairman, to address yourself to that dilemma.

I am also glad that maybe with 12 people, maybe with an advisory council we can get a handle on what is going on in the bowels of the Investment Council.

I want to end with a little apology to the gentleman that I was going to knock around and didn't knock around, whatever his name may be. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much.

MR. WURF: Do you want to ask me anything?

ASSEMBLYMAN CHARLES: There is just one question I would like to ask you. This has to do with the Speaker's bill, the targeted investment strategy. Do the people you represent have a concern that under that type of legislation, your pension funds are going to get wasted or whether the return is not going to be as great as otherwise?

MR. WURF: Let me answer that in a more indirect fashion. The first thing is no. However, a number of years ago, well-meaning people came along at a time when there was no construction in this State and said, "Let's invest in mortgage moneys. Let's set up a mechanism using pension funds to build houses, factories, whatever." One of the leaders of that was Assemblyman Karcher, Speaker Karcher now. We fought it because we were concerned that the moneys that were going to be used would have returns less than market rates. But we said then -- I'm talking about my own union and I think other unions said that also -- that at a time when you come to us and ask us for support by using your pension moneys for New Jersey purposes, we would certainly support them. So my answer to you is yes, we support using that money in New Jersey, but not for an organization like Johnson and Johnson who also has money in South Africa -- but again, you fellows, have to figure that out how to use the moneys in the State and not let it sift through your fingers and go to other places.

ASSEMBLYMAN CHARLES: One moment please. Are there any questions? (negative response) Thank you very much.

Dr. James Connerton?

DR. JAMES P. REILLY: Mr. Chairman, my name is James Reilly. I am representing Dr. Connerton for the New Jersey Education Association today, with your kind permission. I am the Director of Research of the New Jersey Education Association. NJEA represents approximately 118,000 active and retired public school employees, all of whom are members of either the Teachers' Pension and Annuity Fund or the Public Employees Retirement System. The topic of discussion today is of the utmost importance to our members, perhaps the premiere issue.

Nothing is more important to NJEA than the pension funds of its members. Our members do not want to see their pension funds invested in disreputable or socially irresponsible operations, no matter how profitable these might be.

At the same time, we recognize that our State's investment strategy cannot be so conservative that opportunities for a good return on investment are passed by. Our members look to the NJEA leadership to protect their pension funds since the economic uncertainty of recent

years has made them fearful of what their lives at retirement might be like.

Fortunately, the State of New Jersey has always lived up to its responsibility to fund public employee pensions. New Jersey has a pension system of which we can all be proud. The idea of using New Jersey's public employee pension systems to further investment policy goals is not new. We have seen several groups in recent years attempt to try to tap pension funds for their own vested interests, feeling apparently that their interests took precedence over the interests of the present and future retirees participating in the system.

It is important for everyone to understand the important relationship between the State budget and pension funds. When the return on State investments is high, the State should maintain the level of benefits to fund beneficiaries without raising additional funds through taxes. In other words, the State's level of contribution to the pension funds depends in large measure on the rate of return on fund investments. The cost of the pension system is very simply anticipated benefits minus investment earnings. That is the cost to the sponsor of the pension fund. The smaller the investment earnings are, the larger the cost to be raised through taxes becomes. The high rate of return on investments that has been earned by the State Investment Council has made it possible for State appropriations, now and perhaps for several years into the future -- although it is not specifically determined yet -- to be less than what otherwise might have been the case which was anticipated.

In reviewing the debate on use of pension funds, NJEA must hold steadfastly to two principles:

1. Investment income from pension funds must inure to the beneficiaries of the fund. Any concession on rates of return are incompatible with the the prudent-man standard.

2. The State Investment Council, whose members, by law, represent both the public and the pension funds should be relied upon to invest pension funds without political interference.

Let me elaborate a little bit on these two rules before examining specific provisions of the bills in question today.

The prudent-man concept is a very old one, of course, deriving from a court decision handed down in 1830. Many of our members would prefer to be dealing with the prudent person standard; however, the courts were not so enlightened on those subjects 154 years ago. Essentially that standard requires that those investing funds for others exercise sound discretion. They must consider income as well as safety of the capital investment. This principle is laid out very well in the Employee Retirement Income Security Act at the Federal level. While we recognize the fact that ERISA does not apply to public employees in New Jersey or any place else, we feel that the same principles of fiscal responsibility must apply.

We agree with the Report on the Use of Funds to Further Economic Growth in New Jersey, issued in 1982, which says, in part: "Investments which involve rates of return that must be subsidized by the pension funds are not appropriate at any time."

The prudent-man standard requires -- departing from the report -- that fund trustees consider the beneficiaries of the funds in making investments. Any other approach is fiscally irresponsible.

That principle -- the prudent-man investment standard -- we feel must be maintained and observed in all investment policy.

Turning to the State Investment Council itself, the council was created by a statute in 1950, as a necessary response to inefficient, inept, and outrightly scandalous investment practices that existed prior to the introduction of the council. The council has done an outstanding job; it is now well respected throughout the financial community. NJEA has full faith and confidence in the State Investment Council.

Returning to the measures before the panel, specifically concerning SJR-16, we are totally in accord with SJR-16. The policies and actions of South Africa are reprehensible. However, we do have several problems with A-1308 and A-1309.

Turning specifically to A-1308, I will review the sections in order, if I may.

Section I expands the membership of the council, as you know, from 10 members to 12. The two members would be chosen by the heads of

both houses of the Legislature. We question making the change in this manner because it destroys the current careful balance between representatives of the funds and representatives of the public. If two more members are to be added on the public side, then two more members should be added on the fund side, preferably one from the PERS and one from the TPAF; this would maintain the critical balance. As an alternative, two of the Governor's five appointees could be deleted and a substitution made of representatives of the Legislature. Preferably the two that would be deleted from the Governor's selection would be those who are not required to have technical expertise so that the input of technical expertise would be maintained on the council.

If section 1 is adopted, a clause should be added to ensure that the members appointed to the council by the leaders of the Legislature would also be prohibited from benefiting directly or indirectly from any transaction of the fund; I am sure that is just an oversight of the drafting of the bill. If section 1 passes, of course, section 2, dealing with the treatment of the director of the division should also be passed.

We question the need for sections 3 and 4, which set up the Citizen's Investment Advisory Committee. We feel that would develop very quickly into an adversary-type situation. We feel that it would be more efficient and more effective to provide better guarantees to public access to the meetings and proceedings of the Investment Council itself. If there is a problem there, it should be addressed directly rather than through multiplying layers of committees and bureaucracy.

Moving to section 5, we wish to state that we fully support the sentiments and principles enunciated in section 5. We would prefer in principle A that the policy statement be clear that violations -- the violations that are referred to -- be substantial and continuous so that Investment Council business is not subject to day-to-day corporate disputes, takeover battles, and so forth, so that a minor OSHA fine of a few thousand dollars in one remote plant would not hold up the whole investment procedure.

We recognize that the the money in the pension funds belongs to our members and to other public employees, and they do expect it to

be used in a socially responsible manner. Our members have no objection to having their money invested in instruments that benefit the New Jersey public and the State of New Jersey in general, if those investment instruments bring the same or a better rate of return than another investment would.

Section 7 requires a wide variety of additional reports and paperwork. We feel that this is excessively burdensome in terms of additional paperwork, and we have to question the need for section 7. There are probably simpler reporting standards, perhaps present reporting standards, that would be sufficient.

Concerning A-1309, I state again that we wholeheartedly support SJR-16, but we seriously question whether divestiture of all investments of the State's pension and annuity funds, having any direct or even indirect connection with the Republic of South Africa, will help or hurt the citizens of that nation or our nation.

As it now stands, A-1309, as you know, is a demand for complete divestiture as rapidly as possible. It requires that the stocks or securities of any company engaged in almost any kind of business with the Republic of South Africa be divested. We do feel that it is unsound social policy and even risky investment policy to be doing business with the Republic of South Africa. There isn't much question about that. However, when A-1309 goes into requiring divestiture of any company having anything at all to do with business activities in the Republic of South Africa, we feel that divestiture might be more damaging than helpful to the citizens, the black citizens, the minority citizens of the Republic of South Africa. There are many major American corporations that provide employment opportunities to South African citizens, both black and white. Our understanding is that many, but perhaps not all of these, are the most enlightened employers in that country, and we do not think it is prudent to destroy what good there might be in that process. Not enough is known about the impact of those activities.

If the Legislature wants to make law in this area, we feel that it should investigate those companies which are doing business in South Africa and are taking steps to protect and improve the rights of

South Africans. Companies which refuse to do these things, refuse to cooperate with such efforts, might very well become targets of the Investment Council action.

We feel that corporations and financial institutions should be encouraged and urged to serve notice on the government of South Africa that their apartheid policies are wrong and evil. We feel that more careful consideration should be given to policies, such as the Sullivan principles, by the State Investment Council. Corporations whose stocks or other obligations are devalued by forced divestitures may not mend their ways. They may simply pull out of that area and they may be replaced by companies from other nations who would do things that are far worse. So we agree with what the bill sponsors are trying to accomplish. A better system for making investment council judgments on South African investments is needed, but we feel that A-1309, in its present form, may not be the best legislative approach to accomplish this goal.

Mr. Chairman and members of the panel, thank you very much for this opportunity to voice our opinions. I would be happy to answer any questions you may have.

ASSEMBLYMAN CHARLES: Thank you Dr. Reilly. Do any of the committee members have a question for Dr. Reilly?

ASSEMBLYMAN McENROE: Dr. Reilly, your opening statement -- I am reading now, quoting you a few moments ago: "As we told the Investment Subcommittee of the State Pension Study Commission in December 1982"-- is that the last time you appeared before the Subcommittee on Investments?

DR. REILLY: That was the most recent opportunity; it was the only opportunity there was to testify before that subcommittee. It was a subcommittee of the State Pension Study Commission; I believe they held one public hearing. There were three subcommittees, and we testified at every opportunity. There was only one that I know of.

ASSEMBLYMAN McENROE: So you would, it would seem to me, just based on the fact that was a year and a half ago, appreciate a better opportunity to appear before them in view of the responsibility you have on behalf on your 118,000 members?

Any effort to open up the review process on investment possibilities by the council seems to me to be in the best interests of the teachers?

DR. REILLY: Yes, certainly.

ASSEMBLYMAN McENROE: The other thing that I find disturbing, frankly, is that the following comment is made: "Nothing is more important to NJEA than the pension funds of its members." Now I would frankly hope that if the teachers across the State were polled that a majority of them would place education of our young people a bit before or at least equal to the importance of their pension funds. I can't believe that an association with the importance, the commitment, and the responsibility that the Education Association has would come before a body involved with the review of a matter of such major importance to us, socially and morally -- and I think such a prudent review in a necessary area -- would make a statement that pension funds are their most important and apparently only priority.

DR. REILLY: No, we don't say that at all. We say nothing is more important than the pension interests of our members. We have many interests which are of equal importance and we do not get into rank-ordering of them. We do not feel that these important interests are mutually exclusive.

ASSEMBLYMAN McENROE: I don't want to be picky, but if you do pose that question to members that are near retirement, I would think that it would be a reasonable position. It would seem to me, at least from my limited experience, that the majority of our teachers are committed much more to education than consideration of their pension funds.

DR. REILLY: Our members are also highly committed to education and a number of other important socially beneficial interests, but they are not mutually exclusive. Our members could be maximally committed to a number of different concerns.

ASSEMBLYMAN CHARLES: Assemblyman Long.

ASSEMBLYMAN LONG: Dr. Reilly, I want to reread this more thoroughly; I don't want to be unfair about what I thought was implicit in both your statement, as I read along with you, and Dr. Connerton's.

But if in fact, I understood clearly what you were saying, it would appear to me that the bottom line would be, in fact, that if judgment had to be given, that if there were any type of insinuation that there would be a loss to the pension fund, minute or greater than minute, addressing then the concept that is involved in this bill, that the NJEA would have to take the side of loss of the money as opposed to the concept of the South Africa apartheid question. Do I misread what you say and misunderstood what I hear, that the major concern and the bottom line would be any loss in funds to the pension plan to the teachers of this State? That would be the bottom line?

DR. REILLY: Yes, that is why we are supporting A-1308, which states that principles of opposing the social practices of the Republic of South Africa should be opposed without damaging the interests of the pension funds. We support that principle. We feel, as I said, that A-1309 requires a precipitous divestiture which could do us and many of the citizens of South Africa more damage than good. So it is probably a question of what is the best approach to achieving the very worthy goals outlined in the legislation, but we don't feel it needs to be done to the detriment of the pension fund.

ASSEMBLYMAN LONG: Your research indicated that, in fact, there is that potential?

DR. REILLY: Yes. We have not conducted studies ourselves. However, the information available to us, what we have read and heard in discussions, indicates to us that there is not sufficient information available right now regarding American companies -- we are not dealing with South African companies. We are dealing largely with the question of divesting ourselves of investment in our own companies, that for whatever reason are out there doing business with firms in South Africa or operating subsidiaries in South Africa. I think there is a very legitimate question of whether we do more harm than good in simply precipitously divesting ourselves of investments in our own corporations who employ our own citizens.

As I said, I think it is a crucial thing that we support A-1308, the principles embodied therein. It is a question of approach, how we do it and what you need to do. We don't think it needs to be as drastic as some provisions of these bills would require.

ASSEMBLYMAN LONG: Thank you.

ASSEMBLYMAN CHARLES: Assemblyman Brown.

ASSEMBLYMAN BROWN: Thank you, Mr. Chairman. Dr. Reilly, just a few questions. What percentage of your teachers are black in the union?

DR. REILLY: What percentage of our members are black?

ASSEMBLYMAN BROWN: Yes, black teachers in New Jersey.

DR. REILLY: We don't collect-- we don't have information on the ethnic backgrounds of our own membership. I believe from the records of the Department of Education about eight or nine percent of the teachers employed in the State are black, and our membership would approximately reflect that proportion.

ASSEMBLYMAN BROWN: You don't have the slightest idea what percentage of blacks--

DR. REILLY: In our membership? No.

ASSEMBLYMAN BROWN: Does the union poll its membership as to support of this bill? Do you actually poll the members, like you do a lot of other issues, about their support of the bill?

DR. REILLY: Well, I couldn't quickly agree with the statement that we poll our members on a lot of issues. We have occasionally had polls of our membership, small sample polls. The answer to this issue is no, we have not conducted a poll of our membership.

ASSEMBLYMAN BROWN: Has your union taken any other social position in the last five years on other issues as far as social kinds of issues are concerned? What is the background of the NJEA as far as issues of this nature? Have you taken a position in the past?

DR. REILLY: It would be impossible for me to restate all of our policy issues.

ASSEMBLYMAN BROWN: In the last five years.

DR. REILLY: By and large, our policies tend to be very liberal and supportive of civil rights and social issues, and I could certainly provide you with more information on that subject if you wished. That is the general thrust of our position on social issues.

ASSEMBLYMAN BROWN: Okay. You mentioned the prudent-man standard. Would you like to elaborate a little more on that?

DR. REILLY: The prudent-man standard was elaborated in an 1830 legal decision, and it simply states, as I understand it, that someone who is investing the funds of others, who has fiduciary responsibility, is obliged to invest in the best interest of the person for whom the prudent man is acting and cannot sacrifice the financial and material well-being of the person, for whom he is acting as agent, to any other consideration.

ASSEMBLYMAN BROWN: It also says in their best interest, right? So we could question what is in their best interest. What, I guess, I am trying to lead to is that if I read the bill correctly -- obviously you all may have misinterpreted it -- it says all things being equal; it did not suggest that we should lose money, that we should not invest if it meant a major loss. Did you read that in the bill any place?

DR. REILLY: Yes.

ASSEMBLYMAN BROWN: There must be reference to that fact, to the fact that we are not suggesting that we do things that are not in the best interests. Therefore, there should be no opposition in the area.

DR. REILLY: No, I don't think that we have any disagreement from that point. As I said, we support the principles in A-1308. It is a question of how, how fast, when, and matters of degree. We don't disagree with the principle of bringing both those actions that the bill seeks.

ASSEMBLYMAN BROWN: How do you interpret political interferences insofar as the membership being increased? What is wrong with political input? Is there something wrong with having political input into the process? We could use the argument: "Sure, you have asked for political input more than the other unions or any other organization has asked for in the past." So, now I kind of question that we shouldn't have political input. I am somewhat at a dilemma.

DR. REILLY: No, I didn't say or I didn't intend to say that we oppose the proposal to add representatives of the houses of the legislature to the commission. What I suggested is that we should maintain the balance between representatives of the funds and

representatives of the public, so that we should either eliminate two of the Governor's appointees, preferably those who do not have expertise -- currently the Governor has five and the funds have five -- or we should add two more representatives from the fund, preferably the TPEAF and the PERS. We don't oppose the principle of expanding the commission or providing the kind of political input that the bill seeks.

ASSEMBLYMAN BROWN: So the words "political interference" should be "political input?" You are without political input? The words political interference is what I didn't quite understand.

DR. REILLY: What we wanted to articulate is the general principle that we feel the Investment Council should make its decisions as a bottom line -- I think this was the phrase which was used -- on a financial and investment basis, and that there should not be political interference. There should not be an imbalance of political interest on the council. There should not be excessive additional structures set up which would exert political pressure. We think it should remain an investment environment which would be sensitive to the principles outlined in A-1308.

ASSEMBLYMAN BROWN: Regardless of the social responsibilities-- Are you saying that regardless of all the requirements for other investments in industries-- I think the Speaker pointed out earlier, in reference to his bill, we could take other areas; he quoted someone from some company who has chosen to go illegally just for the sake of making a profit. Your statement seemed to be kind of interesting, that this is the main issue: total profit. I have a problem with that.

With this last statement, I'll end. You mentioned that your members have no objection to having their money invested in those instruments that benefit New Jersey, but you also said that you recognize the pension funds belong to your members and other public employees. I was under the impression that prior to that money coming to those employees, it was taxpayers' money, to a degree. Taxpayers should have some input into the end result, although the political process works by making it possible for those individuals to receive

those salaries, which is great. But I am wondering to what extent we go? As teachers, we are supposed to set role models. How do they go into a classroom and teach students when they support an issue or policy that lacks human services, when they point out their major interest is making a profit in their pension funds?

The last comment is, do they have any obligation-- I was under the impression that the teachers, whatever category they fall into -- regardless of the profit of the pension fund itself -- would still get a set amount of returns when they retire. So the profits that the pension funds makes is not necessarily reflected in their pensions? Am I correct or incorrect?

DR. REILLY: Technically, but again, the cost of any pension system is anticipated benefits minus investment earnings. So if investment earnings are denigrated, then the cost to be borne by taxes increases in very short order. The State has to come up with additional taxes on our citizens for a loan, an unfunded liability to accumulate, which is the disasters of disasters in the pension area.

ASSEMBLYMAN BROWN: One last comment -- I'm sorry, I apologize. I think if you heard the representative from NCSL, the National Conference of State Legislatures, he indicated that one of the reasons that state legislatures have actually gotten involved in this issue is for the same reason: There are arguments that the investments in South Africa are not necessarily the best investments; there could be a loss; and there is a higher risk involved. These are other reasons why we should be in support of bills of this nature; statistics show that it is not in the best interests. Other companies have chosen to invest in other areas. I'm sure other speakers will address that, but I thought that was something your organization may want to take a look at. Thank you.

DR. REILLY: We do support those principles outlined in these bills, and that would be pursuing the prudent-man standard. Many of those investments would be bad and should be avoided, and I don't think there should be any misunderstanding about our position. We support the principles and we deplore the actions of the Republic of South Africa, but, again, we feel that these principles can be pursued

without precipitous action which could do us more harm than them. It is a question of approach, rather than a question of differing on principles. We agree with what you are trying to do completely. We have some other suggestions for how it might be approached that would be better, from everyone's point of view who is on the right side.

ASSEMBLYMAN BROWN: Maybe you could get that information to us sometime in the future.

ASSEMBLYMAN CHARLES: I want to see if I understand NJEA's position. I have heard what you said, I have heard some questions that have been put to you, and I have heard some answers that I thought you gave; I want to see if I understand all of it. It seems to me what you are saying is that the NJEA just takes a conscienceless, amoral position in regard to the use of pension moneys. The only concern is the financial return, and therefore it is the NJEA's position that anything that would affect, in the slightest degree, return on investments would lead the NJEA to reject that proposal? Is that correct? Even if there is a reasonable or good profit, anything that reduces maximum profits, is something that NJEA rejects? Is that it, devoid of any of the social implications or antihuman rights considerations?

DR. REILLY: I certainly can't agree with your statement, that the NJEA has no concern about human rights issues. I have said what I said many times; I don't know that there is much point going over it again. But once more, we don't feel that it is necessary to sacrifice the interests of the rate of return in the investments of the pension funds in order to accomplish these other goals. We think there is a very plausible basis to believe that we would be cutting off our own nose to spite somebody else's face, and we don't think that it is all determined yet. We recommend a more moderate approach, in which the State Investment Council studies these issues in greater detail rather than just taking a quick and neat approach and saying, "All right, cut them off; that's it," which may do us more harm than then.

ASSEMBLYMAN CHARLES: I asked if the NJEA's position is that the experiences that we have, up to this point, the experiences from Connecticut, Massachusetts, Michigan, and from other places, is not a

sufficient basis on which you can make any kind of determination about prudent use of New Jersey pension fund moneys? Is that the NJEA's position?

DR. REILLY: Yes, we think more information is needed and other approaches are valid.

ASSEMBLYMAN CHARLES: Can NJEA tell us, the members of this Committee, what additional information is needed? What is its projection is as to how long it will take to gather that body of information so that NJEA can finally come to a point where it can have enough data to make a final decision?

DR. REILLY: I think the State Investment Council has to do that, and that is what we are recommending. The State Investment Council needs to study these issues further.

ASSEMBLYMAN CHARLES: How does it do that? How does it study an issue without giving it a test? Where do you test it?

DR. REILLY: I think it has to study the behavior of individual companies and what they are doing and whether their activities contribute to well-being of our own citizens and the minority citizens in the Republic of South Africa. It seems precipitous, although it is conceptually very neat to just cut that off entirely, but we haven't seen any evidence that this doesn't do more harm than good. That is the issue.

ASSEMBLYMAN KARCHER: Mr. Chairman. More harm than good, in what sense? An economic sense?

DR. REILLY: In an economic sense, both to us and to them.

ASSEMBLYMAN KARCHER: All right, so we are devoid of any morality, just economics -- our well-being and their well-being. The only standard is profit? Is that right? Is that what your position is?

DR. REILLY: No.

ASSEMBLYMAN KARCHER: Well, then tell me what it is because that is what I heard you say.

DR. REILLY: Our position-- You are trying--

ASSEMBLYMAN KARCHER: Let's go back to well-being. Does your concept of well-being exclude everything except financial well-being -- a profit? Yes or no?

DR. REILLY: Does our concept of well-being--

ASSEMBLYMAN KARCHER: (interrupting) Of well-being, yes. You said the well-being of our citizenry and their citizenry -- if you use the broad sense of citizens of the Republic of South Africa-- You use the term the well-being of those citizens and our citizens. I want to know if your concept includes anything else except the financial well-being.

DR. REILLY: Certainly.

ASSEMBLYMAN KARCHER: What?

DR. REILLY: Well, it includes everything that might contribute to well-being, and I guess we can probably discuss that at considerable length.

ASSEMBLYMAN KARCHER: Dignity?

DR. REILLY: Well, of course.

ASSEMBLYMAN KARCHER: Self worth and equal treatment?

DR. REILLY: Of course, we are in agreement with all those principles, but we don't feel it is necessary--

ASSEMBLYMAN CHARLES: (interrupting) Just so long as it doesn't result in a penny's loss?

ASSEMBLYMAN BROWN: Mr. Chairman, if I may, I have one follow-up comment. I don't even know where to start with this. Your statement is completely confusing to me. You pointed out your opposition to the bill. On the one hand, the bill does not talk about the loss--

DR. REILLY: That is perhaps the essential point -- the issue of sacrificing the earnings of the pension funds to some other set of principles didn't seem to be an issue.

ASSEMBLYMAN BROWN: My final point is, I am interested if the NJEA has done any research to find out what the problems are in South Africa. You don't have any knowledge of how many black teachers pay into your funds. You haven't even done research within your own organization to find out if they support or are against that position. I find that interesting, that you are not aware of how many black teachers you have in your organization, so it is obvious that affirmative action issues are not of any significance. That may explain some other things--

DR. REILLY: (interrupting) That is not true.

ASSEMBLYMAN BROWN: (continuing) I don't want to get local or parochial here in the State; we are trying to deal with South Africa. I think a lot of those things are becoming clear now. I am sure that you had no black input from black teachers who are probably not part of your policy-making unions. Your error is that they should have had input into this statement, which leads me to question NJEA to some degree, and the whole question of your credibility regarding input, by having deferred affirmative action. That is something that we can address at some other time; it's totally irrelevant to the bill. I don't want to get into that, but I think it is obvious that NJEA needs to do some homework. With all the research they must have done and with you having your doctorate degree, etc., maybe you may want to take a look at what actually happens in South Africa.

When you talk about people having benefits-- If you are suggesting to me that people who are denied their rights -- 83 percent of the people who are forced to live on 13 percent of the land -- and that the Teachers' Pension Fund should profit from those kinds of sufferings, and that this is in the best interest of NJEA, then I have some serious reservations about the whole pension fund of NJEA. I just wanted to share my feelings.

I apologize for being parochial as far as NJEA is concerned in New Jersey.

DR. REILLY: If I may respond, NJEA and our parent organization, the NEA, have very elaborate constitutional requirements for minority representation of our governing bodies, which are well established and have been for a long time. In fact, I am having a little difficulty dealing with the issue that seems to keep coming up -- the suggestion that is being raised over and over of whether the pension fund should be damaged in order to further some other kind of goal.

ASSEMBLYMAN CHARLES: Let me stop you right there. I think your concern is-- You say damage; if you would just tell us what damage means, I think that you could clarify the points that Mr. Brown and the other Committee members as well as Speaker Karcher and myself

have raised. What is damage? If you answer that, I think you will have made your position clear.

DR. REILLY: That the return on investment of the pension funds should be reduced in order to achieve a wide variety of potential goals going as far as occupational health and safety. That didn't appear to be the issue embodied in the bills, and it seems to keep coming up. The bills seem to state, both of them, very straightforwardly that no damage should accrue, no loss of revenues or financial advantage should accrue to the pension funds by virtue of pursuing these goals. We are completely in favor of that.

ASSEMBLYMAN CHARLES: My understanding is, that is precisely what the bills provide for, and if you agree with that, I find it hard to understand how you oppose A-1309. If you agree that both bills provide for that, how then do you, in the next breath, say that you oppose A-1309?

DR. REILLY: I said that before, but I will say that again. We feel it is precipitous.

ASSEMBLYMAN KARCHER: I have to join a bill signing. I just want to pose upon you for a minute or two. I want to go back to this "well-being." I have a couple of questions to ask about well-being and the citizens of South Africa. Do we agree that exercising the freedom of speech enhances well-being?

DR. REILLY: Of course.

ASSEMBLYMAN KARCHER: How about freedom of the press? Does that enhance well-being?

DR. REILLY: Of course.

ASSEMBLYMAN KARCHER: Freedom of assembly?

DR. REILLY: Of course.

ASSEMBLYMAN KARCHER: Freedom to vote? Freedom to be represented by your peers and people of your own selection -- that enhances well-being, doesn't it? It does, doesn't it?

DR. REILLY: Certainly.

ASSEMBLYMAN KARCHER: Freedom to live where you choose to live -- that enhances well-being, doesn't it?

DR. REILLY: Certainly.

ASSEMBLYMAN KARCHER: Freedom to, for instance something basic like using a public facility, a toilet, where you choose to use a toilet -- that enhances your well-being, doesn't it?

DR. REILLY: Certainly.

ASSEMBLYMAN KARCHER: Can we say that the denial of this litany -- things such as the use of a public facility, the use of a toilet, the use of your right to vote, press, speech, and assemble -- diminishes your well-being, doesn't it? Isn't that the case in South Africa?

DR. REILLY: Yes, as far as we know.

ASSEMBLYMAN KARCHER: Well-being, when we talk about it in economic terms-- Does employment enhance your well-being?

DR. REILLY: Of course.

ASSEMBLYMAN KARCHER: Therefore, full employment -- within the terms of employment -- maximizes your well-being?

DR. REILLY: Certainly.

ASSEMBLYMAN KARCHER: Have you heard the phrase used that the last time blacks in America had full employment was when we had slavery? It is not my quote, but one a distinguished Reverend once used. Isn't that the case here? If we are to talk about opportunities of well-being, in financial and economic terms, then what is the difference, in your mind, between that and what we had here, in America, under slavery? They are providing employment; they are providing training. Simon Legree provided training. I don't mean to be contentious about it, but I think there is perhaps a difference of perception of what we consider to be well-being. I think that if you want to adopt that concept, and if you can argue in good defense the fact that the Simon Legree mentality provided training and job opportunities, yes it did. But, I don't think that is what any of us, in this day and age in America want to espouse.

DR. REILLY: We attempt to make no such assertion. We are in complete agreement.

ASSEMBLYMAN CHARLES: Thank you, Mr. Speaker. Are there any other questions?

ASSEMBLYMAN McENROE: Yes, I just want to make one other comment. I do find the statement to be incredibly narrow for NJEA to make before a Committee reviewing such important legislation.

On page three, you emphasize in print the comment under topic two: The State Investment Council, its members, by law, represent both the public and the pension funds, should be relied upon to invest pension funds -- again you have emphasized -- without political interference. Do you view A-1309 as political interference in matters affecting your pension funds?

DR. REILLY: Well--

ASSEMBLYMAN McENROE: (interrupting) You emphasized it; I haven't. I brought it to your attention, but you have emphasized it, at least in my copy.

DR. REILLY: We thought in establishing that principle-- We were thinking primarily in terms of creating an imbalance in A-1308 on the Investment Council for politically appointed representatives as opposed to representatives of the fund; this was our primary context.

ASSEMBLYMAN McENROE: Yet, by your own early comment you haven't reviewed or attended a meeting of the Subcommittee on Revenue in a year and a half.

DR. REILLY: Subcommittee on Revenue-- We were talking there about the Subcommittee on Investments of the Governor's Commission on Pension Reform, which was a fixed period committee that held one public hearing at which the public could testify. It is now completed; it is not an ongoing activity.

ASSEMBLYMAN McENROE: My reaction to your comment is a legislative body elected by the people should certainly open the door, if you will, for further review and continued review.

DR. REILLY: We don't object to introduction of representatives of the houses of the Legislature; we just stated that the balance should be maintained. There are references to a wide variety of areas, as I said, going as far as occupation safety. In that context too, that would be subjecting an investment decision to political considerations. We have felt traditionally that is inappropriate.

ASSEMBLYMAN McENROE: That is not appropriate or it is appropriate?

DR. REILLY: That is not appropriate to subject investment decisions for pension funds to political considerations.

ASSEMBLYMAN McENROE: Thank you. The only other comment-- I can't, again, not comment on page four where you say the prudent-man standard requires that the fund trustees consider the beneficiaries of the funds in making investments; any other approach would be fiscally irresponsible. Of course, you are saying there, that is exclusive of any other consideration, as has been emphasized by the Speaker, the sponsor of A-1308.

I just find it incredible that the NJEA would stand behind statements that are relating only to the welfare of their retirees and not at least give equal emphasis to the importance of other areas.

DR. REILLY: We do give great importance to other areas, as I have tried over and over again to point out, and I think what you are trying to establish--

ASSEMBLYMAN McENROE: (interrupting) Well, you should have included it in your statement; that is my point.

DR. REILLY: (continuing) What you seem to be trying to establish is that we have to damage the interests of the retirees and the financial stability of the pension funds in order to achieve these other goals. I don't think that is true, but there is no evidence to prove that. Perhaps we are talking past each other to some extent. I indicated support for all of these principles and for the bulk of A-1308. We object to A-1309 because we think it is precipitous, but what several members of the panel seem to read into that is that we oppose-- that we care about nothing except maximum return of the funds, and that we are somehow opposed to the very worthwhile and valuable principles stated elsewhere in the bills. It is simply not true. I have said it several times. I have to try again, to get it on the record--

ASSEMBLYMAN CHARLES: I think we understand what your position is.

ASSEMBLYMAN McENROE: Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Thank you, Dr. Reilly.

DR. REILLY: Thank you very much.

ASSEMBLYMAN CHARLES: We will next hear from Ray Peterson. He is from the New Jersey State Federation of Teachers.

RAYMOND A. PETERSON: Good afternoon, Mr. Chairman and members of the Committee. I am Raymond A. Peterson, the immediate past president of the New Jersey State Federation of Teachers. I am here to speak on behalf of our State federation. We represent about 11,000 public school and college employees in New Jersey, and most of them are members of the State pension system.

We agree with those who say that it is time to stop investing public employee pension funds in companies that have substantial holdings in nations that are known for their violations of basic human rights, and particularly, in the Republic of South Africa. Our organization, like many others, has passed numerous resolutions deploring these violations and urging economic boycotts of such nations and of such regimes. But the passage of resolutions is not enough.

One of the key elements in the creation of wealth is investment capital. From a moral point of view, we should not be helping to create economic rewards for those regimes and for those corporate decision-makers who choose to ignore the human misery that has been reported in South Africa and in other nations. We believe that our investment dollars could and should be spent here in our own nation, and in our own State, where the need for economic growth is so apparent. New Jersey needs to join with those states that are experiencing growth through the replacement of obsolete industries, buildings, and equipment; through the attraction of new businesses; and through the expansion of existing State businesses and industries.

By putting New Jersey's investment dollars to work in New Jersey, we can help to improve the economic climate for all New Jersey citizens, whether they are employed in the private sector or the public sector. Each new job created in a community will have a positive economic impact upon ten other jobs in that community, and each dollar spent on new construction, such as plant, office, or other property expansion will have a positive effect upon the tax revenues realized by the community in which the growth takes place.

The creation of a prosperous economy need not, and should not, be done at the expense of public employees, however. I am pleased to see that the language offered in Assembly Bills 1308 and 1309 carefully spells out the investment requirements for preservation of the fund members' capital as well as the realization of the greatest possible returns on investment, commensurate with acceptable standards of risk and prudence. The provisions requiring fiscal prudence as well as social responsibility should alleviate the concerns expressed by employee groups when previous pension investment proposals were discussed.

There is some concern, however, regarding the two-year phase-out of inappropriate investments indicated in section 8 on page 5 of Assembly Bill 1308. The divestiture procedure outlined in section 3 of Assembly Bill 1309 calls for quarterly reports until the investments are phased out. This seems a more sensible approach, and I would suggest that efforts be made to make the two sections consistent.

I would like to digress from my prepared remarks for a moment and say that my concern about the two-year phase-out-- Let's put it another way; my concern for the way A-1309 is stated means that there would not be any precipitous cost. It would not be necessary to unload stocks in a down market, but by filing these quarterly reports, the Investment Council could see which ones were being unloaded, and in fact, if they were being divested. So, I would suggest that you could take the two-year limit out and go to Assemblyman Brown's version of this, where you don't have a time limit, but where you do demand quarterly reports.

ASSEMBLYMAN CHARLES: My first question would be, particularly after the last comments that we heard, whether your people in the New Jersey State Federation of Teachers recognize or take the position that some elements, some fact of social responsibility, can be considered along with the prudent-man rule and fiscal responsibility in the investment policies of the public pension funds?

MR. PETERSON: Of course we do. That is why we concur with this bill. This has been two years in the making. I think the drafter of this bill has covered all the bases. There was a great deal of concern two years ago.

ASSEMBLYMAN CHARLES: So your union, your people, do not take the position then that absolute maximum profit is the sole consideration?

MR. PETERSON: No, it doesn't need to be. As one of the previous speakers pointed out, this is a defined benefit plan. Members are going to get the pension benefits that have been outlined in the statutes and pension regulations. The State of New Jersey would have to make up any losses; so, when you are looking at taxpayers' dollars, you do need to look at the whole picture.

I think education, or any other enterprise in this State, can thrive by itself. We are all in the same boat, and by investing in the State, I think we all benefit.

ASSEMBLYMAN CHARLES: Does anyone have a question? (negative response) Thank you, Mr. Peterson.

Again exercising the prerogative of the Chair, I will call Dr. Mary Murningham. Is she here?

DR. MARCY MURNINGHAM: Mr. Chairman and members of the Assembly Committee, my name is Marcy Murningham, and I am the Coordinator of Research for the Mitchell Investment Management Company, Inc., which is an investment advisory firm based in Cambridge, Massachusetts. I am a resident of the city of Boston.

I am pleased to be invited here today to speak to you about the state of Massachusetts' experience with the divestiture of state public pension investments with firms doing business in or with South Africa. I am especially pleased to make a contribution to your efforts because, in my view, they represent conscientious public policy making in the best sense. I think that the public interest is well served by your deliberations here today.

Before turning to the Massachusetts case, let me say a few words about the context in which the proposals are made. Some references have already been made this morning, but I wanted to go over them once again.

We live and work in a policy climate which has changed. For a variety of reasons -- the impact of several interest groups being one; another being unpredictable economic fluctuations; the presence of

more sophisticated forms of electronic information transfer; and certainly greater levels of education attainment among our population, young and old -- our institutions and their leadership are being held accountable more than ever before. There are now many pressures from the outside and pressures from the inside, conflicting sometimes, as pressures often do, to incorporate social and ethical considerations into the decision-making process. Convictions and beliefs about civic responsibility are now finding their way into areas previously viewed as "off limits." Certainly consideration of the social and economic consequences of investment policy represent an example of that. The recent attention in the press in deliberations such as this one today, given to so-called conscientious investors, cuts across many sectors and constituencies.

Put simply, the concept of conscientious or socially-sensitive investment, as applied to an institutional investor, means that both fiduciary and public interest concerns are incorporated into asset or pension fund management. It also means that more work is expended to establish the social and ethical investment criteria, as well as financial ones, to define those criteria in terms of such things as high and low performance, and to see to it that they are used by money managers without violating prudent-man requirements. Positive performance, therefore, takes on two meanings. One is that it applies to the portfolio in financial terms, and two, it reflects positive adherence to certain public interest standards.

As many of you know, there are several investment strategies typically available to the concerned investor. So-called program-related investments, sometimes manifested by revolving loan funds, provide capital to initiatives which provide some intrinsically valuable service to a community. Your proposals include such a category. In fact, I find the proposed delineation of development investment strategy highly impressive.

Another strategy available to the concerned investor is the use of proxy resolutions to influence corporate behavior. Now fifteen years old, the public interest proxy movement continues to be a force, although it is one which is subject to changes in the social and political environment.

The idea of selective investment and its counterpart, disinvestment, emerged in the late 1960's and early 1970's. As churches and other investors began to examine their portfolios for holdings which might be associated with underdesirable social activities, a number of support organizations emerged to research the nonfinancial profiles of companies. There are now a number of research organizations and financial management services, as well as investment vehicles, available to the conscientious investor. In fact, there is so much activity in this field that a trade association of social investment professionals and organizations was established this spring. Called the Social Investment Forum, the group was organized to promote the concept of conscientious investing to the public and to government.

In addition to all this is the growing acceptance of conscientious investing within the financial community as well. Deregulation and the limitations, especially in these economic times, of traditional investment strategy are factors which contribute to current receptivity.

In fact, many financial advisors now realize that subjecting companies to both financial and social scrutiny can result in a portfolio that achieves high performance results. What we are beginning to discover, and there is some preliminary data to support this, is that companies which are managed well and show growth in stock price value are usually companies which demonstrate sensitivity to employees, the environment, the community, and consumers. Indeed, many corporate executives recognize that there is a link between good business practice and social responsibility. In other words, nice guys don't have to finish last; they are often industry leaders.

So we find that the use of social and ethical criteria in investment decision-making is no longer considered to be marginal. The concept of shareholder responsibility, which goes back to the last years of the 1960's, in that pre-Watergate era of social activism when people were much less cynical about social change, has taken hold within a variety of institutions. Many states, foundations, universities and colleges, church groups, and municipalities are

raising questions about how their assets are managed. In fact, just yesterday, I spoke before the Boston City Council, which is considering a divestiture bill similar to the one considered today; tomorrow they will be voting on it, and it looks highly promising. For Boston, that represents a positive step forward. Like you, they are concerned about whether or not there might be contradictions between investment policy and institutional policy -- contradictions which are at worst embarrassing and at best enlightening.

On the issue of apartheid, there are currently 27 states which have considered or passed divestiture legislation. In addition to concerns about the injustices in South Africa, however, many institutional investors have recognized that they have an opportunity to condition their portfolio management strategy on other nonfinancial considerations. Examples of those include fair labor practices, economic development strategies, concerns about occupational health and safety, environmental stewardship, and the use of nuclear power.

New Jersey, then, has the opportunity to be part of a growing movement whose time has come. More than that, you are in a position to set standards from which others can learn. The strategic inclusion of social justice criteria in the management of your pension fund investments is truly a sign of progressive responsibility for the public interest, not just within this State's borders, but beyond them as well.

That all said, now let me turn to a description of what happened in the Commonwealth of Massachusetts.

As you are probably aware, Massachusetts was one of the first states to enact legislation specifically prohibiting investments in companies doing business in or with the Republic of South Africa. It is not included in my testimony, but I am proud to say that my home state of Michigan was probably the first in terms of such legislation which affected the state university system; it was not as comprehensive. The Massachusetts action took place in January 1983, after several legislative attempts made in early years. In fact, the legislation was passed by a nearly unanimous senate and house override of former Massachusetts Governor Edward J. King's veto of a bill

requiring divestiture of pension fund holdings in South African-related firms over a three-year period, which would be, according to the calendar, by the end of April 1986.

The bill affected stocks and bonds bought before an earlier ban went into effect. Since September 1, 1979, budget amendments added by the Massachusetts legislature prohibited the new purchase of such investments. The 1983 bill affected some \$91 million of teacher and state employees retirement funds invested in securities issued by roughly 43 banks and companies represented in the portfolio.

Sponsored by state Senator Jack H. Backman and then-state Representative Melvin H. King, the bill also included provisions for the reinvestment of the proceeds of the sales of South Africa-related investments in institutions or companies which invest in or conduct business operations in Massachusetts, so long as such reinvestment was consistent with sound investment policy.

Endorsed by over 100 labor, religious, and civic organizations, there were both economic and psychological arguments presented in support of the bill. These arguments were apparently persuasive to the state legislature which initially passed the bill in December of 1982.

Then-Governor King did not support the conclusion of the General Court. While stating his agreement with the moral values and principles represented by the legislation, Governor King vetoed it on the grounds that it would contradict the Commonwealth fiduciary responsibility. He stated his confidence in a voluntary process divestment which would not, in his terms, have the negative effect supposedly produced by mandatory divestiture. According to Governor King, the mandated sale of securities would be complicated by the existing depression of market values, which in turn would have a negative effect on the market value of the Commonwealth portfolio at that time.

The state legislature disagreed with the Governor's analysis. In early January 1983, it voted to override the veto by a 23 to 5 vote in the senate, and a 233 to 2 vote in the house. Subsequent to this, the state treasurer's office moved quickly. In the nine

months following passage, more than three-quarters of the \$91 million worth of investments affected by the act were sold.

In Massachusetts the state treasurer invests the funds of the Teachers and State Employees Pensions Funds in U.S. Government securities, in mortgage-backed securities, in bank and bank holding company stocks, in corporate bonds, and various utility bonds. The divestiture bill primarily affected the fixed income securities category in the portfolio. Current coupon Government National Mortgage Association -- or Ginnie May -- issues were purchased to replace those which were divested.

There was some controversy generated by these sales regarding the financial impact on the retirement funds. Staff within the state Treasurer's office claimed that the act required it to sell bonds with the face value, at that time, of \$78 million for securities with a face value of \$64 million and concluded that this represented a financial loss of \$14 million.

This point was challenged by Senator Backman, one of the bill's sponsors, and by the recently-elected Governor Michael S. Dukakis. In a statement made to state and local officials from throughout the country last year, Governor Dukakis stated that the Commonwealth experienced that, "Divestiture makes not only a strong moral statement against apartheid, but has proven to have had no significant impact on our pension earnings." Governor Dukakis went on to say that, "Timely and careful divestiture can result in increases in pension earnings."

Why the conflicting statements? Well, based upon a review of different analyses and reports of the financial impact of the bond swap, it appears that the so-called \$14 million loss is taken out of context. In truth, the financial effect of the divestiture has improved the current income flow, improved the quality of the portfolio holdings, decreased volatility and risk, and gained the retirement fund a projected \$16 million in cash flow alone over the life of the purchased bonds.

There is no disagreement over one point: The face value of the newly-acquired bonds was lower than that of the bonds for which

they were swapped. However, the annual stream of income produced by the sale was higher.

According to commutations made by the Franklin Research and Development Corporation, which is a highly-regarded financial advisor based in Boston, the unweighted coupon average for the discount securities was 8.5196 percent. The average coupon purchased was 11.164 percent. The differential was 2.6444 percent. Because the new bonds carry a higher coupon rate than those they replaced, the income stream per year improvement was about \$1,684,423 based upon the \$64 million face value of the securities purchased.

Therefore, using these calculations, it would take about 8.31 years to make up for the \$14 million lost on the transaction. In fact, the differential between the proceeds and original cost were built into the portfolio over time as interest rates rose from the levels which prevailed when the securities were purchased. Furthermore, according to Franklin, losses in the portfolio were not caused by divestiture, nor related to the bill in any way. Rather, the sale of the securities caused them to be realized.

In addition to the increased annual income flow, the average quality rating of the issues sold and the issues purchased changed after the bill's passage. Using Moody's ratings, the average quality rating of the issues sold was AA2, which represents third-quality ranking. The average quality of the issues purchased was AAA, which is the top ranking.

Finally, taking the average life the purchased bonds into consideration, which is usually about 18 years, the projected \$1,684,423 additional annual cash flow results in gains of up to \$16 million after the \$14 million is replaced. In addition, because values of discount bonds, which were previously held, decreased through 1983 as interest rates increased, the bond swap saved the portfolio money. As bond prices fell last year, the swap saved the portfolio up to \$3.2 million in market value.

According to the state treasurer's office, as of December 31, 1983, the Massachusetts State Employees' and Teachers' Annuity Funds no longer held any South Africa-related securities. As of April

50, 1984, the book value of the state employees' retirement funds was about \$1.116 billion and the market value was approximately \$959 million. The book value of the teachers' pension funds was roughly \$1.348 billion at the end of April 1984; the market value was an estimated \$1.150 billion.

Insisting upon a portfolio which consists of holdings that not only represent positive financial investments but also reflect certain concerns about social justice and human rights makes good sense. You do not have to increase your risk and lower your return to do so. Since there are thousands of publicly-traded companies from which to choose, the use of public interest and ethical criteria in fund management can serve as a tool for identifying unique investment opportunities. It means that more thought is put into developing a portfolio strategy. It means that greater selection occurs in researching and analyzing investment opportunities. It means that your investment advisor is working harder -- or should be working harder -- on your behalf to assure a better fit between your overall investment policy and portfolio performance. It means, too, that you are demonstrating a commitment to public interest standards which go beyond the state's borders.

So, I am pleased to have made a contribution to your deliberation here today. I am very glad to see how we share a common belief that the social justice, economic, ethical, and moral questions which are raised in the context of public policy can be raised in the context of investment policy as well. This represents a step forward for government and bodes well for our collective future. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much, Dr. Murningham. In order for us to put some of the comments in your testimony into context -- to give us some basis for evaluation, particularly the conclusion that social investment policy doesn't have to be unprofitable -- I would like you just to state what Mitchell Investment Management Company does. What is it in the business of doing?

DR. MURNINGHAN: We are in the business of helping as a financial advisor. We are in the business of helping institutions develop investment strategy and/or manage their money. We emphasize

what is referred to as social responsibility investing in a variety of different ways.

ASSEMBLYMAN CHARLES: This emphasis on social responsibility investment hasn't always been a topic that has been practiced, I assume? Is that correct?

DR. MURNINGHAN: It is a topic that has been practiced over the last few years in different ways by different groups of people. Actually, it is an area that emerged out of the early 1970's , a sort of concern about consumer-product quality and so on, when many groups began to look at several issues having to do with corporate behavior. As shareholders, they were able to do that. More recently, I think, there is a wave of interest in this area that is triggered by a lot of different things. What we have found -- the group I work with as well as the advisors that we have -- is that it represents, as I said earlier, a change in the policy climate, in terms of greater concern about what institutions do that is somehow consistent with what they say they are going to do.

ASSEMBLYMAN CHARLES: I would imagine too, that as a result of your involvement in this type of investment, lists and other kinds of data have been gathered over the course of the last several years which delineate companies who do certain things and who don't do certain things, which foster certain social and other economic developments?

DR. MURNINGHAN: That is exactly right. That is one of the reasons that the professional association was organized -- to help expand that data base and make it accessible to investors.

ASSEMBLYMAN CHARLES: All right, so that state investment councils and bodies of that sort would not have to do extensive new research, or whatever, in terms of finding companies which would meet legislative mandates. Is that correct?

DR. MURNINGHAN: That is correct.

ASSEMBLYMAN CHARLES: Does anyone have any questions?

ASSEMBLYMAN BROWN: As a sponsor of the legislation, I would like to thank Dr. Murningham for her input and for shedding some light on the business perspective. Welcome to New Jersey. Thank you.

DR. MURNINGHAN: Thank you very much.

ASSEMBLYMAN McENROE: Mr. Chairman, I just have one question. When was the Mitchell Investment founded?

DR. MURNINGHAN: The firm is about four years old, but the social initiative is about a year old, and again, that is the result of several people -- myself included -- getting involved with this sort of activity. For me, it was a lateral move out of public administration.

ASSEMBLYMAN McENROE: So a major part of the involvement of the company is in the area of providing social responsibility and advise for corporate investors?

DR. MURNINGHAN: I would say that it represents a substantial involvement. We do other forms of asset management as well. That is correct.

ASSEMBLYMAN McENROE: Thank you.

ASSEMBLYMAN CHARLES: I have just one other question. Your report covers the Massachusetts experience?

DR. MURNINGHAN: That is right.

ASSEMBLYMAN CHARLES: Is there any reason for believing that is so unique that it can work only in Massachusetts, whereas in other states that type of investment policy wouldn't work; or, does the experience in Massachusetts typify what would likely happen wherever such legislation is put in place?

DR. MURNINGHAN: I think there are many in my state who would like to believe that they are unique in behavior and may not be copied necessarily. Based on my own analysis on what other states, as well as municipalities, have done or are considering, I think that the answer is yes, one can benefit by taking this sort of action. But, I think the key point is the enforcement of the policy that is developed, and then the degree to which adequate and prudent fund management takes place. The implementation side is where different problems begin to emerge. That again gets back to oversight and enforcement of provisions that are in the legislation.

ASSEMBLYMAN CHARLES: What type of problems -- just briefly because we have others on the list -- begin to develop?

DR. MURNINGHAN: People have to work harder to be specific about the standards to identify investment opportunities and to use

judgment that addresses some policy areas that many investment professionals are unfamiliar with. It means simply that we have to become bilingual in a certain kind of way.

ASSEMBLYMAN CHARLES: Thank you Dr. Murningham. Any other questions? (negative response)

Is Michael Moffitt here? (affirmative response)

MICHAEL MOFFITT: Good afternoon, Mr. Chairman. My name is Michael Moffitt, and I am an investment adviser to Shearson Lehman/American Express, the second largest brokerage firm in the United States. Together with two other colleagues, we manage individual and institutional accounts for investors who, for a variety of reasons, exclude certain kinds of securities from their portfolios.

I do want to emphasize that I appear here as an individual and that I do not speak for Shearson Lehman/American Express or the American Express Company.

Moreover, I would also like to stress that I will not be addressing the specific issue of what action should be taken on the legislation before us. That is for you to decide. Our expertise is in the financial area. We believe that on the basis of our experience, we are qualified to answer the following question: Would laws barring the investment of state funds or state pension funds in U.S. corporations that do business in South Africa prevent the State from earning the highest possible return of its investments?

In our experience with both our institutional and individual clients the answer to that question is an unequivocal no. We manage money with a much greater series of restrictions placed upon us than those under consideration today. Still, we find our remaining universe of securities sufficiently broad to permit us to carry out our responsibilities. If we were given the task of managing New Jersey State funds within the framework under discussion today, we believe that we would have no problem in finding suitable alternatives to those investments that would be prohibited.

Investment performance is a function of the accuracy of the investment managers' judgments about the overall market, the future course of interest rates, and hence the ability to select investments

that will appreciate over time. Our performance would not be hindered, limited, or in any way adversely affected by the restrictions of avoiding investments in companies that do business in South Africa.

The question of what, if any, effect the exclusion of South-African related securities would have on investment performance for public funds is critical given the growing number of states and localities that are debating or enacting divestiture bills of one kind or another.

Traditional money managers might be expected to take the position that a reduction in the universe would narrow the selection and increase risk. However, an examination of what is being eliminated might result in a different conclusion. For example, in the investment area, if one were to eliminate all nuclear utilities as investment, it would restrict the investment availability, but would increase performance by eliminating securities of greater risk and poorer performance. The same is true of the major money bank stocks. This same conclusion has been demonstrated to be correct concerning the exclusion of investments in companies heavily involved in South Africa.

Several studies have attempted to verify quantitatively what has or would have happened to large portfolios which exclude investments of companies in South Africa. Each of these studies has in its own way found that for virtually any given period of time in the past, portfolio performance would have been no worse, and in some cases would have been better, if a screen of avoiding investments in South Africa had been placed on a fund. While one cannot and should not predict future investment results based on past performance, the results of these studies are instructive.

The first study I would like to mention is a recent one performed at our request by the Boston Company, a wholly-owned subsidiary of Shearson Lehman/American Express. This study excluded 135 companies from the Standard and Poor's 500 that had been identified as having significant investments in South Africa or poor employee relations. In eight of the eleven years from 1973 to the end of October 1983, the remaining 365 companies outperformed the 135 that

were excluded, and, I would add, in most quarterly periods within those eleven years. For the overall period the non-excluded companies appreciated a statistically significantly 13 percent more than the ones left out. Please note also that our screen included companies that were not only in South Africa, but had a poor track record with employee relations.

In recent years, several other major institutional studies have been done. They include: A report prepared by the Council on Economic Priorities for the State of California Retirement Systems, entitled Pension Funds and Ethical Investment; a report by Franklin Research and Development of Boston prepared for the Washington D.C. Retirement Board; and an internal study by Chemical Bank that reviewed Chemical's own "buy list" with corporations doing business in South Africa left out.

Each of these studies has documented the statistical fact that, all others being equal, a portfolio that avoided stocks of U.S. companies in South Africa would have outperformed a portfolio including these companies.

The Council on Economic Priorities report on the two large California Public Funds is important to this consideration because of the size of the funds, totaling \$17 billion in 1980, the depth of the study, and the exclusion of two areas of investment, South Africa and poor employee relations.

The Council report concluded as follows:

The Council for Economic Priorities did discover that divestment and/or exclusion would not have significant financial consequences for the pension funds themselves. Therefore, basic fiscal and legal concerns need not stop the Public Employees Retirement System and the State Teachers Retirement System from taking these actions.

A Franklin Research and Development report was prepared specifically for the District of Columbia's March 4, 1983, hearings before the City Council Committee on Consumer and Regulatory Affairs. The study prepared an alternative portfolio of the D.C. Retirement Funds with companies in South Africa eliminated, and a backtracking was done. It showed that over the past nine years the Washington D.C.

stocks related to South Africa had an appreciation of 8 percent per year while those not involved in South Africa averaged 11.2% percent.

Franklin Research concluded as follows:

"In our opinion there is no material investment disadvantage created by excluding less than 1 percent of the listed companies from the approved investment list."

There are two generic problems associated with all of the studies mentioned above. The first is that past is not prologue, and the fact that a certain group of stocks behaved in one way in the past cannot be used to make a case that they would perform similarly in the future. Nevertheless, the fact remains that past performance would not have been made worse if South African related stocks had been omitted.

The second problem with these studies is that for the majority of the time periods covered, smaller companies have tended to perform better in the stock market than have the larger capitalized multinationals that tend to have operations in the Republic of South Africa. For reasons of liquidity, volatility, and occasional investment restrictions, large institutional investors do not always have the luxury of investing freely in all of the smaller capitalization companies remaining when the U.S. corporations in South Africa are excluded, but the trend in the larger portfolios is toward lifting restrictions on investing in smaller, growth-oriented companies.

A frequent objection raised to divestiture proposals is that funds would have to incur abnormally large transaction costs. Since the funds which have been directed to divest usually allow the divestiture to take place over a period of at least two to four years, the argument that extra commissions would have to be paid does not really apply. Large institutional investors typically pay low negotiated rates of five to six cents a share, and somewhere between 25 to 75 percent of a portfolio may turn over each year in the normal course of events. Thus, a program of divestiture could be instituted over a time period so that many of the required sales are done when independent investment judgments would have warranted a sale anyway. Commissions are a negligible part of portfolio cost.

In addition, I find the definition of risk that is implicit in many criticisms of divestiture to be rather limited and therefore misleading. At a time when international loan defaults threaten to bankrupt major U.S. banks, and wars, revolutions, and terrorism disrupt international commerce and destroy corporate property, the concept of "country risk" must be taken into account. Surely investors in South Africa face above average country risk.

South Africa is a country which is becoming more politically and militarily explosive. A man well known to the investment community, former Secretary of Defense and World Bank President, Robert McNamara, in a speech in October 1982 at the University of Witwaterstrand in South Africa, drew attention to the escalating social tensions created by apartheid and stated that "South Africa may become as great a threat to the peace of the world in the 1990's as the Middle East is today." If this is so, the companies operating in South Africa face considerable risk that their assets may be damaged or destroyed in a violent conflict between black nationalist forces and the South African regime. Earnings and share prices would be affected accordingly.

In conclusion, it is our view that a decision on divestiture should be made on the basis of whether or not New Jersey wishes to take a stand on the question of investing in companies that do business in South Africa. The decision should not be made because of a fear that a portfolio performance would suffer. In both the areas of debt securities and equities, the remaining universe of securities is, in our view, sufficiently broad to enable fund managers to match or outperform the averages. We are not aware of a single industry that a fund would be prohibited from investing in, if companies in South Africa were left out. As far as debt securities are concerned, the huge U.S. government and agency markets offer potentially limitless opportunities for bond swaps of almost any coupon, yield, and maturity. With regard to equities, a program of divestiture should, if enacted, be phased in over a period of time so that maximum benefit to the funds concerned can be derived from existing stock positions for the balance of this market cycle.

I made clear at the outset that my testimony does not represent the views of Shearson Lehman/American Express or American Express. For the record, I would just like to state that both American Express and Shearson have stated their abhorrence of the system of apartheid. In joining those opposed to the practice of apartheid, the American Express Company and its subsidiaries have taken a number of public actions, including the discontinuance of all advertising for the sale of Krugerrands and not extending loans to the government of South Africa or its agencies. The company believes, however, that a more effective opposition to that system would come from a continued presence in South Africa of those American companies which attempt, in their various fields of endeavor, to improve the situation for the black population. The American Express Company has supported the Sullivan Principles even while recognizing that there are some weaknesses in them. American Express is opposed to divestiture because it believes that the presence of forward-looking companies will be beneficial to the majority.

And finally, let me add, as a resident of the State of New Jersey, that the proposal to direct investments in-State, whenever possible, is sound and long overdue. We look forward to a day when more of the State's assets are invested in ways that will encourage the formation of jobs and new industries here in New Jersey.

Something not in the written statement that I would like to add, is that if it would be of assistance to you, if we could have the opportunity, at some point, to review the portfolio, we might be able to supplement the general principles of our testimony with some concrete suggestions of bond swaps or changes in the equity part of the portfolio, if that would help in your efforts. Thank you.

ASSEMBLYMAN CHARLES: Thank you. I have one question to ask Mr. Moffitt. You made reference to several studies in your testimony, studies which showed that social investments don't lead to loss, but that they could be operated financially. I recall in reading some materials, in reference to some other studies, they arrived at a contrary and different conclusion. I think that is Mezinger; what term am I looking for? What report was that?

MR. MOFFITT: There was a firm that did a study, I believe, for the City Council of Washington, which took the position, based on interviews-- I can't recall--

ASSEMBLYMAN CHARLES: (Interrupting) I think it was the Mezinger Report.

MR. MOFFITT: I believe that they did a study when the bill in Washington was being debated; they interviewed the fund managers of the Washington D.C. Retirement Board. Based on those interviews, they presented results which stated that investment performance would be harmed if the law was passed. We disagree with those conclusions. The most obvious way to illustrate this is when you talk about the area of debt securities. The U.S. government and agency markets for debt securities are absolutely enormous with all the deficit financing that has been going on. There is no reason why objectionable bonds can't be swapped for bonds of equal, or even better, income yield and maturity. We would be happy to be review the portfolio.

ASSEMBLYMAN CHARLES: Do you know of any other reports which have come down on the other side, which have reached a different conclusion than yours? I think you made reference to three reports. I made reference to one on the other side. Do you know of any others that the Committee might want to look at and examine for its substance or its worth or lack of worth?

MR. MOFFITT: That has been the only one, to the best of my knowledge. There have been some negative newspaper articles, but in terms of studies, I believe that to the best of my recollection, that is the only one I am aware of.

ASSEMBLYMAN CHARLES: Are there any questions? (negative response) Thank you very much.

MR. MOFFITT: Thank you.

ASSEMBLYMAN CHARLES: Dumisani Kumalo.

DUMISANI KUMALO: My name is Dumisani Kumalo. I am Project Director for the American Committee on Africa in New York City. In my job I work as national coordinator in various state legislatures that have been considering this issue of divestment. I should apologize, Mr. Chairman, that I didn't have enough time to prepare my notes into a

paper to present here, but I will certainly send a paper in for the record.

I would just like to add a correction to the record, Mr. Chairman, if I may. The speaker from the New Jersey Educational Association -- I think it was Mr. Reilly -- kept on referring to black people in South Africa being the minority. Well to put it in a very humorous note, Mr. Chairman, we were not a minority this morning when I spoke to my father. In a serious vein, I just want to correct that for the record. It is wrong to say that black people in South Africa are the minority because we are not.

Mr. Chairman, the number one point that I want to make is that it has become very fashionable for people to stand up and say, "Of course I am opposed to apartheid; of course I abhor apartheid." But, then they go on to explain why they support it.

The question that keeps on coming up, Mr. Chairman, is that the investments that are in South Africa are there to help black people. The thing I am being told by people is that "We are helping you people down there." Or as one witness said, "If we get out, it would hurt those black people." It is amusing, Mr. Chairman, that these people have suddenly discovered us. Ten years ago we were not discovered. Nobody was helping; nobody even knew we existed. And now, everybody is trying to help us. We are being blamed that no change can come because change will hurt us. In other words, they are effectively blaming the victim.

My point, Mr. Chairman, is that if the United States corporations that are in South Africa are there to help black people, why don't they help black people right here? They don't have to travel ten thousand miles to discover black people. They are in South Africa because it is good business. I don't question them for doing good business wherever they do it. But I think to confuse the issue and say that "We are there because we are there to help black people," is to imply that those corporations have suddenly turned into philanthropical organizations, which they haven't.

The other point which I want to note, Mr. Chairman, is that the argument is always that divestment will hurt black people. What

about white people? I mean nobody is talking about white people. Divestment will hurt both black and white people. But, I think this idea of loving us more than we love ourselves is becoming too popular. I think that we have to stop it at some point.

The issue in South Africa is not to compete on who loves blacks better than the other. The issue in South Africa is the South African government, Mr. Chairman, and the evil thing that it perpetrates on black people. I could take the whole day enumerating all kinds of things that I have experienced or that my family has experienced. I worked for 14 years as a journalist in South Africa, Mr. Chairman, and every day I documented the injustices that were happening in South Africa.

The point that has to be made is that the government of South Africa is continuing today to perpetuate this policy because of the technology and the financial support it gets from companies in the United States, in Europe, and elsewhere.

The question that again gets debated is a question of the Sullivan Principles. It comes up now and again. Unless the figures have changed recently, the Sullivan Principles affected companies that employed plus or minus 70 thousand black people out of a population of 22 million. So, it means that even if the 70 thousand black people could be treated well, you know you still have 21 million other people who are not covered by these Principles.

The other thing that I just want to mention is that the Sullivan Principles have been used by companies that support the police, the military, and the government as a smoke screen to say "Look, you know we are good; we are promoting a few workers. We are doing this; we are paying for education. We built a classroom last week. We trained five black people to be managers. So, we are the good guys." And the very same companies that are saying that, are supporting the South African police, military, and government.

I would submit, Mr. Chairman, that if there is anything that can be said in 1984 it is that we shouldn't be dealing with companies that support the South African police, the South African military, and the South African government in its efforts to uproot people all over the country.

The other question that has been raised, whenever divestment has been brought up, is the question of the so-called prudent-man rule, or fiduciary responsibility. Mr. Chairman, I have always argued that the pension fund trustees in New Jersey or anywhere else in the country right now, today, are extremely prudent. They are prudent because they are not investing in cocaine, where their profits would be much higher. They are very prudent because they are not investing in pornography, where the returns would be much higher. How can they then invest in racism? Where does one draw the line?

The other thing that has been said, Mr. Chairman, is that "If we do divestment, it is just a symbolic act; we are just being nice people." Mr. Chairman, in Connecticut a bill was passed which is not a complete divestment bill, but according to the State Treasurer of Connecticut, Mr. Parker, it was reported that as of July 18, 1983, the state of Connecticut had divested itself of \$39 million, and in so doing made a profit of \$5.7 million. My suggestion is that you don't make \$5 million profit from morality or from symbolism. You make it from money.

The other thing which has been suggested is that because there are companies that are doing good and because there are companies that are practicing the Sullivan Principles, if we do anything against them now, we would be reversing the trend of this goodness that is happening in South Africa. Well, Mr. Chairman, you don't even have to ask me to come and testify. Any local newspaper in this country has been full of stories about black people in South Africa being removed from their homes and being stripped of their citizenship.

Just last week one of our people in our office came back from South Africa to update our figures and research; according to the South African government right now, 720 black people are arrested per day. 720 people are prosecuted per day for exercising just the freedom of movement in their own land.

There is also the question of people being removed to their homelands. These removals are continuing, and according to an organization of white South African women, called the Black Search, which is in South Africa, three million people have been uprooted in all these years.

The point I want to make, Mr. Chairman, I don't know how best I can emphasize it-- In the years that I have lived in this country and have traveled through 40 states talking about South Africa, I apparently haven't found the right words to make it have the right impact on people. You see there is the idea that I sometimes hear from people that apartheid is something that can be fixed -- something that one can just fix quickly and it can be good and it can be over. Apartheid is the law in South Africa. In fact, the University of Witwaterstrand's Law Department did a study, which showed that in fact under the laws of apartheid, it is illegal not to be racist. Apartheid, to us, is not separate buses. It doesn't mean that if workers in a plant are using the same toilet and the same restaurants, therefore South Africa has changed. In a list of priorities that we want to see changed, that is way, way down the list.

Apartheid, to us, is the fact, Mr. Chairman, that I got married on December 4, 1970. On January 3, 1971, when the whole marriage was still sweet and we were still calling each other "sweetheart" and we were loving each other, the police came and arrested me for sleeping with my wife without government permission. Mr. Chairman, under the influx control laws, if -- to use, for example, New York City, which I know well -- a person is born in Queens, for instance, and marries somebody in Brooklyn, they can stay married but they can not live together as husband and wife without government permission. I was lucky. I was a journalist and I had some resources. I took my case to court. If it will help, I still have the cuttings; the court ruled that although I came from a town just 20 miles away from my wife, we couldn't live together as husband and wife because she was born in a different town. We were separated. To me, that is what apartheid is. Apartheid is being told that you are not a citizen of the place where you were born. Where else could one be a citizen?

It doesn't mean, Mr. Chairman, that if we build a classroom, if we train five black people, or if we build a school, that suddenly these things change. The problem in South Africa is the South African government. How do we change the South African government? My point

is that there are two ways you can change the South African government. One, of course, is that you could throw a bomb and hopefully it would wipe out everything, and we could all say, "Yes, it is all over." I can't support that.

The other thing is the economic support. The South African government needs money, needs technology from this country and from Europe to perpetuate this policy. Divestment is the most peaceful action that I can suggest because what we are saying is we don't want our funds to be used to support the racist government of South Africa.

In ending, I want to submit to this Committee, Mr. Chairman -- I only made one copy-- In the state of Maryland, a divestment bill was passed this year, and legislators raised a number of questions which I haven't heard being raised here, but maybe they will be raised later on. For instance, one of the questions that was raised was whether divestment conflicts with the commerce laws of the United States Constitution. In other words, we can't tell the companies where they can trade. The other question put to the Maryland Attorney General was whether this statute contravenes Federal law in violation of the supremacy clause, which means that only Washington can make a decision like this. President Reagan has said that he supports the South African government so we don't expect much there.

The other question that was raised in Maryland was whether this statute infringes on the Federal foreign affairs power which is entrusted to the Secretary of State. The Maryland Attorney General answered by saying, "No, no, no," to all these questions. This is a document which was filed by the Maryland Attorney General to the Governor, encouraging the Governor to sign the bill. I want to submit it as part of the record.

Again, in ending, Mr. Chairman, the issue about divestment is that this is the only direct way in which we can get to the South African government. You can pass resolutions, Mr. Chairman. We can march on Fifth Avenue. We can do everything, but this is the most direct act we can take against the South African government. May I endorse that this resolution be affirmed. Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: One thing that all of us who sit on this Committee, State legislators and everyone here today who are part of the public, know is that government should be responsive to the will of the people. The sentiment of the people should be heard before basic policy decisions are given. One of the common arguments that we hear in reference to this whole divestiture issue is that divestiture will be harmful to the majority of the South African population. How do we know as we sit here-- How does anybody know objectively what kind of way we have of knowing what the sentiment of the South African majority is on this issue? I think that would go a long way towards resolving a lot of this argument that we have heard or read about, that this would be harmful to the black South African population. I know I have read readings of Steve Biko and I know what his view is. His view is that we can be heard in the short run, but in the long term, it will be better for us, and we have been suffering and we can suffer some more. I read Desmond Tutu, and I know his position is becoming increasingly more "Let's do something then maybe something happens."

What is the sentiment of the 100 thousand who work and the other 24 million who live there in South Africa? What is their view, if you can say, in regard to this divestiture issue?

MR. KUMALO: Sure. Let me answer it in two questions, Mr. Chairman. The number one question is that I rarely have heard problems with that suggestion, that divestment will hurt black people. What about white people? I am still waiting for somebody to come up in any state legislature and answer that question. The same thing we are fighting is being perpetuated by implying that white people in South Africa are so superior, that even divestment won't hurt them, and that it is going to hurt black people only.

The second, Mr. Chairman, is that divestment will hurt both black and white people. But the question is, what is the sentiment of the people inside the country? The people have different opinions. There have been black people in this country who have said, "Don't divest; it will hurt us." But, I think the best and the most objective thing I can point out, Mr. Chairman, is that the South African government has a law which used to be under the Terrorism Act -- it is

now under something called Internal Security Act -- that makes it a capital offense; you can be hanged for calling for divestment in South Africa. The minimum is five years in jail, and the maximum is death if you mention divestment. If black people in South Africa so love these corporations, the easiest way they could shut me up is to open up the borders and invite CBS, ABC, NBC, and The New York Times, and say, "Come on and interview the people. We won't arrest them. Let's have a referendum." That would shut us up because the people could speak. Instead, the South African government makes it a capital offense to speak there.

On the other hand, they have been bringing people-- One name which I am surprised hasn't come up yet -- it is going to come up -- is the name of Chief Gatsha Buthelezi who is a Zulu, like I am a Zulu. He is a chief of the homeland. Chief Gatsha Buthelezi works for the South African government. He manages a homeland that is created by the South African government. However, if you read anything you see about Chief Gatsha Buthelezi, he has been quoted as being the leader of 5 million Zulus. That is as absurd as saying that because President Reagan is Irish, he is the chief of all 14 million Irish people in the United States. I mean, no 5 million people elected Chief Gatsha Buthelezi, but Chief Gatsha Buthelezi feels that divestment is not good. As a journalist, Mr. Chairman, I respect the fact that people do sometimes hold opinions different from mine. I think that is normal. It happens in an open society. However, for the South African government to punish, or put the fear of death by hanging on all those who are for divestment and then, on the other hand, bring in these people who work for them and to say, "We are for divestment, we like it," is basically unfair. I am saying that if it is true that black people in South Africa so much loved continued investment, they wouldn't be having these laws. That I think should be the most objective example I can give.

SENATOR LIPMAN: Could I ask a question?

ASSEMBLYMAN CHARLES: Yes.

SENATOR LIPMAN: I would like to ask you a question because there have been printed results of polls which say that 75 percent of

South Africans favor American corporations remaining in South Africa. I think that you have just explained why. They may be arrested or tortured if they say they are for divestment, so that explains the applied social sciences poll which says that 75 percent of all South Africans favor U.S. corporations remaining in South Africa.

MR. KUMALO: First of all, Mr. Chairman, I must say that when you read South African polls, like South African percentages they mean something different. Let me give an example. The Wall Street Journal yesterday had an article; it said in the article that education for blacks increased by something like 30 percent -- I don't have the exact figure. This is the highest percentage increase in the South African budget. Now the problem with Americans is that when they read that, they look at it from the point where the education budget is the same, and then blacks are getting more than whites. Black people are getting an average in education of \$100, and it is \$1300 for white education. So, then 30 percent of \$100 only makes it \$130, but the whites are still getting \$1300.

The same thing applies to the polls. I was a political reporter on The Sunday Times, which is the largest paper in the country. In 1973 or 1974 the South African government bought advertisements in our papers where they showed a black soldier. They were recruiting black people to become soldiers in the South African military. The editor assigned me to go from corner to corner of South Africa for three months, interviewing black people as to whether or not they would like to work in the military. People would say, "Look, switch off your tape recorder. I can't join the military because I will be protecting my own chains." And, then they would say, "Switch on your tape recorder," and they said, "Sure, if it's a job that pays well." What could they do?

I'll give you an example, which is very painful, to show you what happens. In 1958 there was a census in the village of Everton where I lived. At that time my mother and my father had six children. The census man came to our home. I was the one who was home from school. There had been rumors, like there have been rumors in New York, that if you tell the census officials how many of you there are,

you will be uprooted. The fear we had was to be uprooted back to Zululand. My mother was asked by this census official, who was a white man, "Old lady, how many children do you have?" My mother swallowed very hard and said, "I only have one child, this son here." When I was about to speak, she gave me that motherly look that made me understand that I didn't have to say anything. In my home, we were only counted as three; in fact, there were really eight people. That is normal; that happens.

Anybody can go to South Africa and come up with their statistics. I am saying that the most objective thing I can suggest-- If 75 percent of black people love corporations, the South African government would not have to pay millions into propaganda companies here trying to fight divestment; they wouldn't be sending their people here to fight divestment. They would instead let those 75 percent of the people speak, and New Jersey wouldn't be sitting here debating this bill because the people would have spoken. But the reason they are not doing that is because they know that people, in fact, are not in favor of their chains being strengthened.

ASSEMBLYMAN CHARLES: I think that we, in the Legislature in the State of New Jersey, are talking about a system of structured government here in New Jersey and in the United States at large. I don't think the record at this public hearing would be complete if we didn't have some short statement and description from someone -- and I think you can do it -- as to just what the system is and how politically the majority of the blacks are disenfranchised and what their citizenship rights are and are not. I think that would put this issue into some better context because I think that to some extent whether the issue of divestiture is important to someone depends on how much he or she knows about the situation existing in South Africa. I think that a lot of people just don't know what that situation is and what that system of government is. I would be pleased and thankful to you if you would just briefly describe citizenship of the majority. Who has rights -- the Asians, the colored, the blacks, and the whites? Could you do this in five minutes or less so that the record contains that information.

MR. KUMALO: Sure. One of the reasons why South Africa is being debated all over is that it is the only country in the world today that has a race classification board; in other words, there is a statutory board, like this committee, which sits and decides if you are black, colored, white, or Indian.

According to the race classification board, there are six complexions, but only four major ones. The four major complexions are white, and those are the 4.5 million white South Africans. Then there are those who are colored, who are of mixed parentage, either parent being white or African; there are 2 million of the so-called colored people. There are about a million Indians from India and Pakistan. There are 22 million African people. Of course, we do have Chinese and Japanese. The South African race classification board ruled that they discovered that Chinese had lighter skin complexions than the Japanese, but because the Japanese have sold us Toyotas and Mazdas and everything, they were declared honorary white South Africans, even though they had a darker complexion than the Chinese, and the Chinese were not.

The other thing, which I always do, that explains in two or three sentences what apartheid is, is to talk about my family. My father was a migrant worker -- and it might sound like being a migrant in this country where you might be born in Houston and work in New York and go home on Thanksgiving or Independence Day -- but for my father, it meant that he left home. He had to give up his family in order to feed them. He left home to work in Johannesburg, and as a migrant, he was not allowed to come back except once every 12 months. This process still happens right now. There are a lot of American corporations which are employing the very same migrants in a similar situation. What it meant was that my father came home once a year so my sister was born in 1938, a brother in 1939, another sister in 1941, another sister in 1942, and one in 1943, because my father came home once a year.

When I went to school my parents had to build a school. The interesting thing is that the corporations will say that they built a classroom. The issue was not only that there were no classrooms; the issue still is that the education that is taught is inferior; that has

been the fundamental issue. It meant that when I turned 16, I went to apply for a pass. Now, in South Africa if you are a black person -- this is another thing which I haven't been able to explain very well, but let me repeat what I usually say: Imagine that if you are black in South Africa, in order to walk the streets, to walk out of your house to the street, you need a pass, but if you stay inside your house you need a permit, so it is a situation where from the cradle to the grave you need to have a permit.

The South African government constitution states that-- There are 30 million human beings in South Africa, but only 4 million are citizens. All of those 4 million are white. Beginning this August, coloreds and Indians will form their own parliament, unlike the misinformation that has been given here about "Look, now they have brought in the coloreds and Indians." What is happening is that coloreds are forming a colored chamber to discuss solely colored issues. Indians are going to form a separate chamber to discuss Indian issues. Both chambers cannot pass laws, but they can make recommendations to the white parliament which is still supreme. There is no way to explain that kind of official oppression that arises from the cradle to the grave.

ASSEMBLYMAN CHARLES: What is the reason for this so-called reform not including the black majority?

MR. KUMALO: The interesting thing was that in this country it was called "Look how they are changing." I read African newspapers, and we have some of our people going to South Africa. There was a statement by Magnus Malan. Magnus Malan is the Minister of Defense. The reason why they wanted coloreds is because they needed more soldiers. They are destabilizing Mozambique; they are destabilizing Lesotho, Zimbabwe, all those countries. There are only 4 million whites. For twenty-four hours around the clock they control our movements under the pass laws. They have to control us being in our own houses under the permit laws. They have to defend the borders against the freedom fighters who have started increasing the fight. They also have to destabilize the neighboring countries that don't have racism. You see, it is very threatening to white South Africans who go

to gamble and to meet black women in Swaziland or Lesotho and discover that in those countries there is no racism -- and those countries are surviving. So, South Africa has to destabilize those countries too. They did a great job of selling all this as "Look we are progressing; we are talking to our neighbors." But, when you read statements published in South African government-owned newspapers, they state the actual reasons why they are doing it.

ASSEMBLYMAN CHARLES: I want to thank you for your testimony.

MR. KUMALO: Thank you very much.

ASSEMBLYMAN CHARLES: Do you have any questions? (negative response)

Bill Broderick?

WILLIAM BRODERICK: Mr. Chairman and members of the Committee, my name is William Broderick, and I am the Director of International Government Affairs for the Ford Motor Company. I would like to address the bill A-1309 which would prohibit the Division of Investment from investing assets of pension or annuity funds under its jurisdiction in the stocks or holdings of any company doing business in or with South Africa. Ford Motor Company believes there is a strong and reasonable case against such divestment for reasons I would like to explain briefly.

First, let me emphasize that Ford does not oppose the use of social responsibility as an investment guideline. We do insist, however, that the presence and activities of Ford and other Sullivan Principle signatories in South Africa constitutes a socially responsible and a morally defensible position, as I hope to demonstrate.

I am including with the copies of my testimony that you received, a detailed listing of the kinds of socially responsible activities and programs that Ford is carrying out in South Africa, and I urge you to take a few moments, when you have time, to look them over. As a resident, incidently, of the state of Michigan, let me say that Mr. Kirkland was in error when he said that Michigan has passed a total divestment law. That is not correct. As Dr. Murningham noted, it is a law that applies only to state universities, and the University of Michigan is challenging it in the courts.

It is our position that A-1309 represents bad public policy because, first, it can increase the risk to state pension funds and increases chances for a lower rate of return on fund investments. Secondly, and I think the overriding reason, it does nothing, we contend, to improve the status of black South Africans and could affect them adversely. On the risk issue, I am not a specialist. Let me only say that there is a substantial body of reputable opinions, including studies done for the states of Ohio, Connecticut, Illinois, Oregon, and Rhode Island, saying that divestment will increase the risk to pension funds and may well adversely affect the rate of return. I merely urge that you or your representatives examine these studies carefully before taking any final action. The state of Ohio study, in particular, done for the Ohio State Retirement Board is a very comprehensive document running to some 60 or 70 pages.

The major issue, though, that has been addressed here this morning, I think, regardless of the impact on pension funds, is what does this kind of legislation do, if anything, to help black South Africans? We, and when I say we, I include the Sullivan signatory companies, do not differ with advocates of divestment on the subject of apartheid. It is an arbitrary, unjust, and cruel system. We all agree that it is morally indefensible, as a system, and that it should be changed. The real difference between us, or among us, is over the most effective means to achieve such changes. The Sullivan signatories' position is to stay and work for change on the spot. What divestment advocates say, if I understand them correctly, is "Get out, and in one way or another change will come."

I think it is a fact that there is no evidence, historical or logical, that supports that contention, that just withdrawing American investments, constituting about 17 percent of all foreign investments in South Africa, will have that effect. We know, from history, that economic boycotts and investment freezes do not work. We have the cases of Poland, Afghanistan, and Cuba, among others, especially when applied only by one country whose competitors are delighted to move in and take over the market. It was Andrew Young who said, some years ago when he was in the Carter administration, that withdrawal is something

that makes American liberals feel good, but it doesn't do anything for black South Africans.

We, the Sullivan signatory companies, feel that a more effective way to change policies-- There is no easy way. There is no fast way, but the more effective way, given the choice we have, is to work at it on the spot, not from ten thousand miles away. We have gotten some specific results. We have helped to obtain collective bargaining rights for black workers in South Africa. We have helped to block offensive racial legislation. We are giving financial support to public interest law firms that provide legal assistance to blacks. We are providing technical and managerial training to a new generation of black South Africans. We are providing housing assistance and medical clinics and tuition scholarships. We are actively developing black entrepreneurs and suppliers to our manufacturing industries and operations. There is some material regarding a joint effort in that regard in the attachment to my testimony.

We are, in other words, making real and significant contributions towards weakening the apartheid system in South Africa. Just to give one example -- I think it would be hard to maintain, certainly in the state of Michigan from which I come, that collective bargaining rights are irrelevant or cosmetic as a kind of change, and that change has occurred. Now if the American companies leave South Africa, this kind of activity is going to stop. The question is what will the divestment advocates do to replace them? How does their scenario bring about change? I have specified some things that we have been able to accomplish and that we are continuing to work at. I submit that they can't tell you how it is going to work because they don't know. I'm not questioning their good faith, their integrity, or anything else; I am just questioning a comparison between staying and doing things, and withdrawing in order to achieve the moral satisfaction of not being associated with South Africa.

On the other hand, I must be clear: The actions of American companies will not, by themselves, change the apartheid system. But, our presence and our activities are contributing to a process of change and serve as a catalyst which is encouraging and producing change in others too. I think this is a matter of record.

A reference was made earlier to the fact that Dr. Sullivan possibly no longer supports his principles enthusiastically. This, I may say, is a statement that comes up in various forums, most recently in a similar hearing in Minnesota. Dr. Sullivan sent a cable to the sponsors of the bill in Minnesota, which I would like to read:

"Despite erroneous reports, I am encouraged, not discouraged, by accomplishments of U.S. companies under the Principles. We have made tremendous progress in many vital areas, and I will continue to push for more to be done," signed Leon Sullivan.

Given the South African government's present policies and its attitudes, as I said, it is important to emphasize that no course of action, divestment or any other, will bring about rapid change. We are going to have slow progress, frustrating and uneven progress, under any alternative. I think the Sullivan companies have done more specific, real good, for black South Africans in the past seven years since we began, than the divestment advocates have in the 24 years that they have been pushing for their alternative.

If for example, Ford had pulled out of South Africa in 1977, as we were urged to do, instead of organizing and acting under the Principles, black South Africans would be worse off -- a lot of them -- than they are today. We believe it. Our employees in South Africa, 70 percent of whom are black, believe it. And from frequent discussions with a broad range of black leaders in South Africa and in the context of what the laws are, they know and we still know that they too want us -- many of them -- to remain in South Africa as long as we continue and expand our current efforts. This is our intention. Mr. Chairman, we believe that our presence there makes us part of the solution and not part of the problem. Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Broderick. I have just a couple of questions. We know about the Sullivan Principles and the signatories. There are six principles. We know how you have chartered gains, as you call them, under the Principles. Something that doesn't come through to the general public-- As people who are there, just what is the relationship between the minority government of South Africa and the companies -- the American companies, for example -- who

do business there? We know that in the United States, in the State of New Jersey, the Fortune 500 companies have quite a bit of impact on the government process. They lobby; they get things done. Their interests are well watched, and they guard them very jealously. They have quite a bit of impact on the governmental and political process of this country. What kind of relationship is there between the companies in Africa and South Africa and the government? I ask that because if the companies are there and if the companies have this moral commitment or some concern about the morality, or whatever, of the apartheid system, what kind of discussion, input, or dialogue takes place between the companies and the South African government? What kind of feedback do you get? Do you get any kind of notion that your presence there is changing their minds? Or do you get the feeling that there will be some progress, but their mind is still unalterably closed? I think somebody could take the position very reasonably that if you don't have an indication that your presence there is helping things in terms of changing the mind-sets of those in control, it may be nothing more than a benefit to 100 thousand, with 24 million still being deprived, with no prospect of the governmental situation of institutionalizing racism being changed. I would like you to tell us what that dynamic is between companies and the South African government?

MR. BRODERICK: I'll do my best. There are two major differences between the New Jersey example you cite and the South African case. First, obviously, is that we are foreign corporations rather than indigenous ones, and that does impose some limitations on you.

The other, if I may say so, is, I suspect those people whom we have contact with and who lobby in the State of New Jersey on social issues and other economic issues are considerably more receptive to our point of view than is the South African government when we go in and talk to them about the education system or the pass laws.

Within those constraints we have-- Let me speak for Ford, specifically. Beginning in 1979 when the government undertook to reexamine its labor laws, they had two parallel sets, one for blacks and one for everybody else. The ones for blacks were quite obviously

far more discriminatory than the general laws. We, as a corporation, lobbied with the government, and testified before the government commission, urging that there be a consolidated single labor law that applied to all workers, regardless of race. We also exercised our influence within what is known as the South African Federated Chamber of Industries, the equivalent of the NAM in this country, to the same effect. That organization, made up of both South African and foreign businessmen, similarly lobbied. The result was a major change in the law, in which all of the discriminatory legal provisions affecting blacks were eliminated. That is the situation today. There is still de facto discrimination against black workers and black trade union leaders. Nonetheless, the legal situation has been such that there is now a burgeoning growth of black trade unions in the country, numbering several thousand today which were insignificant before 1979.

A second specific example is when the government, two years ago, proposed a piece of legislation which would have imposed even more restrictions on the movement of black South Africans. Our affiliate in South Africa spoke out publicly against it, but perhaps more usefully, we worked with some South African trade associations and business organizations to go to the government quietly, not publicly, and to tell them that this is very poor legislation from our point of view and from your point of view and from anyone's point of view. The result in that case was the legislation was tabled.

ASSEMBLYMAN CHARLES: I think that my question regarded a general feeling as opposed to some specific successes that you have had. Can you say positively that the government is responsive to-- Or, number one, does the company take a position firmly with the government that apartheid is wrong, and they ought to do something about it; and number two, is that the government is listening to that and is being influenced by that? In general, can you state that, because unless the second question is answered in the affirmative, then, as I said earlier, folks can say, "What the hell, let's see, let's risk nothing happening."

MR. BRODERICK: Many American companies do take these positions with the government. I can't speak for all of them.

ASSEMBLYMAN CHARLES: (interrupting) Companies, I'm talking about.

MR. BRODERICK: American companies?

ASSEMBLYMAN CHARLES: Right.

MR. BRODERICK: As to whether they get results, the reason I was specific was because these are some specific results of a general approach to the government.

ASSEMBLYMAN CHARLES: I mean, if the solution lies in enfranchising the majority population, giving them some voting rights and giving them some participation in democratic participation in government, that is the whole solution. The question is whether or not there is any feeling among the American companies in South Africa that is happening there; is that kind of dynamic underway?

MR. BRODERICK: I would say that, as of today, the South African government has no intention of enfranchising black South Africans beyond the local community municipality level.

ASSEMBLYMAN CHARLES: The homeland?

MR. BRODERICK: Not just the homelands, but the large urban ghettos, like Soweto. They are discussing the possibility of local self-government in these communities. They are not considering anything at the national or regional level.

ASSEMBLYMAN CHARLES: What about the Sullivan Principles that are signed and adopted by American companies? They provide for no discrimination in facilities and things like that: equal pay, training, and that sort of business. That is in American companies. What about in South African companies there? Do they have similar regulations within the company, or is it just the American companies there who have nondiscrimination regulations?

MR. BRODERICK: It is not just American companies. In fact, one of the effects of the Sullivan Principles was that the European community countries promulgated a code, and so did domestic South African companies after 1977. I think that it is fair to say that, as a group, American companies perform better than either the European or the South African companies.

One fact that enters into this is that we do have a monitoring system on which we are periodically graded. Anybody can sign a set of principles. The problem is, does anybody measure whether you are conforming to them or not? We do have that system and that forces us to be honest since we go public once a year on whether we passed or did not pass the criteria.

There are many outstanding South African companies, including several of the largest who are extremely progressive in their attitudes on social policy. And, in fact, to go back to your earlier question on getting the South African government to change, when it changes it will be the result, I think, of the pressure of the total business and intellectual community, including the Americans. The American companies, by themselves, won't change the world in South Africa. But, these very large and very influential South African companies have the potential and have exercised, to some degree, that potential.

ASSEMBLYMAN CHARLES: Just one final question. I note that the number of Sullivan Principle signatories is decreasing as time goes on. It was, I guess, at a high a couple of years after it first went into effect in 1976 or 1977, or whenever it was. In the last two or three years the number of signatories is declining. What is the reason for that?

MR. BRODERICK: Let me say first that Daniel Purnell from Dr. Sullivan's office can speak to that with more authority than I can. But very quickly, the number dropped over the past year from 145 to 120, primarily because the organization undertook to drop from the ranks of signatories those companies which were not submitting reports or were not paying their dues or otherwise, and who, by and large, were there for the ride rather than for the work.

ASSEMBLYMAN CHARLES: Are there any questions?

ASSEMBLYMAN BROWN: Yes, I have a couple of quick questions. Mr. Broderick, how many blacks or Africans, whichever, are employed by Ford Motor Company in South Africa in high management positions or top positions? What percentage?

MR. BRODERICK: The numbers that we have in what we call salaried supervisory positions, the number of nonwhite, black, and

colored, as of 1977, when we began associating with the Principles, was something in the neighborhood of 5 percent. As of today, that percentage is roughly 17 percent.

ASSEMBLYMAN BROWN: That is 17 percent of the employees of Ford Motor Company?

MR. BRODERICK: At the salaried supervisory level.

ASSEMBLYMAN BROWN: Is that considered top management?

MR. BRODERICK: That includes top management.

ASSEMBLYMAN BROWN: Let's just deal with top management before we get to the supervisory level. Let's just talk about top management first.

MR. BRODERICK: For top management the number is none.

ASSEMBLYMAN BROWN: None, right. It is about 17 percent once you get up to the supervisory positions. Supervisors are, in most cases, overall-- They supervise black employees; is that correct? They have a white supervisor, supervising all whites?

MR. BRODERICK: Characteristically, but not entirely. The number is something between 10 and 15 black supervisors who supervise whites as well as blacks.

ASSEMBLYMAN BROWN: But in menial roles, is that correct?

MR. BRODERICK: Pardon?

ASSEMBLYMAN BROWN: In menial roles. The black supervisor who supervises whites-- Those whites are in menial-type roles?

MR. BRODERICK: No, some of them are in office positions. I can't give you specifics.

ASSEMBLYMAN BROWN: Office types such as clerks?

MR. BRODERICK: Yes.

ASSEMBLYMAN BROWN: Okay. How many blacks does the Ford Motor Company in the U.S. have in the top management positions? What percentage? Just a rough figure. I am not holding you to numbers.

MR. BRODERICK: I am afraid that I don't have those figures. They are in our annual report.

ASSEMBLYMAN BROWN: How many do you have on the Board of Directors?

MR. BRODERICK: On the Board?

ASSEMBLYMAN BROWN: Yes.

MR. BRODERICK: On the Board, one.

ASSEMBLYMAN BROWN: So you are not sure of the figures of the lower levels from that point on?

MR. BRODERICK: Below there I can't tell you, but I will send you the figures.

ASSEMBLYMAN BROWN: Okay. So when we look at the Sullivan Principles, which I argued earlier, it appears to be a similar concept that we have when we talk about Brown versus Board of Education, a separate but equal concept. That is how I look at the Sullivan Principles to a degree.

The other thing is that the Sullivan Principles talk about equality -- equal pay for the same job. The argument that comes with that is that most blacks are not in those jobs who would get the equal pay. So, if you have 100 percent blacks in certain categories, then the Sullivan Principles are nonapplicable in that sense to some degree.

MR. BRODERICK: It is, in fact, specifically what it is doing because of the situation you describe, where most of our black workers were in the lower three or four grades in a nine or ten grade system. The reason they were there primarily was the abominable education system in South Africa for black people. What the Sullivan Principles have resulted in is a fairly massive training program in which very large numbers of black employees have been put into training. Now when we are talking about, let's say, toolmakers who have to go through a four-year apprentice program, regardless of color, you don't get the pipeline flowing very quickly. But, it is now beginning to flow because we started this in 1977, and the percentages are rising.

ASSEMBLYMAN BROWN: Research shows us and tells us -- which is similar to America, and which is not difficult for even me as an American, to understand -- that a lot of the blacks who go through the educational system are miseducated and misinformed. So, there are a lot of cases where they are not even qualified to get those positions in spite of the education that is supposedly given to them. Even though there are those who are educated, you also have nonwhite educated people who become supervisors over them, in spite of their educational background. So those are just some of the arguments that have been raised.

The other thing we have to look at, when we talk about the Sullivan Principles versus the South African issue as a whole, is that we are talking about a small percentage of the people in the first place that are actually employed. So when we look at the percentage of the people that we are actually talking about, and we base that on the total percentage of the population in South Africa, I am sure we are talking about a very minute number.

MR. BRODERICK: That is a reasonable argument, I guess, on either side of this issue. If our presence there is so small that we don't have much impact on the situation, our withdrawal doesn't seem to be an earthshaking factor either in bringing about change. I think the point that Dr. Sullivan has consistently made is that the 70 to 80 thousand employees who are represented by our organization, plus their dependents, which would bring it up close to half a million, represents a catalytic force. This is the first time in South Africa, and I think in most other countries, where a group of companies has associated voluntarily to undertake this kind of joint social action program. That let's us do a lot of things as a group organization that we couldn't do with the best intentions in the world if each of us were working on our own on behalf of change.

ASSEMBLYMAN BROWN: I think the difference is that it is not necessary that it has a small impact. It has a small impact as far as employees are concerned, but I think that the economic impact that the company may have as far as its support for South Africa itself is very significant -- the amount of dollars of a Ford engineer versus the job, so it is not quite the same equation.

ASSEMBLYMAN CHARLES: I would like at this time for the public to recognize another member of the State Assembly who has joined us at the table. This is Assemblyman Eugene Thompson from District Twenty-Nine. I think Assemblyman Thompson has a question that he would like to ask.

ASSEMBLYMAN THOMPSON: Thank you very much, Mr. Chairman. I would like to make a statement. Apartheid is political decision and a political entity. The thing that puzzles me is that you people moving through the Sullivan group, in reference to making changes, as I

understand it-- I had one course in international law when I was in law school. You have no legal or political position in South Africa so I don't see how this group can bring about any change politically in South Africa because your presence in South Africa is economic -- to make money -- or you wouldn't be there. And you probably have laborers who work at less cost than they would work in Detroit, or in New Jersey, or anyplace in the United States. So, obviously the shareholders reap more benefits from this type of exploitation. But you people moving through changes-- I can't see where you have any impact of making changes because you are not political; you have no political or legal position in the country of South Africa.

MR. BRODERICK: We have a legal position clearly. We are registered and chartered under South African law as a corporation, as are all the other companies. Whatever the legalities are, I think the record makes it clear that we have lobbied in the same way that the Chairman noted we do in New Jersey and we have gotten some results.

On the question of pay, I should say that our hourly pay in South Africa, the minimum wage, is two dollars and twenty-six cents an hour for blacks and whites. That average is considerably higher than the manufacturing average in South Africa. I think it is inappropriate to compare South African wages to American wages, just as it would be to take Taiwan or Brazil and measure--

ASSEMBLYMAN THOMPSON: I don't think it is inappropriate, through you, Mr. Chairman. If you make a Ford in South Africa and it is imported into the United States, that car sells on the market and we have to pay the same price for that car as if it were made in Detroit, if it is the same model of Ford. So, I don't think it is inappropriate to do that because you are in business to make profits, and obviously if you import cars and you don't pay the type of tariff that the Japanese and Germans and other people pay on those cars to come back into this country, you are going to make a profit and your shareholders are going to benefit from it. I don't think that line of argument that I raised is inappropriate at all. There is a reason for you being there; obviously it is an economic reason. You are not part of the political structure. You can't make any changes politically as far as apartheid is concerned.

MR. BRODERICK: I think, as a matter of fact, that I should make it clear that we do not export any vehicles from South Africa to the United States. In fact, vehicles made in South Africa have roughly 35 percent of their content coming from European sources; 65 percent is South African manufactured. The cost of operation there to build a given car, since we manufacture in that country fifty thousand a year, compared to two million here, is such that we could not economically import a car into this country from South Africa. It could not compete with Detroit or New Jersey.

ASSEMBLYMAN CHARLES: I would like to thank you Mr. Broderick. I am sorry, there are some other questions. I should also introduce to the public, for those who don't know her -- I'm sure everyone does -- Senator Wynona Lipman, who has joined us at the table.

SENATOR LIPMAN: Mr. Broderick, I would like to ask if Ford sells its cars, which it makes in South Africa, to the South African government?

MR. BRODERICK: We do.

SENATOR LIPMAN: All right.

ASSEMBLYMAN CHARLES: Assemblyman Long.

ASSEMBLYMAN LONG: Mr. Broderick, in noting the accomplishments that you have outlined in the Sullivan Principle companies, in your response to Assemblyman Brown, with respect to the increased proportion of black workers in supervisory positions, you did state that it was 17 percent. Over what period of time-- How long has it taken you to get this 17 percent?

MR. BRODERICK: Well, we signed the Principles in March of 1977. We were one of 12 original signatories. The figure I am giving you is from, I believe, December, 1978, until December, 1983, so it is roughly five to six years.

ASSEMBLYMAN LONG: Do you have established goals and time lines in that area?

MR. BRODERICK: I cannot tell you specifically. Quite clearly, we have some kind of a push on if we tripled the number, but I am not familiar with the detailed programs.

ASSEMBLYMAN LONG: I assume that since it is incorporated in the Principles, that affirmative action is one of those particular principles that seems consistent with that, whether it be firms of your magnitude or whether it be other entities that are there. I would be interested to know whether the Ford Motor Company has them as part of their particular contribution. I would just like you to react to what I read here to be one of the criticisms under the Equal and Fair Employment Practice. Practical experience at Ford shows that for a black worker to qualify for a supervisory position, he must possess an Academic Junior Certificate or undergo a company-offered two-year technical course, while whites who have lower primary school education fill supervisory and even senior appointments. That does not seem to be consistent, in my mind, with affirmative action, if in fact, it is one of the principles that is embodied by Ford. Perhaps you could comment on that.

MR. BRODERICK: I am not familiar with the source of your quotation, but I do not believe it is accurate. I might say, as a specific illustration of what we have done, over the past five years we have selected, each year, one or two black employees in the white collar area, have brought them at corporate expense to Michigan State University and enrolled them in an M.B.A. program, in order to put them into more advanced management positions on their return. One of the specific individuals in that category is now the supervisor of our program to develop black suppliers and black entrepreneurs to supply, not only the Ford Company, but other companies such as Goodyear and General Motors in the Port Elizabeth area.

ASSEMBLYMAN LONG: I have just been advised that statement, my quote, was made by the Motor Assemblers and the Component Workers Union of South Africa; it is a Ford Union. Perhaps you can check that out.

MR. BRODERICK: (interrupting) I certainly will. You will get an answer.

ASSEMBLYMAN LONG: (continuing) --and give the Committee Chairperson the answer. Thank you.

ASSEMBLYMAN CHARLES: We have another question from Assemblyman Brown.

ASSEMBLYMAN BROWN: Mr. Broderick, you mentioned that employees make about \$2.50 a hour. Is that the minimum wage over there?

MR. BRODERICK: I think I said, \$2.26 is the minimum.

ASSEMBLYMAN BROWN: Over \$2.00, right? I was just looking at some information which is not necessarily from Ford Motor Company, but it talks about the economic level, as far as the Farm Labor Project is concerned. According to the September 1982 report on the Farm Labor Project, an estimated 1.3 million people worked on white-owned farms. In 1980 the average wage of the African farm workers was \$28 to \$40 per month. Is there that kind of disparity as far as other workers versus what Ford pays its employees? We are talking about minimum wages also.

MR. BRODERICK: Right. There is a major distinction, I think, to be drawn between agricultural employment and manufacturing employment. There is something called the minimum household standard survey that is done by local universities to establish what a basic minimum wage would be. It is part of the Sullivan Principles that no signatory will pay less than 30 percent higher than that basic minimum living wage. In the case of Ford, our minimum, which accounts for, I would say, less than 5 percent of all our employees, is something in the neighborhood of 50 to 60 percent above the basic minimum wage for a family of five.

ASSEMBLYMAN BROWN: So there is a different minimum wage as far as the industry goes?

MR. BRODERICK: In practice there is a difference.

ASSEMBLYMAN BROWN: What about in the mining industry? Would that be considered an industry, or separate from the farming industry?

MR. BRODERICK: I think wages are probably higher in mining than in agriculture, but lower than manufacturing. It is only in the last two years that the black mine workers have begun to develop an efficient trade union organization.

ASSEMBLYMAN BROWN: It is reported that 600 thousand laborers reported an average monthly wage of about \$260. Eighty thousand whites

working in the mines are issued an average monthly wage of \$1400. Twenty-nine thousand five hundred colored were employed and received an average of \$430 a month. So, there is a big disparity as far as equality goes when we talk about the Sullivan Plan, etc., and whether it has worked in any of the industries. When I look at these figures -- 650 Indians are employed, receiving a average monthly of \$690. So we have a discrepancy from \$260 a month to \$690 to \$1400 per month, based on race. We have talked about the Sullivan Plan for years, but if this is a result of the Sullivan Plan, then I question the Sullivan Plan.

MR. BRODERICK: Well, you would be right to question it on that basis. I think it is accurate that there are relatively few Sullivan signatories in the mining business. The other point that I would like to make is that in the reform of the labor laws some years ago, for which we lobbied, the one area that continued to retain some discriminatory provisions was the mining industry primarily because of the strength of the white miners' union.

The reason for that discrepancy in wages that you cite is the practice of not admitting black workers to any jobs above a certain level. Now one thing the black trade union movement in the mines is going to change is that, but it is not going to happen overnight.

ASSEMBLYMAN CHARLES: Thank you, Mr. Broderick. We will now here from Daniel Purnell.

DANIEL W. PURNELL: Good afternoon, Mr. Chairman and members of the Committee. It is my pleasure to make a presentation on South Africa, particularly in light of what we have been talking about today.

Since I am prepared to talk for about an hour, and the time constraints are so short, may I please divert from this very well-written document, and get into some of the areas that I think we should very carefully consider today?

ASSEMBLYMAN CHARLES: You may.

MR. PURNELL: May I tell you, Mr. Chairman, that in each of the areas of the six Principles, having been in South Africa -- I was there this time last week -- there has been significant improvement. I could look at Baragwanath and see a hospital that is now servicing one

million black people because of United States' signatory companies. These are companies that have improved the quality of life to a great extent. One of the great reasons for the death of black children was simply dehydration. DeClement has worked in that area, and in many others, upgrading those areas.

I can tell you about the excitement of the black people when they moved into new homes. I could tell you about the excitement of black people when they are sent to the United States to study, when they are given bursaries in South Africa to study, and when they attend integrated schools, which are sponsored by United States' companies. Some schools they attend are as good as any that are offered to the white South African student, in light of the government spending about seven times less, according to the statistics. They are more modern, according to the South African Institute of Race Relations, than they are for whites.

I can tell you about some things that excite me. I am going to leave this paper to inform you of some of our progress. But, I wish, Mr. Chairman, that I could say all was well. I wish I could say the Sullivan Principles are the solution to the problem. They aren't. They are just a step, I think, in an economic direction that would empower the black worker to assert himself in a dynamic way.

It is true that the signatory companies only represent about one and one-half percent of the workers, or 80,000 workers. It is also true that because of the Sullivan Principles, six other codes have emerged with similar provisions, which serve more than two and one-half million people. So, we think that catalytic code is very important.

Now, different from other testimony that you have heard, there are 22 million people in South Africa, approximately -- not 22 million workers. There are approximately 6 million workers. So, therefore, through that catalytic effect alone, the Principles have changed to some degrees. The practices in South Africa are very important. Let me tell you what one is:

In 1979, I went to companies that were certainly separated, as Bill Broderick stated -- with blacks, coloreds, and whites. That integration has enabled whites and blacks in South Africa to learn to

work together. We would like them to live in the same community. We would like them to have the same progress in all areas. But, Reverend Leon Sullivan is not the South African government. He is not the only solution to the problem. But, he has made a very big dent in a very critical area. That is what the Principles are all about.

Sometimes, Mr. Chairman, particularly in South Africa, I get depressed looking at the situation. I see a Third World nation, and a modern nation together, with people walking around with very large baskets on their heads, in native costume; while at the same time I see Mercedes Benz' and everything else that is modern in the United States, with tall structural buildings, international hotels, and so forth. One says, "What is this?" and, I say South Africa is a different nation. South Africa is the land of 22 million blacks. South Africa is a land where people generally feel that a multiracial society can emerge if there is a change in the political system which will be promulgated by action plans.

Now, I talk to black South Africans, and I would like to let you in on a joke. Communication is so poor in South Africa that 75 percent of the population has not been polled on anything. I would like to make that very clear. When I talk about disinvestment, most of the time in South Africa I have to really explain what it is all about. Now, in Mamelodi, five nights ago, I got some very instructive information to give to the American public, and that was: "Communicate with us; listen to us; and, find out what we think is important. Because we think a lot of the things you are talking about in the United States happen to be irrelevant."

"Can you assure me that if a company leaves" -- one employee asked me -- "that the company which replaces that company will follow the same principles, will do the same things, and would be the same catalyst?" And, I said, "One such company that would be a good example for all of us would be one of the world-leading companies of Japan, whose technologically has just burst out lately."

In 1946, the Japanese government said, "We deplore this type of system, which denigrates blacks to inferior positions, so we are going to withdraw. There will be no more Japanese investment in the

Republic of South Africa." And, that is true. Although Japanese cars are the best sellers, although Japan exports more to the Republic of South Africa than any other country, Japan does not invest. They decided not to go through all the hell that the United States' companies go through.

So, what we do is, we develop a thing called a franchise. Have you heard of that before? We can get the money without getting the blame, and that's it. But, let's talk about it from another angle. Most black South Africans that I have talked to have said, "What would withdrawal create when you look at the other side of the coin? Your total investment in this county is about two percent, and your international investment is about fourteen percent, which is less than the run on gold right now," as you may recall.

So, what is the solution? What is a strategy that will help to empower the black workers? The United States' companies have led the movement in recognizing unions, which are considered the strongest force now in effect in the Republic of South Africa.

Let me tell you something else, black South Africans have told me of just about every step in life. They said that the strongest force that would really impact on the South African government's economic system, that we are a part of, is to empower the worker to ask and demand, to educate the children, and to improve the quality of life so that they may have another dimension.

In talking to black South Africans, of course the first issue mentioned is political freedom. The second issue is unemployment. And, the third issue is education. And, for many of the people, education is the foremost issue. They see that as the meal ticket out of their dilemma because they know with the law of averages, and everything else, the situation in South Africa must change.

I agree with Missani Comowie, that they have already incorporated the colored and the Indians. They will run out very soon because in 1999, there will be about 39 million black South Africans, and the white population will grow by less than 600 thousand. This means that imbalance is already coming. I am not patient with those figures. I wish there was a way to do it faster. I wish there was a

way we could have an impact on the South African government for a change. I am just submitting to you that there has been no definitive study, and there has been no academic of any standing, who has even attempted to say that disinvestment, as the only strategy, would have a real impact on the Republic of South Africa.

I challenge you to look at that again: Disinvestment as a strategy would have an impact on changing the government of South Africa.

Let me give you some other statistics:

Number one, as we fret about South African economic impact, and as we quote people back and forth, I can say that Andrew Young, William Raspberry, Vernon Jordan, Dr. N. Thatomotlana, Percy Quoboza, and Bishop Tutu say that if United States companies do something positive in South Africa, it would be more important than their withdrawal. Okay, so some of you like those names.

I can then give you the names of some other people who would say that this is a very bad solution to the problem. But, regardless of which group you take, neither group has any statistical data to show what impact withdrawal or investment would have.

Some people say, "Invest more and you will create more jobs." I have heard that before. What you put in the top does not necessarily trickle down to the bottom. You need a measurement system. The Sullivan Principles have a measurement system. I understand the frustration of waiting and waiting, and seeing the political injustices in that country, but I ask a question: Do you have another solution, other than the Sullivan Principles?

The Missani says we can withdraw. That is possible. He said also that he deplores violence. Most of the people there say violence, out of context, could cause more suffering. I don't have the solution to that problem.

I note today that our very good panel invited two political analysts -- both of whom would like to get your business in case you disinvest -- to give you some information about these things. I am going to start an agency too, because, after all, we should all get in on that pie. But, let me forget that and be more sensible.

One said, "I don't see any problem with the companies remaining there; but, if you do, come to me and I will show you how to invest your money," -- at a fee, of course. It seems like everything in South Africa is going on at a fee.

I would like for us to get to the moral issue by saying, "If we withdraw from a situation, is that characteristic of us, or is that the lazy man's approach of doing nothing? Because if you are sure that your withdrawal will cause a change in that system, and you have some background information to substantiate that, then do it. But, I don't think you have that information.

ASSEMBLYMAN CHARLES: Does anyone have a question?

ASSEMBLMAN BROWN: Sir, you raised the issue of-- You said that divestiture wouldn't change South Africa at all -- if the American companies pulled out. You quoted the Bishop, the nation's most prominent black clergyman. I now quote what he stated recently. He said: "Any black leader that calls for economic sanction is already guilty of treason under the Terrorism Act and subject to five year's in prison or death." We have reasonable, intelligent citizens overseas who know what we are saying. I am sure you are familiar with Robbin's Island?

MR. PURNELL: Yes. May I also give you one of my quotes, because we all have so many, then we can decide which quote we will use.

ASSEMBLYMAN CHARLES: Excuse me, Mr. Brown, are you finished with your question?

ASSEMBLMAN BROWN: No.

MR. PURNELL: I'm sorry.

ASSEMBLMAN BROWN: There seems to be some inconsistency, here. If divestiture would not affect the Union of South Africa at all if companies pulled out, then why would you have an oppressive rule like this on the books in South Africa?

MR. PURNELL: I did not say that it would not affect South Africa. I said there has been no study showing what the effect would be, how measurable it would be, or how it would affect the government of South Africa. I think that is what this is all about.

But, going back to Bishop Tutu, in the Johannesburg Star, June 23, 1983, he said: "If United States' companies and other foreign countries' companies would use their influence to get companies that work against the Influx Control law, to allow workers to sell their labor wherever they please, to work in areas that will upgrade the quality of life in the communities, then their contribution would be more and their withdrawal would be missed."

I would like to give you some quotes, but we could go by quotes all the time. I am trying to appeal to this Committee today to answer one fundamental question: First of all, what would it mean if you withdrew? Would it mean cleaning your hands of the whole matter, which is not characteristic of you? Or, would it mean more work for your government, and more pressure on United States' companies to do more? Would it mean that it is better than the Connecticut law, which requires United States' companies in higher categories to show their social commitment?

I am just asking, again, looking at it from that perspective, and saying that opinion varies on this investment of the United States in South Africa, so what is the solution to this problem?

West Germany will exceed United States' investments in 1994, at our present projected rate. Fourteen to 70 percent of the foreign investment is now in the hands of the United States, and that is going down. We have less than 30 percent of the total national investment. So, I am not here as a proponent, saying, "Don't vote for disinvestment." I am simply saying, "Do something that you can measure." That is what I am saying to the Committee: "Do something that you can measure, and you have no measurement at all when you talk about disinvestment."

ASSEMBLYMAN CHARLES: I think what you are saying -- just to tell you that I don't quite understand your last response -- is that we should do something we can measure. It seems to me, rather, that your position is to do nothing until we can get some definite test of what is going to happen. Respectfully, I don't think this Committee or any policy-making body has to have a proof-positive model demonstrated before it takes a position. I think a public body, or any kind of body

can act responsibly, pursuant to its obligation, even when it acts without any certainty as to what the outcome of their actions will be.

So, to the extent that you say we shouldn't move unless we can say for sure that something is going to come from that action, I would disagree with you. I would stress to you that this is not an obligation nor, indeed, the operating standard for a Committee such as ours. Going beyond that, you mentioned in your comments that 75 percent of the people you spoke to did not know what was going on.

MR. PURNELL: I didn't say that. Let me say that again. I said, "I don't think 75 percent of any population in South Africa has been polled." That was specifically what I said.

ASSEMBLYMAN CHARLES: Would you go on to say that 75 percent of the population knows of this issue, is informed sufficiently about it, and has heard all sides of it in order to be able to take a position?

MR. PURNELL: That's correct. I think the majority of the population, particularly the black -- in light of the educational system and in light of the information they are given -- would not have a real grasp of disinvestment, just as about 65 percent of the people in your city don't even know you are sitting here talking about this issue.

I would just challenge you by running outside and taking a little poll on this. I am talking about disinvestment.

The other statistic is, of the United States' population, less than two-tenths of one percent has really become involved in this issue anyway. That is the reason why I would like to compliment this Committee. Whatever you do, I think you are doing something, and that is important.

ASSEMBLYMAN CHARLES: Let me just say this: Doesn't it horrify you, doesn't it concern you -- forgetting about what people in the United States know about the issue -- and doesn't it bother you that the people who live under that racist system don't have a position on this, and they are not in a position to discuss it? Isn't that really an indication of the moral objection of that entire system, and isn't that the basis for a Committee, such as ours, to consider actions

that may be considered uncertain and extraordinary? Isn't that the basis for a Committee, such as ours, to act and to feel that we are acting responsibly?

MR. PURNELL: Mr. Chairman, if I follow the trend of your question, I would agree with some of its substance. However, I do not at this time agree with it, and let me explain to you why I do not agree with it. Number one, I have talked to many people in black South Africa, and the issue of disinvestment has come up many times.

ASSEMBLYMAN CHARLES: Those people were mostly people who work under the Sullivan Principal signatories?

MR. PURNELL: No. They were people who live in South Africa. I am talking about places like Umlazi; I am talking about places like Zuda; I am talking about cedar grass huts, where you talk about issues to people, and where people talk to you. I have talked to the young black students who are at the YMCA in Soweto, people who feel very strongly that everybody ought to get out of the country. So, I talk to them all, and once you develop a little confidence with people they will tell you about their situations.

I could make a very long story. I could tell you about the depravity. I could tell you about the needs and the humiliation of blacks in the Republic of South Africa. I want you to know I feel this very strongly. And, I want you to know that if there is another measure that we can use that is more effective at this time than the Sullivan Principles, I would like to ride that horse, because my commitment is to an action plan that will help the black people in South Africa.

ASSEMBLYMAN CHARLES: Well, some people -- I suppose Assemblyman Willie Brown suggests this -- suggest that this bill is an alternative to the Sullivan Principles. Now, you have a different viewpoint, and you are entitled to that. But, if you are asking for an alternative, this is one.

MR. PURNELL: Mr. Chairman, I think another alternative would be for Mr. Brown to look at a process that will help to change the system in South Africa. Very frankly, as I said before, from what I have heard thus far regarding some of the information given, if I

represented the State of New Jersey, I would study this issue very closely, I would call in a lot of consultants, and I would look at a lot of material in order to determine what course would most help the people in black South Africa. I think that is what it is all about. I think Mr Brown and I are on the same ship; we are just using a different compass, and probably some synchronization would help.

ASSEMBLYMAN CHARLES: Well, I would just say that your suggestion is, in fact, what is taking place today -- in case you weren't aware of that. We are getting reports from people who know the issue, and that is what this public hearing is about. So, your concern is certainly a concern of ours.

I hope you do recognize that this is, in fact, what we are doing. That is why you are here, and why you have been invited to participate today.

Senator Lipman has a question.

SENATOR LIPMAN: I don't have a microphone, and I am not quite sure how I should put this question to Mr. Purnell. Let's say between 1970 and 1981, the amount of investment by United States' corporations has tripled.

MR. PURNELL: Right.

SENATOR LIPMAN: Then we have the Sullivan Principles and fair employment practices, which are bringing some good to one percent of the African workers, right?

MR. PURNELL: Right.

SENATOR LIPMAN: Then we have a statement from a United States Senate Subcommittee, and I quote it exactly: "The net effect of American investment has been to strengthen the economic and military self-sufficiency of the South African apartheid regime."

Now, given the fact that there are four and one-half million whites who run the government of South Africa, and there are 22 million blacks, would you say that the United States' corporations are benefiting the government apartheid more than the one percent of the black workers that the signatory companies are aiding?

MR. PURNELL: In deference to you as a lady, I will let you ask me a three-part question. Let me deal with the first part of it.

It is true that the United States investment has gone up by about three times what it was in 1970, which means on the money market about one and two-tenths more points, because money has become less valuable. So, there has been a very minor increase in that area.

The second thing I would like to point out is when we read these things-- That was written by the Solarz Committee, and I think that was a very good and well-written document. Then you can read another one, written by Senator Heinz, which refutes that. So, what I am saying is, you can pick the one you want.

The third point I would like to make is, if you look at a group of companies which have, in a short period of time, changed many of the labor laws in the nation, have caused emergence of about four codes which employ about five times more workers than the Sullivan signatory companies, I say that is a catalytic effect. It has helped to promote change in the Republic of South Africa.

Now, that does not address the area of political freedom, which I am very keen on. That must be addressed. We have never said that the Sullivan Principles are the solution to this problem, but we are saying that an infrastructure is being developed which will change the system from within, giving clout and power to the people who live in that nation.

So, I think that all we do, whether we agree or disagree on this issue, when we look at the Republic of South Africa, as I did over the last three weeks-- It makes me glad that Mr. Brown and the Committee are here today addressing this issue. I think regardless of what happens, a message is being given to the world that some people in Trenton, New Jersey, really care. We really care, and the main thing is honing a technique that will be the most effective in dealing with the problem -- because the problem is serious.

ASSEMBLYMAN CHARLES: Mr. Brown.

ASSEMBLYMAN BROWN: Thank you, Mr. Chairman. Mr. Purnell, I am not sure which ship we are supposed to be on together, so I am not sure about that captain. I just wanted to clear that point up. I don't know who I am on the same ship with -- maybe it is the same plane.

Am I correct, are you the Executive Director of the International Council for Equality of Opportunity?

MR. PURNELL: That's correct.

ASSEMBLMAN BROWN: And, it is located in Philadelphia, is that correct?

MR. PURNELL: That's correct.

ASSEMBLMAN BROWN: What is the Council? What is your role?

MR. PURNELL: The Council is a group made up of prominent educators and ministers, who advise Dr. Sullivan on the implementation of the Sullivan Principles. It is racially imbalanced, in that it has seven blacks and two whites on the board, but we can live with that. (laughter)

ASSEMBLMAN BROWN: People might not understand how.

Where do you get your funding from?

MR. PURNELL: We get implementation funding, service subscription by companies which have to abide by the Principles. We have what you would call an industry support unit, which is separate from our unit, and which does not have any effect on our unit. We submit a budget, requesting -- or rather, demanding -- what we need in order to implement the Principles.

ASSEMBLMAN BROWN: So, you get the funding from other companies, is that what you said?

MR. PURNELL: Yes, from the conglomerate.

ASSEMBLMAN BROWN: Who are the managers of your Board of Directors?

MR. PURNELL: Reverend Leon H. Sullivan.

ASSEMBLMAN BROWN: Is Reverend Sullivan on this Board also?

MR. PURNELL: He is the Chairman.

ASSEMBLMAN BROWN: He is the Chairman? Does the Council receive any other gratuitous funds from American companies that do business in South Africa?

MR. PURNELL: We said that the industry support unit, which is composed of United States' companies, has a subscription fee.

ASSEMBLMAN BROWN: Yes, but do those companies do business in South Africa? That is the question.

MR. PURNELL: Yes.

New Jersey State Library

ASSEMBLMAN BROWN: So, you receive funds from companies that are currently doing business in South Africa -- your Council -- is that correct?

MR. PURNELL: Yes. What is the significance of that question sir? I just want to know.

ASSEMBLMAN BROWN: I am not familiar with your organization.

MR. PURNELL: Yes. I understand.

ASSEMBLMAN BROWN: I am familiar with most of the organizations.

MR. PURNELL: You see, I have only been back for a week, so I am a little edgy.

ASSEMBLMAN BROWN: Well, you know, you are from Pennsylvania. We are familiar with New Jersey organizations. I was just curious. I have heard of Ford Motor Company, General Motors, and CWA, etc. I have not heard of your organization and I just want to get some background.

Do you ever receive any money from South Africa?

MR. PURNELL: (interrupting) No.

ASSEMBLMAN BROWN: (continuing) The council of your organization.

MR. PURNELL: No. We have received money from United States' foundations on occasion, to carry on our program.

ASSEMBLMAN BROWN: So, you really represent-- You are an international organization, or council, for equality?

MR. PURNELL: Right.

ASSEMBLMAN BROWN: I am not sure if the Sullivan Principles address the term equality. How does your organization effect equality in other countries? I am a little confused. You are suggesting that we have the Sullivan Principles, and as I interpret the Sullivan Principles, this is the old concept we have here in America: We are talking about separate but equal. That does not necessarily prove it would be for equality.

It is difficult to have equality. The Sullivan Principles talk about getting the same money for the same job, but if you don't have the job, you can't receive the same money.

MR. PURNELL: What are you saying there about not having the job and receiving the money? Let me tell you--

ASSEMBLMAN BROWN: (interrupting) Well, I just asked Mr. Broderick from the Ford Motor Company how many people they have on the Board of Directors. They have zero. So, it is impossible for me to have equality when I am not on their Board. I cannot receive their salary if I do not have that position. That was the only point I was making.

I don't want to get into a dialogue with you, but I also wanted to ask you what time you arrived here today. What time did you get here?

MR. PURNELL: This morning?

ASSEMBLMAN BROWN: Yes.

MR. PURNELL: Approximately 10 o'clock.

ASSEMBLMAN BROWN: All right, so you did hear most of the presentations. Because, based on some of your presentation, you were asking what some of the alternatives should be. I thought we had articulated that to the best of our ability. I was just curious as to whether you had the opportunity to hear that.

MR. PURNELL: I heard them all. Yes.

ASSEMBLMAN BROWN: Oh, okay, as long as you did. I am glad you introduced me to your organization. The Committee, I think, would like to know you are receiving funds from firms that do business in South Africa. Thank you.

ASSEMBLYMAN CHARLES: Are there any further questions?

ASSEMBLYMAN McENROE: Through the Chair, your organization was identified as an international council, and you commented only on your involvement with South Africa before this Committee. Are you as an individual, or is your council involved in any other international activity on behalf of opportunities in other countries?

MR. PURNELL: No, theoretically, according to the charter of the Council, and looking at the background of several people on the Council, including Reverend Abernathy, Reverend Sullivan, and several others, they have had very strong movements in civil rights in this country. Dr. Sullivan has also developed programs in Africa, training and so forth -- in nine different African nations.

To be very frank about this, of course we are committed to justice all over the world. South Africa is South Africa to the extent, right now, that our funding and our energies aren't even enough to address the issues there.

You might ask, "Well, why South Africa?" It is the only place in the world we know of with a system that is legend to that country, such as apartheid.

ASSEMBLYMAN McENROE: Thank you.

ASSEMBLYMAN CHARLES: Mr. Brown.

ASSEMBLYMAN BROWN: One last question. You quote Mr. Sullivan quite often. I was looking for the statement. Have you read the statement from Reverend Sullivan with reference to his position regarding continued investment in South Africa?

MR. PURNELL: Oh, yes.

ASSEMBLYMAN BROWN: Are you familiar with the statement of April 16, 1984, which was in Jet magazine, and which says: "Sullivan blasts business executives' failure to improve South African labor plight?" Did you read that article? Are you familiar with it?

MR. PURNELL: Oh, yes.

ASSEMBLYMAN BROWN: Okay. Did you also read the article which says that Sullivan said South Africa's many questionable positions go beyond the Principles and call for no new investments, no new bank loans, and no new sale of strategic goods to South African police or military? Are you familiar with that?

MR. PURNELL: Yes.

ASSEMBLYMAN BROWN: This was on April 16, 1984. Have you committed money since then -- your council?

MR. PURNELL: I would like you to know that Jet picked that up a little late. That was in 1978, and that has been the position up to this time.

ASSEMBLYMAN BROWN: But, it kind of contradicts some of the things you mentioned.

MR. PURNELL: There has been no change in that position whatsoever.

ASSEMBLYMAN CHARLES: That position then, since 1978, is there should be no new investment in--

MR. PURNELL: No new investment. That is the Sullivan position in the Republic of South Africa until apartheid is ended.

ASSEMBLYMAN CHARLES: So you mean that under the Sullivan Principles, public funds -- for example in this case since 1978 -- should not go into companies which do business with, nor into banks which lend money to, South Africa. Is that right?

MR. PURNELL: That is the Sullivan position.

ASSEMBLYMAN CHARLES: So, yours would be a prospective position from this day forth. You agree then with Assemblyman Brown's bill, that from this day forth -- it started in 1978, but we will just talk about from July 10, 1984 -- there should be no more investment in companies that do business in South Africa. You see, he is in agreement.

So, the Sullivan Principles should have a footnote and addendum added to them: "Assemblyman Brown's bill, not from 1978 but from 1984, should be the law. There should be no further investment."

MR. PURNELL: Sullivan at that time was speaking about the United States' companies in the Republic of South Africa. He has discouraged any new investment in the Republic of South Africa, and he has also called for more than that: He has called for the companies who have poor records to suffer disinvestment action, similar to the law which was passed in Connecticut.

ASSEMBLYMAN CHARLES: I think I understand you clearly. If I understand what you are saying, you are saying that he essentially agrees with Assemblyman Brown. Maybe -- at least from this day forward -- under Brown's bill the State Pension Commissioners can hear that Reverend Sullivan has taken this position.

MR. PURNELL: Yes. Reverend Sullivan's position is that United States' companies should make no new investments in the Republic of South Africa until apartheid is ended.

Now, I think another thing is very important. I would just like to talk about a few factors that I think your study will be very helpful in uncovering.

One person here ceremoniously stated that it would be very idealistic if, after investments are taken out of a foreign country

that does not live up to certain standards, those investments are moved to develop jobs in South Africa. Well, according to an MCI manual, investment in a country does not cause the diminution of jobs in another country, unless that investment is undercutting the working process in the country that is invested in. Therefore, I am simply saying that as far as South Africa is concerned, we nibble at very little. We should also be putting more pressure on -- as this group is doing -- our government, our churches, our other institutions, and our unions, to combine and use their clout, power, and resources, in order to let everybody in South Africa know that the United States, as a nation, resents the system of apartheid.

ASSEMBLYMAN CHARLES: Something just occurred to me. I made a mistake in my response to what you said regarding Reverend Sullivan's Principles, about whether they are consistent with Assemblyman Brown's bill. In fact, they are not. Assemblyman Brown is talking about divestment, and the Reverend is not talking about divestment; he is just talking about no new investment.

That may even be worse. Do you know why? It seems that it is a recognition that things are not happening, and if things are not happening, then why should we even continue with a situation that has existed up to this point? It seems to me that is an argument for divestment. If things are not happening there, we should not invest new money. Maybe you should argue about going further and just take the money out. That would be a direct statement regarding the moral question, and it might in fact compel a more positive action -- even though we can't be certain about that. We know what concern you have about a certainty factor and a solution.

MR. PURNELL: That is one concept. The other is, very frankly, let's use what we have there to effect change, without adding to it. Because, you know, companies have been there since the early 1880's, at a time when we could not sit around a table and talk about such things because we had so much to clean up at home. So, the companies didn't go there overnight and follow a system of apartheid. We are saying, get the most mileage out of those companies as possible.

ASSEMBLYMAN CHARLES: Thank you very much.

MR. PURNELL: Thank you.

ASSEMBLYMAN CHARLES: At this time we will hear testimony from Assemblyman Eugene Thompson.

ASSEMBLYMAN EUGENE THOMPSON: Thank you, Mr. Chairman, members of the Committee, and Senator Lipman. I am just going to put my statement into the record. I don't want to be redundant. I think the brother back here covered, in detail, the points that I made in my statement, and he did a much better job than I could ever think of doing. Thank you very much.

ASSEMBLYMAN CHARLES: Thank you, Assemblyman Thompson.

We will hear next from the Senator, and then I have a statement to make and a question to ask.

SENATOR WYNONA LIPMAN: Thank you very much. I appreciate being a guest of the Assembly Committee which is discussing today -- debating, really -- Assembly Bills 1308 and 1309. The Chairman of this Committee, Assemblyman Joe Charles, has been kind enough to include a Resolution, which the Senate has already passed and which is now being considered by the Assembly State Government Committee.

This Resolution, SJR 16, urges the government of South Africa to reconsider and rescind its present policies of apartheid, and to accord all of its citizens basic human rights and privileges of equality.

This resolution also requests United States firms with investments in South Africa to reconsider those investments with a view towards divestiture.

Further, it requests that the Governor of the State review those firms which have investments in South Africa, and which are doing business with New Jersey, in order to make these firms aware of the Legislature's opposition to South Africa's policies of apartheid, and also to make these firms aware of our desire that they consider divesting their investments.

We have discussed, or debated -- at least I feel I have had a part in this, and I thank you very much -- the moral indignation which some of us who are elected to represent the public feel constantly when we consider the advantages of the Civil Rights Laws of New Jersey and of the United States, as opposed to the statutes and the military control over the blacks in South Africa.

That is the reason why we have this Senate Joint Resolution, to express certain sentiments. The Assembly Committee has gone much further and it has introduced bills to get divestiture started.

Mr. Chairman, I have presented a list of statistics, which I won't go into, regarding United States' corporations in South Africa, the billions of dollars they have made, and their direct assistance and aid to the South African government itself. This government which preaches apartheid is trying to reach self-sufficiency, and it is our contention that the American corporations who invest in South Africa are assisting the South African government -- with all of its apartheid policies -- to reach self-sufficiency.

I have mentioned the names of the largest companies in the piece that I have presented, so I will not go into these names. However, I would like to say a word about some of the Principles. The Senate had a request to add the fact that American signatory companies in the Sullivan Principles should not be considered as harshly as other multinational corporations in South Africa which do not subscribe to the Sullivan Principles.

I can't say that I will accept this and add such an amendment to this Resolution, which asks our firms from America to divest, the reason being that this is a Resolution which expresses the outrage and the moral indignation against racism as practiced by the South African government. I would have to agree with all of the documents I have read, that American investment in South Africa, despite the fact that it is assisting a handful of South Africans to become educated, and since the labor laws have somewhat improved, is contributing to the South African government. I cannot help but subscribe to this theory regarding United States' corporations.

There seem to be two kinds of freedom being debated here. One kind says that education is the answer, as are good labor laws. I think the dangerous part of the Sullivan Principles is the fact that they seem to be able to reform the apartheid policy by changing the focus of the argument against racism into a discussion on labor principles, and they are not the same thing. There are black Americans

who say that the signatory companies are helping that. I will admit there are black Americans who are strictly for political freedom. I happen to be one American who thinks that the basis of all political freedom is in the statutes and in the law enforcement of the country, and the South Africans do not have that.

In America, whatever discrimination we protest -- and we argue that still exists -- we do have a basis in our statutes for integration, and for antidiscrimination practices. We have that. The South Africans do not have that. And, for that reason, except for one suggestion from the American business community that we also send this Resolution to the South African Ambassador to the United States, I would ask Assemblyman Joe Charles and his Committee to put that part of the amendment in the copy of the Senate Joint Resolution.

As everybody knows, a Joint Resolution must be passed by both Houses and it must be signed by the Governor if it is to become a policy of the State. I sincerely wish, as do those Senators who voted for this Resolution, that this policy becomes a part of the present Administration.

Thank you so much, Assemblyman Charles, for allowing me to make a statement.

ASSEMBLYMAN CHARLES: Thank you, Senator.

I am now going to try to be as accommodating as I can be to those who came here today to give testimony, who are from out of town, and who may encounter great difficulty in returning for a second public hearing.

As this point, I would like those whose names appear on the list and who are from out of town to raise their hands so I will know how many we are talking about. (at which time hands are raised from audience) I see about ten hands up. There are two things I have in mind. Number one, I intend to end this at some reasonable time today. The second thing is to reschedule a hearing for another time.

I know we have people here from the Investment Council, and I am anxious to hear those people. I think their testimony is very important at these public hearings, and I don't want in any way to curtail the period of time it takes for them to develop their position

in order to let us know what that position is. I think they are from the State of New Jersey, and it may be less inconvenient for them to return; so, I will ask them to forgive me if I go to others who are from out of state before I get to them.

At this point I am going to ask-- When I say out of town, I think I should clarify that I mean out of state; those who have come some distance. I am going to ask them to come forward, if we can do that in an orderly fashion, and identify themselves first, of course, and also to limit their remarks to the absolute minimum of time. I won't say ten minutes, or five minutes, or whatever. I will ask you to use your good judgment. I will also ask you to forgive me if I interrupt you as you go beyond the time I think is appropriate.

This has to be done in an orderly fashion, please. Okay, I will ask you all to sit down and we will hear first from Mr. DeGenringe. I am going to have to strictly enforce a five minute rule, sir.

WILLIAM DeGENRINGE: All right, fine. I think you all have a copy of this. The American Chamber sent over a copy of this to a tremendous amount of people here, and to those who have a business involvement in South Africa. If you do not have one, just let me know and I can send you a copy.

The important thing that the American Companies in South Africa are very concerned about is these disinvestment programs, because we are doing so much for the black people in South Africa, that if American companies have to get out we feel it is going to hurt the black people.

As you know, the American Chamber, through the American companies, put up Pace College. That is a high school college, to try and train the black children at a higher level. Now, of course, it is not a big college. It only takes in 300 students right now, but we are going to expand it quite a bit. So, this is an important thing.

The biggest problem that I think is faced in South Africa -- and I think this also has something to do with apartheid -- is poor education. Now, I heard recently that there are over 80,000 black teachers, of which 2,000 are competent to teach. The rest haven't even

graduated from high school. I have met a number of black people. A lot of them have graduated from high school and they can't do mathematics at all. So, this is a serious problem, and I think it is one big thing that should be done.

The American Chamber has a project right now to build a career development college. This will be used to take people at the adult level and try to develop them in the various areas -- business areas particularly -- so they can get to a higher level.

The Sullivan Report is a very good thing, but the big problem, of course, that the American companies face is that the employees are not properly educated. This is a serious problem. One of the big problems is their ability to speak English. We are very much concerned with that, because if these black people come into our businesses and they can't understand English, it is going to be very difficult for them.

In Pace College we teach them English, and when we put up this career development college, we are going to try and put it in a white area in South Africa, which is going to be a real problem for us with the South African government, I am sure. But, the reason we want to do this is so black people from all companies all over the country can be sent to that college. We are going to set up a living system, so that they can live there. One big thing we feel is important is the fact that day and night, all the time, they will be taught in English, they will speak in English, we will show them English television, we will show them English movies, and we will do everything to bring them up to a high level of English. So, these are key things, and very important things for the future.

As far as apartheid is concerned, most American companies are very much against it. They are not supporting apartheid at all. In fact, through the American Chamber of Commerce early this year, we put a paper together and sent it to the government on this Orderly Movement Bill, which was a very bad thing -- it meant to get blacks out of South Africa. We even had a meeting with Dr. Cornhoff's staff and we told them all the bad things. They asked us to send a memorandum to the government telling them all about it, which we did.

We also listed a number of things -- as many as we could think of -- regarding the apartheid law, which is very bad. Recently, I saw Dr. Corrhoff, and he said the Orderly Movement Bill is dead. It is not going to go through.

So, these are some of the important things the American companies are trying to do. We would like apartheid to end, but we think the most important thing, basically, is to bring the black people into a good system of education.

One of the other things we are looking at, with this career development college, is training and developing black teachers in order to bring them up to a higher level, so that the black kids can be taught properly. I think this is the most important thing. And, this is not only applicable to South Africa, it involves all the African countries, where there is the same problem. If we can get them up to a higher level, that is going to push apartheid further and further away.

Sometimes I talk to some of the government people about apartheid, and they keep saying, "Well, these blacks aren't very intelligent." I keep telling them that they can be intelligent if they are properly taught. So, I think these are important things.

ASSEMBLYMAN CHARLES: Your time is five minutes, Mr. DeGenringe.

MR. DeGENRINGE: Oh, okay.

ASSEMBLYMAN CHARLES: Do you have a question, Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: Are you familiar with the fact that in South Africa -- you were talking about education and intelligence -- the average black native in South Africa speaks about 14 languages, including Bantu. He is forced to use Afrikaans, and a language called Deutsch, or Dutch in German, and other languages. So, I don't think there is any problem as far as communication is concerned.

You talk about education. Are you an attorney? (no response) Are you familiar with the statutes in South Africa? The reason why I ask this question is, this information is free in this country. Prudential, Mutual Insurance, and the major law schools take care of the South African statutes, and under the apartheid system, regardless

of education, there are certain jobs that black South Africans cannot do. Are you familiar with that?

You talk about education in a formal sense, and we keep getting back to the point that it is the political process that must be changed. If you don't change the statutes in reference to the system, you can get all the education in the world-- We, as blacks in this country, have problems. We have Ph.D's, and we can't get jobs. So, you can multiply that in South Africa.

If the statutes are not changed -- as Senator Lipman said earlier in her position paper -- I don't think there is any great relevance in trying to bring people up to a level of frustration unless the statutes are changed; and, the statutes are evidentially against certain employment for people who have reached certain expectations. So, I don't see where that has any real relevance to the situation, which is actually political.

MR. DeGENRINGE: What you said is right. The black South Africans speak a lot of languages. Many of them speak Afrikaans, and a number of other languages, but not many of them speak English.

The way we do the education and training has nothing to do with the South African government. We don't follow their rules at all. We more or less do it like an American company -- an American school. What we are trying to do -- and I think this is a very key thing -- is to get these black people up to a high educational level, because that is the whole future for everything pro that is needed.

The American companies have spent a tremendous amount of money on this.

ASSEMBLYMAN CHARLES: Respectfully, Assemblyman Thompson, I think we have passed the time allocated for the witness.

ASSEMBLYMAN THOMPSON: Oh, okay.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. DeGenringe.

Our next witness will be Mr. Schotland.

ROY SCHOTLAND: Thank you very much, Mr. Chairman. Cut me off whenever you feel you need to, and I will try -- when you have another date -- to come back, if you will allow me to.

It is a special privilege to be here, and I appreciate your thinking of me not as a State person, which I am, when giving me time to testify. I am a Jerseyan, brought up in Newark, with parents living in Verona. So, please think of me as a Jerseyan.

May I make another request? Assemblyman Thompson has, several times, referred to law school. I hope you will think of my effort to help today, not as being the views of a professor, especially not a law professor-- I come to you trying to be like Sergeant Friday -- that is, just to bring out some significant facts.

Unlike my Sergeant Friday approach, some people consider the bills before you as ideological and even emotional. I have been privileged today to hear some moving statements along such lines. But, there isn't a single person involved in these matters who disagrees with the goals. We all abhor apartheid.

The question is not whether any steps will be taken, and I will not urge that no steps be taken. The question is, what steps can be taken to move the situation forward?

I join with Mr. Kumalo, of the American Committee on Africa, in praising what Connecticut has done, which I will say more about shortly. I strenuously urge the Committee to consider this seriously.

What I call blunderbuss divestment -- with all respect -- is the avoidance of all holdings and all securities of all companies doing business in or with South Africa, regardless of how they may be doing business. It is the classic example of the old H. L. Mencken: For every complex problem, there is a solution that is clear, simple, and wrong.

A moment's analysis shows why divestment will not further anti -- or, rather, I should say blunderbuss divestment will not further anti-apartheid goals, but will, first, at best, leave the problem there at status quo; second, it will probably make it worse; and, third, it will certainly hurt us here at home. That is why I believe a step like Connecticut's -- actually, I would adapt that and make it Connecticut-plus -- will bring real gains on each point. That is why the Connecticut step is the only one that has been approved by the National Association of State Treasurers.

As for 1308, about which we haven't been hearing much today, we all want to help New Jersey. In both of these -- both bills -- the question is, what are useful steps to advance these clearly correct, clearly agreed-upon goals?

The first key fact was stated perfectly by Speaker Karcher in his January letter to all members about what has become 1308: "The days of wine and roses, the days of liberal government spending have ended."

We only have two key facts about the State Pension Fund. First, how much is in the fund? And, second, how much is the fund costing the State? Today, we don't have to worry about a third key fact, the benefits paid, because current payments are incomparably smaller than they are going to be; and, what they are going to be is worked into the current cost by those amazing people, the actuaries.

The money there is nine or ten billion dollars. Can't that be used to help New Jersey more? There is a perfect answer to that from one of our best philosophers, Gary Trudeau, the cartoonist, who had a strip about Lava-Lava Lenny. The Red Skins needed a new front four. Lava-Lava Lenny was the entire front four for the Lions, and one of the Red Skin assistants was able to sign him up. He was rather large. They called him the Polynesian Panzer, and when the boss of the Red Skins asked him what they signed him up for, he said, "Don't worry, the price was right. After all, the pension fund was just sitting there." Well, the pension fund isn't just sitting there. It is there to assure retirement security, and it is there to keep its investments productive so as to minimize the burden on the taxpayers.

Last year, the pension fund cost the taxpayers and the participants \$851 million. The year before, it was \$732 million. But, even sums that big are far from enough to keep the fund actuarially sound. For soundness, it has to get investment income. How much does the investment income matter? In Fiscal Year 1982, the contributions totaled \$732 million. Investment income was \$690.

In Fiscal Year 1983, for the first time in the history of this State, the funds actuarial soundness was maintained more by investment income than by contributions. Now, every dollar of investment income is one less dollar that is going come from the taxpayers, from employer contributions or employee contributions.

In Fiscal Year 1983, it was \$17 million more investment than contributions. Fiscal Year 1984 just ended, so we can only estimate, but, wow, the estimated investment income in the year ending ten days ago was \$1,151,000,000. The estimated total contributions, employer and employee, was \$970 million. Now, we can either push up the retirement security and push down the burden on the taxpayers, or we can do some of each when we improve investment income as impressively as this fund, under the guidance of its investment council, has.

Investment income matters so much, not just as a matter of dollars but because, remember, the item that comes from appropriations is part of the fight in the budget process, on which you gentlemen are expert and I am not. The part that comes from the investment income is, so to speak, painless, and that is a rather substantial difference.

The law is always a little slow, I guess, or it is slow very often. But, over the last ten years the law around the nation has changed enormously, recognizing the importance of investment; and, it has changed in a way that makes a major contribution to investment income. Now, you will think I am being a chauvinist about how lawyers can help you, but the way in which the law has helped to improve investment income is by getting the law out of the way -- that is, we have been reducing. In 1975, in New Jersey, you went to the prudent-person standard. That was very advanced, relative to other states. It was only one year after the Federal Pension Reform Law brought in that standard.

Only four weeks ago -- as was mentioned earlier -- the State of California adopted a ballot proposition that had been defeated two years earlier so that their huge pension funds could be free of the old fashioned restrictions.

Why the move to prudence around the country over the decade, without variation? No state has been going in the other direction. It is because strict legal requirements about investments severely interfere with investment professionals' ability to do the best they can to keep the retirees secure, and the taxpayers less burdened.

Thirty four years ago, New Jersey ran its pension fund, not with the professionalism it has had since, but with a bit of corruption. So, in

1950, after that scandal, the Legislature adopted the present structure, which has given 34 years of professional pursuit of retirement security and exemplary management.

ASSEMBLYMAN CHARLES: Excuse me, can you conclude your remarks?

MR. SCHOTLAND: Mr. Chairman, if I may, I would like to prepare a written statement and do it that way. And, if I am able to come again, if you are willing to have me, and if the Committee requests me to come, I will come back and deliver that statement.

ASSEMBLYMAN CHARLES: Yes, we will. I have one question. I hope it doesn't take too long to answer it. Your suggestion is that a few of the mandates put on the Investment Council bettered the performance of that Council?

MR. SCHOTLAND: Yes, sir.

ASSEMBLYMAN CHARLES: Do you have any idea of what percentage of the pension funds under the management of the State of New Jersey go into the type of investment objectives that are outlined in 1308?

MR. SCHOTLAND: I believe the people from the Investment Council themselves could give you a better answer on that. I could tell you about the South African end of it.

ASSEMBLYMAN CHARLES: All right, what about the South African end of it?

MR. SCHOTLAND: Companies involved in South Africa, one way or another, regardless of what they are doing down there -- whether they are trying to advance the situation, or saying, "business as usual," total about \$1-1/2 billion, in total investment.

ASSEMBLYMAN CHARLES: So, that is 1/10th of the--

MR. SCHOTLAND: Well, actually, it would probably be over 15 percent.

ASSEMBLYMAN CHARLES: Fifteen percent of the New Jersey pension fund?

MR. SCHOTLAND: That's my understanding. If, however, you went to the companies which are not Sullivan signatories, as Nebraska has done, and as Connecticut has done, there is only one state in the nation that has adopted the kind of South African restriction that is

is in this bill, and that is Massachusetts -- with the weakest fund in the nation. Do you know what they did two weeks later on March 17, 1983? They imposed the same kind of limit against any investments in Northern Ireland. And, it won't be very long before we have them on Libya and Syria.

ASSEMBLYMAN CHARLES: So, you are saying that -- I am trying to nail this down-- Your best information is that about 13 percent of New Jersey's pension moneys are in companies that would be prohibited under the Brown bill, is that right?

MR. SCHOTLAND: Yes, sir, but the non-signatories total only \$188 million, and if you look at companies like American Cyanamid -- think of what these companies mean to this State. American Cyanamid, Sullivan category number one; IBM, number one; Johnson & Johnson, number one; Merck, number one and two -- in those four companies alone the holding is one-quarter of a billion dollars.

ASSEMBLYMAN CHARLES: Are there any other questions? (negative response) Thank you, Mr. Schotland.

MR. SCHOTLAND: Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Our next witness will be Jerry Herman.

JERRY HERMAN: I am Jerry Herman from the American Friends Service Committee in Philadelphia. I coordinate the Southern Africa program nationally for the AFSC. My travels carry me around the country, talking to a lot of legislators.

I placed on your table a number of documents -- studies that we have done. The orange and black one is a study we completed on South Africa, and we, in fact, called for divestment. If you look at the back, you will see that Andrew Young is one of the people who signed the document, and now supports divestment I might add.

I would also like to note that today in Philadelphia, Pennsylvania is having hearings on similar legislation, and I was supposed to testify, as was Assemblyman Brown.

I would like you to also note that when Philadelphia passed its divestment legislation almost two years ago, it passed it without the Sullivan Principles. Interestingly enough, the first person to testify at those hearings was Congressman Gray of Philadelphia. The

person that was absent and whose home is in Philadelphia was the Reverend Leon Sullivan. He felt, I think, that the political context denied him access to those hearings. I might also add that the esteemed Reverend Purnell, with whom I speak at various discussions around the country -- we were at Yale recently; we were at the Washington hearings -- also failed to come to the Philadelphia hearing to speak in favor of blunderbuss investment.

I would like you to also note that we have just completed another study on violations of the arms embargo. The U.S. is a party to that embargo. We found, and you should note, that between 1950 and 1980 we sold to South Africa \$15 million worth of clear munitions -- weaponry. From 1981 through 1983, in clear violation of the arms embargo, we sold \$28.3 million to South Africa, a clear violation of the arms embargo in just those two years.

Then I came back to my office just two weeks ago, and a new Freedom of Information request for information was there. In it we found that in the first four months of this year the U.S. sold \$88 million worth of clear munitions to South Africa. I remind you, it is against the law and yet no one has been taken to court about it.

I would like to read just a couple of sections: "The South Africans and their U.S. friends tell us that instead of divesting, we should increase our investment -- blunderbuss investments in the South African system of apartheid. They suggest to us that we must not love the black folks who reside there if we do not continue to invest. One wonders at the logic. Their love for their fellow black is indeed strange when they have instituted the most repressive race laws in the world to date."

The Sullivan Principle supporters argue that if we continue to invest in South Africa we will gain a measure of leverage which will allow us to pressure to bring change in South Africa. I remind the Assembly folk here today that since the Sullivan Principles were publicized, there has been greater repression against the spirit of freedom there than at any other time.

Some states and cities are now deciding that they can aid the liberation of South Africa by refusing to allow their public

employee pension funds to be invested there. At the same time, they are prudently reinvesting those same funds in their states and in their cities to improve housing by offering low interest mortgages for union members, for example; to the elderly; and to the young marrieds. They have found that if they are prudent and creative, they can improve schools, streets, and other public facilities. They can create jobs with this money.

In Pennsylvania we argue that in Western Pennsylvania there has been a good deal of unemployment resulting because of laid-off steel workers and the shut down of steel mills. In fact, those same funds could be invested in those steel mills. They could be updated, computerized, modernized, and mechanized to create jobs, and the same is true in New Jersey.

They ask in Philadelphia, in Minnesota, in Iowa, in Massachusetts the hard questions: Why should American companies go off to South Africa to set up shops and exploit black labor while so many Americans are out of work? In 1980, I was in South Africa on a factfinding mission. The one stunning response -- regarding the question of investment across the country that I found, primarily in black areas -- to the question of, "Should we divest?", was, "Yes, we believe in divestment. Whites will be the ones who suffer the most. We are already on the last rung of the ladder and would have only a small fall. Besides, we understand" -- now this is a black South African speaking -- "that if we are to be liberated, then we must suffer." One hundred percent of those I asked this question of repeated a variation of these themes.

The full impact of the repression in South Africa became shockingly clear to me when I was riding from Pretoria to Johannesburg with two elderly white Quaker women. We were riding through the black part. The black conductor asked two whites to move up to the white part. They refused. The ride from Pretoria to Johannesburg is about 60 kilometers. They stopped the entire train and arrested all of us because the whites with us refused to move to the white part. And, at one point I interjected that we were foreigners and they should reconsider their position. It was at that point that they arrested us, the first of two arrests in that country.

There are several other points I would like to make. One is about the argument regarding strategic minerals, which you will hear over and over and over again. The South Africans have continued to influence the U.S. government and the American public. They are urging Americans, for example, to believe that they have strategic minerals that are absolutely necessary for our survival -- for the survival of U.S. industry and military. The debunking of this myth is essential to evaporating the fear it has generated. The four minerals they argued were strategic are chromium, manganese, vanadium, and platinum. We argue that chromium can be retrieved from stainless steel. There are also deposits in Montana and Oregon, an estimated 80 million tons. Zimbabwe has 29.3 million of the world's known reserve.

We should also note that South African industries have, because of government subsidies, tax concessions, loans, and rebates which make them very competitive. And, I could go on with others, but I would like to make a couple of other points.

ASSEMBLYMAN CHARLES: I would ask you to make them brief.

MR. HERMAN: I will. I have just come back from southern Africa. I have had the opportunity to visit Mozambique and Zimbabwe. I had the opportunity to watch South African regional policy up close. The so-called peace accord that has evolved in that area-- I say so-called because what they have done is beaten Mozambique and Angola over the head and asked them to sign the accord.

In Zimbabwe, the Mozambiquens have come across the border hungry, not only because of the war the South Africans support internally, but also because of the draught. They have come into that area and are dying of hunger by the thousands. One, it is South Africa's policy that has brought this about, and, two, the U.S. supports that policy. Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Herman. At this time I am going to leave and the Committee will be chaired by Vice Chairman Tom Long.

ASSEMBLYMAN LONG: Our next witness will be David Ndaba.

DAVID NDABA: Thank you very much, Mr. Chairman. My name is David Ndaba. I represent the African National Congress of South Africa.

The African National Congress is a national relations movement the black people of South Africa formed in 1912. In 1974, the United Nations declared that the apartheid regime was illegitimate and it had no right to represent the people of South Africa because, in a population of 30 million people only four and one-half million whites have the right to vote in complete disregard of the 25-1/2 million black people, who have no right to vote whatsoever.

The African system is the only system since the days of Nazism, that has been internationally condemned as a crime against humanity. The international community has been called upon to take action against this apartheid system. This action is aimed at eliminating the apartheid system, but not exploiting the apartheid system. The same action that was taken by the international community against Nazism, which was also condemned as a crime against humanity, is today being called upon to take action against the apartheid system.

It is not possible for four million whites to dominate 25-1/2 million black people. This has only been possible because of the support that four and one-half million white people in the regime enjoy from western governments, particularly through the operation of non-South African businesses in South Africa.

What many of our representatives tell us is that the Ford Company is responsible for supplying military trucks, trucks for the police and the army in South Africa. In fact, in South Africa the Ford Company has such sophisticated transit that they are even able to carry machines which shoot gas at the black people as they protest against the policies of the apartheid system in South Africa.

The black people have tried, through all the means at their disposal, to achieve freedom through nonviolent, peaceful means of protest since 1912, and throughout the '20's, the '30's, the '40's, the '50's, and the '60's. But now, when the black people protest peacefully, they are met with the force of violence because of the companies in South Africa who enable the South African regime to be self-sufficient by producing arms in South Africa. Today, South Africa is the tenth largest arms manufacturer in the whole world, and this comes about due to the number of corporations that are helping with

steel, chemicals, explosives, trucks, and the other know-how that is needed by the military/industrial complex in South Africa.

It has not been possible for blacks to bring about change through peaceful means because Africa itself is a means of violence. Our people would never accepted the apartheid system; it is enforced through the force of arms. You remember the massacre in 1961, when more than 100 people were massacred. There were massacres in Soweto, where more than 1,000 were killed by the African regime using weapons and bullets supplied by the western governments, through their western companies. Today, South Africa can boast of being armed to the teeth. It is even capable of producing its own nuclear weapons, thanks to the cooperation and sentiment of the U.S.A.'s corporations, who recently received approval from the State Department to supply \$50 million worth of nuclear equipment to racist South Africa.

If we divest from South Africa, this will weaken that regime economically, and weaken it militarily, enabling the people of South Africa to achieve their freedom with less bloodshed. Unless this thing is contained, the economically and militarily strong regime is going to be more intransigent, and it is going to use more violence against the people. Already the black people have taken it upon themselves to defend themselves by using weapons, or whatever is at their disposal. So, there is violence. There is arms-struggling continuing in South Africa; and, investment in South Africa is only going to increase the amount of bloodshed. But, if you divest, you weaken that regime economically and militarily and shorten the life span of the South African regime; therefore, shortening the amount of bloodshed that it is going to take before the people of South Africa achieve their freedom.

It is said that if divestment occurs, black people are going to lose their jobs. These companies have been there since 1886; some of them since 1914. Our black people are suffering today more than any time before. It is today that people have been forced to move, over the past few years, from the so-called white areas. It is today that 60 percent of the black people die before they reach the age of five. It is today that black people die everyday of tuberculosis -- T.B. -- a

disease caused by local conditions and that can be treated in other countries. We are suffering today more than any time in the past, despite the presence of these companies all these years.

The presence of these companies is aimed at perpetuating the apartheid system and making it intransigent, even though they say they are providing education; and they say they are providing hospitals. It is the duty of the government to provide education, health, and all these things for their people. But, these companies come here and say they are giving us education, and they are giving us hospitals. They are making it possible for the regime to strengthen its military posture, because now the regime, with all this help, has made South Africa the richest country on the continent -- it is about the fourteenth biggest industrial country in the whole world. They have lots of money to educate the people, and give them houses and hospitals; but, that money is now made available to the military, while the companies come in and give us meager educations, meager houses, and other things.

Someone just mentioned the Sullivan Principles. You know, there are six points there, the first point being the non-segregation of whites, which possibly means that blacks and whites should go to the same bathroom, to the same restaurant, to the same cafeteria, and all other places. Our people have said, "What is the use of going to the same bathroom or restroom when I am at work when I don't have a place to sleep, or when I don't even have a place to go to?"

Equal employment is one of the principles of Sullivan -- equal employment for all black and whites. It is illegal for black workers to go on strike in South Africa. It is illegal for black workers to organize their own trade unions, except under certain conditions that are aimed at controlling them. If these workers go on strike, management calls in the State police or the army to arrest the workers, forcing them at gunpoint to go back to work, back to those factories, and back to those mines. At the same time, they expel those workers who are organizing under the South African racist laws.

When we talk about equal pay for equal work, it is ludicrous, since it is illegal for South Africa to give equal pay to black and

white workers because of the system in South Africa. Even the report by the Ford Company only talks about the minimum for all workers. It does not say that even in the Ford Company there are white workers in the central office who still earn three times more than, or even five times -- in other places -- more than the black workers in the same jobs.

They talk about training programs for black people, when the black people have no education to talk about. The government spends ten times as much to educate a white child than it does to educate a black child. They say that the blacks are not available; they don't know English; therefore, they are not able to be trained because of the system, and they are not able to hire blacks in management and in supervisory positions. Of course, in talking to many people, there is not even a black person there, and there is no black person who supervises a white, according to the facts we have.

They talk about the improvement of life outside the work environment. They talk about houses. Even in that Report -- if you know that Report -- they say those houses are under a 99 year lease, and the government must know what this 99 year lease means. It means that if you have these houses for 99 years, you only own the house; you don't own the land. If you lose your job, or if you lose your legal right according to the apartheid regime to be in debt, or if you die, or if you suffer from any disability, you lose the house and you lose the land, unless you have been there for 99 years. You and your father and your son are subject to a 99 year lease. No one is expected to live for 99 years when there is so much suffering among our black people. Even if the husband dies, the wife is not entitled to that house, or to that piece of land, unless the husband and the wife have been there for the life of the 99 year lease.

Anyway, these houses are only given to workers who earn \$300 a month, and there are hardly more than 60 among the Ford workers -- of all the black workers -- who are able to qualify for the houses they talk about.

The Sullivan Principles cannot reform the apartheid system, because the apartheid system cannot be reformed; it must be destroyed.

The only solution is the withdrawal of all investments in South Africa, because, as we said, this would weaken their regime militarily in an eminent move to achieve freedom with less bloodshed than would otherwise be the case. It is true that black people are suffering from the white workers because they are able to give a commitment to the economic system. But, our black people have said time and time again they are prepared to suffer a little bit more if it is for freedom, rather than to continue to live in slavery. As I said, they are suffering right now in South Africa. We will suffer a little bit more if it is for freedom, rather than continue living in perpetual slavery.

Divestiture will force these companies to invest in business right here in the State of New Jersey, which will enable these companies to provide more jobs, more schools, and--

ASSEMBLYMAN LONG: (interrupting) Excuse me, Mr. Ndaba, if you would just summarize now, please, out of courtesy to those who have to follow you, I would appreciate it.

MR. NDABA: In summary -- thank you, Mr. Chairman -- we would like to reaffirm that we are confident that if a referendum were to be held among all the citizens of New Jersey, you would find there would be many people who support this action. You will also find this support if you go out among your countrymen. The citizens of New Jersey will find a way and means not only to support the struggle against apartheid and help the people of South Africa, but also to help the citizens of New Jersey themselves by not having their pension funds involved in strengthening the apartheid system. They will then make those funds available right here, to improve communities throughout New Jersey. Thank you.

ASSEMBLYMAN LONG: Will you state your name, please?

CAROLE COLLINS: My name is Carole Collins. I am an Associate Fellow at the Institute for Policy Studies in Washington, D.C. From 1981 to 1983, I was National Coordinator of the campaign to oppose bank loans to South Africa. It is a network of local affiliates and individuals that are working around the country to end U.S. bank lending to South Africa.

I am not going to read my paper. You can read it at your leisure. It goes into a lot of detail regarding particular ways U.S. banks have propped up South African apartheid.

I just want to make a few very key points. One is that we have talked about the strength of the divestment movement across this country -- 27 states and, I think, about 20 cities. But, this is also a campaign that has entered the halls of Congress. Congress is now considering amendments to the Export Administration Act that would prohibit all new loans to, or investments in, South Africa, prohibit Krugerrand sales in this country, and prohibit nuclear-related exports to South Africa.

It is also an international campaign. Several people have said that we can't stop investing in South Africa because other countries will go in there. There are campaigns in countries like Britain, France, Belgium, Holland, West Germany, Switzerland, and Japan. In fact, Sweden has adopted a national law that prohibits all Swedish corporations from investing in South Africa. We are talking about a U.S. stake in South Africa overall of about \$14 to \$16 billion, of which about \$2.6 billion is in direct investment by U.S. corporations; and, according to recent data, possibly another \$2.6 billion is invested by European-based, but U.S. owned-subsidiaries, that have invested in South Africa. U.S. bank loans now account for about \$3.6 billion in outstanding liabilities. The paper goes into much more detail on where that is spent.

People should just realize the extent to which that money goes to prop up apartheid. We are talking about U.S. companies controlling 70 percent of the computer market in South Africa. South Africa could not run its passbook system and its influx control system without its computers. U.S. corporations control about 40 to 42 percent of oil distribution and refining. South Africa could not run its planes to make bombing raids on refugee camps in Angola, Mozambique, and Lesotho without that oil. It does not have oil. It is one of the few resources that it does not have internally. There are many other areas in which U.S. corporations have provided a key role by providing key help, particularly technology and finance, to South Africa.

Corporations have argued that they should stay in South Africa because corporations are supposed to make life better for Africa's majority. That hasn't happened. The period of greatest corporate expansion in South Africa, in the fifties, sixties, and seventies, occurred when blacks in South Africa lost what few remaining voting rights they had in the early fifties. They have been systematically and increasingly forced onto the so-called homelands -- the homelands designated by the white minority for the black majority -- and they have seen increasing labor union repression, etc. Soweto -- I won't go on that.

The other thing they say is that investment creates jobs. Most of the investment in South Africa is capital intensive. It is, in fact, aimed at helping the white minority to become less dependent on black labor.

I want to end this particular point by saying that the exploitation, the collusion by U.S. corporations in exploiting black South African workers, hurts U.S. workers here. Let me give a quick example. Last year U.S. steelworkers were forced to take about \$3 billion in wage cuts and benefit cuts. Since 1975, I believe, U.S. imports of South African steel have been up five thousand percent. Steel in South Africa is produced by Iscor; it is a government-run steel corporation. It is successful in its export programs because it gets special benefits from the South African government, tax breaks, subsidies, etc., and because it exploits cheap labor, and indirectly exploits the cheap labor of black South African miners because you don't produce steel without coal.

So, what we have is a situation, for instance in Baltimore, where the subway system was built with South African steel. Baltimore has a high unemployment rate. There is so excuse for that. In fact, the exploitation of workers in South Africa serves to put downward pressure on wages and working standards here in this country. U.S. companies, notably U.S. Steel and ARMCO, have sold South Africa the technology and capital which South Africa has used to basically undermine the steel industry in this country.

U.S. banks have also lent money to Iscor, notably Chase Manhattan, City Bank, Continental Illinois -- which was in great trouble -- Morgan, and many other banks.

Is divestment prudent? I am not going to go through the litany of examples of its prudence. I think there have been many people today who talked about that. I do know that the Treasurer of the Connecticut Investment or Pension Board said that he actually made some money from divesting from South Africa. There are other examples, such as Michigan State University and the University of Wisconsin. I think you can see that divestment is becoming acceptably prudent in the eyes of businessmen when a bank like Chemical Bank decides that there is a big enough market in funds owned by people or institutions that don't want to invest in South Africa, to set up its own South Africa-free investment fund.

I also think that corporations, from their point of view, may find divestment prudent if they think of the example of Iran. I was at a shareholders meeting of First Chicago in 1981. Shareholders were very upset at the loss of \$90 million of First Chicago funds because, in fact, that corporation had ignored the gross human rights violations which led to the upheaval in Iran.

Is it effective? I think, for instance, even though I am not happy with the Connecticut bill -- which I think is only partially divesting that state's funds -- that General Electric's South African subsidiary officers indicated that they refused to go ahead with investments in a mining operation in Bantustan because of the strength of the divestment movement at home.

I wish William DeGenringe of the South Africa American Chamber of Commerce was still here because I saw a letter, dated December 16, 1982, put out by the U.S. South Africa Chamber of Commerce in Johannesburg, and it basically was appealing the same law which Mr. DeGenringe indicated had been appealed. One of the important things in this letter is that they did not wave around the Sullivan Principles and say, "You should not pass that law because we companies -- American companies in South Africa -- have passed the Sullivan Principles." They said, "You should not pass that law because up to

now, U.S. corporations have successfully contained the divestment movement at the state and municipal level, and if you pass that law, the debate on divestment will go to the U.S. Congress." What I am saying is that even the business community in South Africa indirectly recognizes that divestment is the cutting edge; it is the thing that carries clout with the South African government. So, if indeed Mr. DeGenringe is correct in saying that, in fact, the Chamber of Commerce played a successful role in getting that particular bill defeated, he is, in fact, indirectly recognizing that the divestment movement, and what it represents to the South African government, played a role in that defeat.

I am going to end just by saying in my statement that I have a three-page critique of the Sullivan Principles. That critique is based on a book which the Institute for Policy Studies put out in 1980. It is written by Elizabeth Schmidt, called Decoding Corporate Camouflage. She has also done a brief update as of 1983, and she takes the very same data that the Sullivan monitoring group uses to show how little has been accomplished and how, in fact, corporations in South Africa, who are signatories of the code, are slipping back.

Most importantly, the Sullivan Principles have been rejected by South African workers themselves. I know one of the Committee members referred to a statement by the Motor Assemblers and Component Workers Union of South Africa that was made at the Ford Motor Company's Port Elizabeth factory. It was cited in a Cape Times article of, I believe, January 20th or 21th of 1982. They said that they view the Principles as "a toothless package of piecemeal reform that allows this cruel system of apartheid to survive." The union went on to evaluate the impact on each Principle in their factory:

1. Desegregation of the workplace: Since 78 percent of black workers worked in job categories where there were no whites, job discrimination on the basis of race was perpetuated in its entirety.

2. Fair employment practices: Blacks at Ford must undergo further training for advancement while less-educated whites fill supervisory and senior posts.

3. Equal pay for equal work: 84 percent of the workers in the lowest job category are black, and 98.5 percent of those in the top job category are white, making this principle lip service only.

4. Training for advancement: Ford failed to admit that they spend more money educating whites per person than blacks, etc., etc., and I refer you that in the appendix.

I think there have been strong statements. I know we can get into debates on quotes. I do think that other people, including Bishop Tutu, have rejected the Sullivan Principles. He said that his rejection of the code is on the basis that it does not aim at changing structures. The Sullivan Principles are designed to be ameliorative. We do not want apartheid to be made more comfortable. We want it be dismantled.

I also think that people have to recognize-- I think you will see in business journals, like Fortune magazine in a story datelined yesterday, July 9th, where they said that the Sullivan Principles were basically the major strategy the corporations were using to blunt the growing public pressures for divestment.

ASSEMBLYMAN LONG: Could you please summarize.

MS. COLLINS: All I wanted to do is just comment on the bills. I think that they are excellently framed. I think that they seriously take on the task of protecting the financial stake of pensioners in those funds. My only concern is that, in fact, the bills do not deal at all with the issue of deposit of public funds in banks that have made loans to South Africa or have outstanding loans. I would urge this Committee to take that issue up at a later date. I again refer you to that section that talks about the particular role of banks. Michigan has passed a bill which specifically prohibits the deposit of public funds in any banks that lend money to South Africa. Many cities have done the same. They do it through a very simple certification method. They require that banks which want to get state money certify on an annual basis that they have no outstanding loans to the Republic of South Africa or any of its parastatals or to any corporations doing business in South Africa. It is a very simple kind of self-certification; it also may elicit some information.

I also commend the Senate Joint Resolution 16 which I think is a very healthy initiative on the part of the New Jersey Senate. I particularly like the section which mandates the Governor to look into State contracts and bids and to bring to the attention of the corporations involved there, that the State of New Jersey is unhappy with their continuing involvement in South Africa.

I want to thank you for being here. I want to just say that I was born in New Jersey. My family has roots here for two hundred years. I grew up in Cranford, New Jersey. This is one of the best public discussions and debates on divestment of any I have attended before a variety of city and state legislatures. You folks have done your homework. Thank you.

ASSEMBLYMAN LONG: Thank you.

ASSEMBLYMAN BROWN: May I ask one question?

ASSEMBLYMAN LONG: Yes.

ASSEMBLYMAN BROWN: I have one question. I am not an economist. What do you mean by a South African free investment fund?

MS. COLLINS: Basically, it is an investment fund that includes stocks or securities that are in banks and companies that have no links to South Africa.

ASSEMBLYMAN LONG: Chairman Charles has returned.

ASSEMBLYMAN CHARLES: Thank you very much Ms. Collins. We will now hear from the gentleman behind you. After that we will hear from Mr. Coe.

IKE MAFOLE: Thank you, Mr. Chairman. My name is Ike Mafole. I represent the Pan Africanist Congress of Azania, one of the national liberation movements from South Africa. From the outset, Mr. Chairman, on behalf of the Pan Africanist Congress of Azania, I would like to give support to both proposed pieces of legislation, that is A-1308 and A-1309, and also to give support to the resolution that has come out against the apartheid system.

We impress upon the Assembly to pass the two bills so as to make it illegal to invest public funds in racist South Africa, a country that continues to violate human rights with impunity. Mr. Chairman, apartheid is not only morally repugnant and reprehensible,

but it is also a crime against humanity because of its continued perpetuation of inhuman atrocities upon the African people, who are human beings and part of humanity.

It is therefore the duty of all men and women of conscience to support the just struggle of the African people for the restoration of their human rights and human dignity, and especially their right of self-determination and independence. It is under these conditions that the equality of all without distinction of race, color, or creed will be established. Our contention is that the liberation of the African people will also mean the liberation of all, including the white minority oppressors, especially their liberation from fear and suspicion, and thus will restore their humanity.

It is therefore our duty, Mr. Chairman, to wage a consistent struggle against all forces and persons that stand in the way of human progress and development. Apartheid is one such monumental obstacle in the way of human progress and development. It must, therefore, be conformed, to bring about freedom, justice, progress, development, and peace.

Mr. Chairman, apartheid denies African people everything humanly desirable, everything that makes life meaningful and worthy of living. Apartheid has made human life the monopoly of the few, the white settler minority. It has, and continues to remove African people from their lands, their only means of livelihood and subsistence. It has excluded them from the decision-making process and rendered them powerless. It has turned them into perpetual slaves of the white settler community, relegated them to continued abject poverty, starvation and death. It is therefore a new form of slavery -- organized genocide of the African majority -- and yet no one cries of holocaust. It is because there are no gas chambers? There are -- the Bantustans and the ghettos are all over South Africa. Yes, Mr. Chairman, apartheid is genocide, characterized by a systematic violence of the African majority -- deliberate, organized starvation, miseducation, highest infant mortality rate, rampant malnutrition, lowest life expectancy, highest unemployment rate, highest crime rate, highest civil population, highest in everything negative, Mr.

Chairman. Yet, Mr. Chairman, it is a system that is being supported by pension funds through certain unscrupulous banks or financial institutions, through subsidiaries of companies having business in and with racist South Africa, and through stocks and other obligations invested in these companies operating in racist South Africa.

Mr. Chairman, apartheid has condemned the entire African population to concentration camps, known as Bantustans. It has turned a whole nation into a nation of vagabonds, migrants, or commuters, and subjected them to most stringent controls through a system of influx control or pass system. It is needless to dwell, Mr. Chairman, on the pass system and how it affects the African people; you know it means to be denied the freedom of movement, to be sent to reservations like animals, and to be denied freedom of association or assembly. Yes, Mr. Chairman, this is because it is profitable to the transnationalists. Apartheid is cheap African labor and wages far below the poverty line. Apartheid is super-exploitation of the African cheap labor, and of course it means super-profits for the corporations. It means privilege and comfort for the white-settler community; that is, boys and girls who have servants and slaves at their service. For instance, my mother, father, or grandfather are not addressed by their names; they have always been boys and girls who cannot grow. They do not have the same human value as whites; they are sub-humans.

This apartheid, Mr. Chairman, is white domination, white supremacy, and must be maintained by them at all costs and by all means necessary. White domination and white supremacy, or apartheid, was established by force and is maintained by force, Mr. Chairman. It is criminal conquest, perversion, national subjugation, and criminal exploitation of African people. The challenge, Mr. Chairman, is that this condition must be reversed or brought to an end. In other words, white-settlement must be destroyed or atoned for by any means necessary so that the process of political, economic, social justice, and equality can be set in motion. This process can only begin when majority rule is established. This is the only guarantee for true democracy in our country, and true democracy can be established on the

principle of human suffrage and on the basis of one man, one vote. This, Mr. Chairman, is the minimum demand of the African majority. This demand can be met only when apartheid is totally dismantled, with its system of exploitation. Make no mistake, Mr. Chairman, the final solution for the African people is separate development, Bantamization, Balkanization and fragmentation of the African majority into small, manageable warring factions. Apartheid is final racial separation, and division of Africans on tribal or ethnic basis. It is not only residential separation, but it is above all mental and psychological division: That is, racial consciousness, and tribal or ethnic consciousness, exacerbated by fears, suspicion, distrust, and the greed of the privileged. Despite all of the above, Mr. Chairman, apartheid must be destroyed, and it will be overthrown. No amount of force or repression will save apartheid. No amount of intrigues of so-called reform will save it. They are diversions, attempting to delay the inevitable. Reforms or no reforms, total strategy or no total strategy, constructive engagements or no constructive engagements, Sullivan Principles or no Sullivan Principles, Africans can no longer be deceived. Apartheid is bankrupt. It has exhausted all its tricks. African people want political power and majority rule by any means necessary.

ASSEMBLYMAN CHARLES: May I ask you to conclude your remarks please?

MR. MAFOLE: Mr. Chairman, while we support your efforts to divest, or render illegal, investments of funds in racist South Africa, in banks in this State, and financial institutions operating in South Africa, we, on our part, will continue to wage the struggle for national liberation and self-determination. We consider your effort-- In fact, I must say that while we support your effort, it is our contention that the only method that can bring about change in racist South Africa, because of the nature of that system, is arms struggle, as adopted by the South African people, as the principal method of struggle. We accept divestment as helping, helping to precipitate change in our country. But, as I said, I would like to give support to the two bills in the hope that the two Houses will approve them so your

State can be put on the list of counties, municipalities, and states that have already adopted the same measures. Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Thank you for your testimony. I have a request for the Councilman from the City of Rahway to come forward and give his remarks.

HARVEY WILLIAMS: My name is Harvey Williams. I am a Councilman from the City of Rahway, New Jersey. I would like to thank this Committee for allowing me to speak before them today. A lot of what I had intended to say has already been spoken on, so there is no need of going over that again. But the one issue that hasn't been addressed is the issue of the black and white municipal and State employees in the State of New Jersey, who feel that they have been insulted by the State investing their pension moneys in a country that practices and, in fact, ordains apartheid.

I am here today to speak on behalf of and to show my support and also the City of Rahway's support for, the Assembly Bills 1308 and 1309. Unfortunately, my city has not had the chance to come up with a formal resolution on Senate Joint Resolution 16, but I support it wholeheartedly.

In the country of South Africa, with a population of over 22 million blacks who earn less than 25 percent of the country's gross income, they are afforded limited learning skills. Blacks are unable to marry and live in a place of their own choice. They are given little or no voice in governmental affairs. And, God knows how many other human rights they are denied. We, as a State, continuously help to support these injustices.

New Jersey, being a State that mandates and practices affirmative action and respects human rights, should no longer be a part of these inhuman and ordained racial policies. New Jersey can no longer continue to slap its 50 thousand black municipal, State, and public employees in the face by investing their moneys in South Africa, or any country that denies human rights and heaps the indignities that deny manhood and womanhood upon the citizens of those countries. I know there are many thousands of white municipal and State employees who feel the same insults that are being felt by the 50 thousand black

municipal and State employees because of New Jersey's investment policy.

The great and progressive city of Rahway, New Jersey, in February, 1984, passed the resolution AR-2384 in support of Assembly Bills 1308 and 1309. Rahway also became the first municipality in the State of New Jersey to pass an ordinance prohibiting the City from depositing funds in banks that deal with South Africa. Through the Chair, I respectfully request that Assemblyman Brown, when he reads off the lists of names of cities and states that have taken such action, includes Rahway.

ASSEMBLYMAN CHARLES: He hears.

MR. WILLIAMS: We take pride in the fact that we were the first.

I would like to submit a copy of that ordinance to this Committee.

According to our Governor who, in January, 1982, stated that the untried can no longer be viewed with fear, but must be viewed with interest. The new and the innovative must attract our attention, not divert it. We can no longer shrink from the imaginative; rather, we must nurture and encourage it. We must turn away from the reliance on Washington and focus our energies on the Renaissance here in Trenton.

Before I close, I just would like to make a couple of comments and, in fact, a statement. I believe in these two bills so much that I have taken it upon myself to send out 20 copies of the ordinance that was passed by Rahway in June which prohibits our city from dealing with banks and companies that do business with South Africa.

I saw in the Sunday issue of The Star-Ledger that the City of Newark, the largest city in the State, is also considering this same type of legislation. Hopefully, other municipalities throughout our State will follow suit.

Coming before the Assembly was just one step in the campaign that I am personally waging, and hopefully it will continue to pick up momentum, particularly in Rahway and hopefully throughout the State. Coming before this body is one step. My next step is that I will try

to make the public aware of the lists of companies that I have who do business with South Africa and hopefully they will boycott them. If the Assembly does not pass A-1308 and A-1309, I personally will stop paying into the State Pension Fund and withdraw the moneys that I have in the fund. It is only a few dollars and will never be missed. South Africa will never miss it. The State will never miss it, but I will have the personnel satisfaction that none of my money is going to a country that ordains racial prejudice and apartheid.

Once again, thank you for allowing me to speak. Hopefully everyone who has the opportunity to vote on this bill will do so, in favor of it.

ASSEMBLYMAN CHARLES: Thank you for your comments.

Mr. Coe.

ASSEMBLYMAN LONG: Mr. Chairman, before Harvey leaves, I would just like to give him credit, beyond what he is indicated to you personally. That resolution by Rahway and the subsequent ordinance also served as a catalyst, as did Harvey's leadership, for the Union County Board of Chosen Freeholders to pass a very strongly-worded resolution in support of the same concept. I commend you for that, Harvey.

ASSEMBLYMAN CHARLES: And I agree with that.

MR. HARVEY: Thank you.

BRUCE COE: Good afternoon. I have some comments which are in written form and which are being distributed now, so I won't bore you by repeating them. I would just like to highlight and emphasize two things. One, I think as many of you know, my name is Bruce Coe and I am the president of the New Jersey Business and Industry Association, which has 12,000 companies in New Jersey who are members, and which in the aggregate employs close to half of all people working in New Jersey in the private sector.

I didn't hear all the earlier speakers, but I found it interesting to read a report, obtainable from the Readers Digest, which really summarizes up, through 1983, the signatory Sullivan companies and the progress made therein.

I don't want to spend too much time on the South African bill, and the reason I don't is because I think you have heard enormous testimony. I think many of you view it as a moral issue as opposed to return on investment or the pension funds, and this and that. I would like to simply observe that I think when you have objectives, means, and goals, and you implement legislation, you would like to think you are going to be effective in gaining the results desired. I think I know what the desired results are, and I think I support them. However, I don't think that this legislation, as it is related to South Africa, will achieve anything for the blacks in South Africa. It could well be counterproductive. It will, however, impose a burden on New Jersey Pension Fund investors. As you may know, virtually the entire investment portfolio is not simple investments. You can't buy Johnson and Johnson; you can't buy Merck; you can't buy Schering-Plough; you can't buy Squibb; you can't buy General Motors. The gentlemen from Rahway -- nobody in his family can own an automobile because every automobile company in the world is doing business in South Africa. It gets very complicated.

You have to remember that regarding foreign investments in South Africa, about two and a half billion of our figures is from American companies; in excess of nineteen billion is from other foreign countries. I know Assemblyman Charles, I believe, is an attorney, and I think that if you speak to attorneys in international law, you will learn there are ways of achieving what your legislation demands without any positive impact on South Africa. Make believe you are running General Motors -- is the fact that the New Jersey Pension Fund says that they will no longer permit investment in General Motors going to cause General Motors to change their policy?

I think it is a moral issue, which an appropriate resolution could equally well accomplish. We don't really have a foreign relations committee, I guess, in state government, and it difficult for each state to address this kind of national and international issue. I think Congress is a much more appropriate vehicle for doing it.

Getting back to a specific example, taking General Motors -- what are your options? One is to ignore the New Jersey resolution; it

doesn't make any difference whether our pension funds sell or hold whatever shares of General Motor they have.

Two, if every state did it and it became a business problem, then what do you do? Do you send it off to your shareholders? You know how that works legally; you simply form a little teeny corporation which is one-tenth of one percent of all General Motors, and everybody owning General Motors stock gets a share in that, and that leaves the pension funds free to invest in the "big mother" company, although this little company doing business in South Africa wouldn't be a suitable investment.

Three, do you sell it to a Swiss company? There would be a lot of Swiss companies which would probably like to buy Johnson and Johnson/South Africa.

Four, how do you control it? Do you sell it? Do you say we are divesting and own no equity interest in the company in Europe or Japan, who may be doing business in South Africa.

In other words, what I am saying is that passage of the South African legislation will, in my opinion, accomplish zero, other than perhaps lead to what progress may have been made in conjunction with the Sullivan Principles. In terms of that progress, let me just read a couple of things.

It was Reverend Sullivan, who is a director of General Motors, who initiated this in 1975. He raised holy hell at a General Motors Board meeting. He is not an easy guy. There were 12 companies in 1975; there are 127 today. They represent 74 percent of the South African work force in American subsidiary companies. There has been significant progress. There are now 10 South African companies, employing 750 thousand workers, who have adopted the Sullivan Principles, not American companies, but South African companies.

Do they work? Not as much as they should. Seventy-five percent of eating places were desegregated by 1979. Ninety-nine percent are now desegregated. In terms of equal pay standards, that is now 100 percent compliance by 1983. There are no longer segregated pay standards. There has been progress. By 1983, there were 13 thousand blacks enrolled in basic training programs; that cost \$6 million alone

in 1983. Since 1982, \$10 million has been spent on the black entrepreneurship program in South Africa. It is happening; it is real. Twenty-four million dollars has been spent on housing, health, and other programs. Admittedly, not the kind of progress you want, but the point I am making is that American companies have been one of the few games in town that are positive forces for social change. In fact, the very fact of nonsegregated eating and comfort facilities, which is part of the Code, is illegal in South Africa. It is a violation of South African law. It is not being enforced against the Sullivan Principal companies.

I just want to lend one bit of historical perspective: Unfortunately, progress, the way we all would like it, doesn't happen as rapidly as we would all like. I recently went to the Board of the New Jersey Historical Society. I was reading about General Witherspoon, the legendary Witherspoon of New Jersey, one of our great people. He signed the Declaration of Independence; he was a member of the Continental Congress; he was first president of the College of New Jersey, Princeton University's predecessor; he was a minister with leadership; and, he urged that we secede from the Union because of the continuous English pressure to suspend slavery. Slavery, in his opinion, was a valuable and necessary part of the American economic scene. In fact, you don't need to limit it to General Witherspoon; you can take most of our Founding Fathers and find out that they were absolutely for slavery in America. Well, that isn't true today, and it shouldn't have been true then. But, it was kind of a function of where they were at that moment in time. I think when you are looking at South Africa, we can all condemn everything as wrong in the laws, the segregation, and the fact that for every-- We all know about funding education in New Jersey; in South Africa, the ratio is seven to one -- for every \$7 spent educating a white child, \$1 is spent educating a black child. They have made progress, but they have a long way to go.

I would like to turn, if I could, to the other bill, which I think is of substantial importance as well. That is Bill 1308, which essentially amends the so-called prudent-man law and comes up with much broader applications. Section 5.a is the one that deals with things

similar to South Africa, but even broader. You may recall it says that, "Investments shall be made with full recognition of their social and ethical consequences, and no investment shall be made in a security of a public" -- meaning U.S. Government -- "or private entity if the activities of the entity serve to undermine basic human rights or dignities, or if the entity engages in substantial business in a country which condones or encourages policies which serve to undermine basic human rights or dignities." That is very broad sweeping language, a laudable goal, but I suspect nonenforceable. I could make a good case: If the U.S. government is doing things in certain countries, I then would conclude that we should not permit our State pension fund to invest in U.S. Government Bonds.

The other sections are not geared toward social governmental policies so much as they are toward economic development issues, and my feelings about them are well summarized by the end of the paper. The bottom line is I don't think that the pension funds are the right way to achieve economic revitalization, urban revitalization, and housing revitalization. I mean, sure we could all say, "Let's revitalize housing; we will take the \$10 billion pension funds and put them out at a one percent interest rate." That, I guess, would help those people who got the one percent mortgages. The history of the New Jersey Pension Fund Investment performance has been laudatory. I agree with all these goals. Now we cite specific examples of how the types of legislation helped -- the Urban Development Corporation, the State's Economic Enterprise Zones, and the Community Development Bond Act. In terms of economic development, there are a number of specific points that I don't want to go into now, because they are well-written in the testimony, that we think would achieve most of the goals of that particular bill in a far more effective manner.

Again, when it comes to social policy, we all feel, and we all know it is there, but we have to say to ourselves that if we pass this bill in this form, other than expressing our indignation, will we really accomplish anything? Secondly, you have to take a photograph of South Africa, and say if you got every American signatory company out of there, is that going to be better or worse for South Africa? And

finally, you have to say, "Aren't there better techniques for achieving these goals?" I submit there are. Thank you very much, Mr. Chairman and all Committee Members.

ASSEMBLYMAN CHARLES: I appreciate your comments and your testimony, Mr. Coe. Are there any questions? (negative response) Thank you.

MR. COE: I would like to leave a-- Do you have this?

ASSEMBLYMAN CHARLES: I do.

MR. COE: Okay. I will leave a copy here and also a Wall Street Journal editorial dated yesterday by The Wall Street Journal by the senior international correspondent on exactly what you are talking about in South Africa. I don't want to summarize it for you. I think it is worth reading.

ASSEMBLYMAN CHARLES: John Kelly.

JOHN KELLY: Thank you very much, Mr. Chairman and distinguished guests and everybody here on this Committee. I am going to do my best, as has everybody else, to keep my remarks brief. A lot of things have already been said.

I am here to represent the Communications Workers of America, who represent almost 45 thousand State and municipal workers in New Jersey, as well as half a million nationwide. Obviously, we are in total support of SJR-16, A-1308, and A-1309. I think a couple of things should be touched upon. In addition to the obvious, there is an unbelievably detrimental effect of apartheid on both the conditions of black workers in South Africa and probably the conditions of workers throughout the world, because unfortunately American companies export their business to South Africa and to other countries which don't practice any human rights policy and pay people at ridiculously low rates, and therefore lose business. There is another thing too. Strangely enough, I dovetail with Bruce Coe, but when he talked about our Founding Fathers, in terms of their particular policies on slavery, it seemed a little bit out of context. George Washington had wooden teeth too, and I don't think we advocate wooden teeth here. I think we have come somewhat beyond that.

I think that in addition to that, I would like to make a couple of short direct statements regarding A-1308. I believe it is a good idea to direct one's investment policy towards one's own state. I think it makes economic sense. I think that New Jersey is a viable economy. If you look right around us in Mercer County and look at the growth rates here, you realize there is some direct help towards businesses which are willing to capitalize in this State and are going to provide some sort of benefits to the citizenry of this State.

Just in conclusion, I thank the Committee. I don't want to take up any more time than is necessary. I want to thank the Committee for giving us the opportunity to do this. We do know the large numbers of blacks who are employed by the State government. Unfortunately, at this particular time, most of them are employed in clerical positions because the State hasn't taken a great and direct effort to promote them either. Hopefully, Senator Lipman will do as much as she can for pay equity here at home, and maybe we can get some pay equity abroad. Thank you very much.

ASSEMBLYMAN CHARLES: Thank you very much. Is there anyone else who has not testified and who wishes to testify? (affirmative response from the audience)

MWALIMA SHUJAA: Chairman Charles, members of the Committee, Senator Lipman, my name is Mwalima Shujaa. I am here today representing the Trenton Southern Afrika Support Committee. Ours is a local organization made up of working people -- teachers, blue collar workers, and secretaries. I had to take the afternoon off from work today in order to attend this hearing. Our organization is not made up of professional lobbyists or researchers on South Africa, but instead is made up of people who do this on a part-time basis because we feel what the Republic of South Africa represents is wrong, and we feel that when something is wrong, something must be done about it.

On behalf of the Trenton Southern Afrika Support Committee, I would like to thank this Committee for holding this hearing and affording the public the opportunity to speak on an issue so vital to local and international human rights interests. We would like to commend the members of the Assembly -- Assemblymen Karcher, Watson,

Brown, Thompson, Bryant, Charles, and Assemblywoman Garvin for their sponsorship of Assembly Bills 1308 and 1309, and Senator Lipman for her sponsorship of Senate Joint Resolution 16.

We endorse the passage of both bills, A-1308 and A-1309, and the adoption of SJR-16.

Our support is based on our total rejection of apartheid and minority rule in the settler colony that has come to be called the Republic of South Africa. We believe the investment of funds from the public employee pension system directly or indirectly in companies which help to form the economy of the Republic of South Africa is wrong. The need for investments to bolster the pension system is not greater than the need of the indigenous people of Africa to be free of the tyranny of the Republic of South Africa's white settler rulers.

Pension system officials estimated, according to published reports, that if divestiture were effected, the Pension Fund might stand to lose \$440 million in one day. Assuming such an estimate is accurate, we ask if this is the price tag that the conscience of the public employee pension system carries? If the amount were less, would the human suffering endured by the black people of the Republic of South Africa be more endurable? How is it possible, in dollars and cents terms, to measure economic support for a group of gangsters who fervently supported Nazism and have dedicated their total being to the maintenance of racism?

We do not believe that this State's public employees, working or retired, want to support a government that seeks to force its twenty-five and a half million black inhabitants to live on 13 percent of the country's most infertile land while four and a half million whites live on the remaining 87 percent. We do not believe that our public employees would condone, as a matter of fact, torture of Africans as practiced by the Boer police in South Africa. Yet, this is what their hard-earned money is being used to support.

We call upon the New Jersey Legislature to take action to bring the support of minority rule in the Republic of South Africa to a halt. These bills and the resolution are important steps and deserve unanimous support. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much for your testimony. Are there any questions? (negative response)

James Morford.

JAMES C. MORFORD: Good afternoon, Mr. Chairman. Being one of the earlier persons to request an opportunity to testify today, I appreciate your extending your time to hear me in the later part of the afternoon. I will not burden you with the entire statement I was prepared to deliver. I would hope that the statement would get on the record and become a part of the transcript. I believe your staff has copies of the statement.

Mr. Chairman and members of the Committee, I am James C. Morford, Vice President of New Jersey State Chamber of Commerce. I do thank you for the opportunity to appear before you today to address these issues of major public policy significance to the citizens of New Jersey.

The issues before you today are most difficult issues to address because they are charged with emotionalism and opportunities for demagoguery, which can all too easily cloud and confuse the facts on which judgments need to be based.

First, let it be clearly and indelibly written on the record, and perhaps every speaker who came before you-- We should have stipulated earlier this morning that no one is here in defense of apartheid, certainly no one that I heard.

The New Jersey State Chamber of Commerce deplores and condemns apartheid, racism, and the deprivation of human rights, whether in South Africa or in any other country of the world.

After reviewing Assembly Bills 1308 and 1309, we must state the opposition of the New Jersey State Chamber of Commerce to both proposals. Much has been written and said with respect to the abomination that is apartheid. Unfortunately, there is a great deal of political posturing for the benefit of domestic constituencies that has little relationship to the oppressed blacks and people of mixed races in South Africa. If the intention is to seek some domestic political advantage then we suggest these bills should be rejected out of hand.

Should there be, however, a desire to strike a blow against apartheid, then let us consider the effects the legislation may have.

Though I profess no personal expertise on South Africa, I recently had the privilege of participating in a meeting with four black and mixed-race South African business persons. Their unanimous plea was that American businesses not be urged to leave South Africa. These business people -- three men and one woman -- pointed out that it is economic forces that are responsible for bringing about the changes and improvements that are helping the oppressed of South Africa.

I asked them two specific questions. One was, who would benefit by American disinvestment? They answered: "Those who support apartheid, for the loss of American business involvement would greatly reduce the pressure for racial progress." The second question I asked of the four was, how do you deal with charges of "sell-out" and what we call "Uncle Tomism"? Their answer to this question was: "We must live under apartheid, we cannot vote, we must use separate facilities, we cannot live and travel freely, but we know where the changes for the good of our people are coming from. They are coming from economic pressures."

One gentlemen pointed out that his people have tried force and violence and it hasn't worked, but now they are making progress through the peaceful application of economic pressure.

I was deeply disturbed by the group's statement that even though most of them had made several trips to this country, they have encountered much difficulty meeting with American black political leaders. They felt that American politicians are not so much interested in dealing with the realities of South Africa as they are with the political advantages to be gained at home. I hope that is not true. I certainly don't think it is true of anyone in this room.

We are concerned with broad-brush attacks on American businesses who have interests in South Africa. In his January 25, 1984 press release, Speaker Karcher stated: "Businesses which are involved in South Africa are profiteering from an immoral, oppressive system. In some cases, they are directly playing an active role in maintaining an unspeakably inhuman system which the world knows as apartheid."

The State Chamber is disappointed with that kind of statement from the Speaker of the New Jersey Assembly. He is either unaware or chooses to ignore the many contributions of American firms. While we cannot assert that every American business with holdings in South Africa has done everything it could possibly do to improve conditions in that country, we do assert that what progress has been made in improving the plight of the racially oppressed in South Africa has resulted substantially from the efforts of American businesses. American businesses are contributing significantly to positive changes by their presence and activities. American firms have helped win changes in labor laws, have helped block offensive racial legislation, have given financial support to public interest law firms, are providing technical and managerial training to blacks, and are providing housing assistance, medical clinics and tuition scholarships to blacks. Between the extremes of apartheid and violent revolution, American business interests are providing the non-violent forces and the mechanisms to bring about progress toward a stable multi-racial society. Many good corporate citizens, some with their world headquarters in new Jersey, must take great offense at such accusations on the part of the Speaker.

Speaker Karcher further stated in his January 25th press conference that, "South Africa is the only country with an explicitly stated policy of systematic racial oppression." While we agree with the Speaker in condemning South Africa's policies, his statement in this instance is inaccurate. The Institute for the Study of Plural Societies in the Netherlands found that more than 60 countries officially recognize some form of racial discrimination. For example, the nation in Africa most closely linked historically to the United States, Liberia, has a constitution which provides that no white may own land or become a citizen. According to Freedom House in New York, there are more than two dozen nations in Africa alone, whose human rights records are worse than South Africa's. Now, this is not to suggest that two wrongs, or even 60 wrongs, make a right. It does suggest that not only is the sponsor of A-1308 inaccurate, but the requirements under Section 5.a could have very far-reaching

consequences, not only for American business interests throughout the world but also for the Division of Investment. We certainly hope that it is not the intention of the sponsor to selectively impose sanctions by applying a double standard.

As I stated earlier, there is no attempt on the part of the New Jersey State Chamber of Commerce to defend the social practices of South Africa -- they are abhorrent. From our consideration of this issue, however, we feel that what South Africa may need is more, not less, involvement in U.S. business as well as other foreign participation from companies willing to pursue social change through economic pressure. We should encourage assistance in applying the lessons we Americans have learned from our own and continuing struggles for racial equality.

Herman Nickel, U.S. Ambassador to South Africa, has observed that there is little logic to the idea that economic stagnation is more likely to produce the peaceful transformation of South Africa from institutionalized racism into an equitable multi-racial society. He says:

"The notion would seem all the more bizarre when put forward by Americans, for the whole history of racial progress in the United States points in the opposite direction. Practically every major step forward was linked with economic progress. Just as the hard-headed interests of Yankee businessmen helped to pave the way for the abolition of slavery, so the emergence of the 'New South' and the opening up of equal opportunities for black Americans 100 years later could have happened only against a background of growth, while they would have been unthinkable during the Depression. Economic growth did not strengthen institutionalized racism in the United States; it effectively destroyed it."

The State Chamber would urge extreme caution with respect to proceeding with the legislation under discussion here today. We suggest that the legislation violates the Supremacy Clause of the United States Constitution, which grants the Federal government the responsibility to conduct our nation's foreign policy. We think A-1308

and A-1309 are in conflict with the Commerce Clause of the United States Constitution, which gives the Federal government the right to regulate interstate and foreign commerce. We think these bills are at variance with the Fourteenth Amendment, which prevents discrimination on the part of any governmental entity against any person -- a corporation is a person under the law. The courts could be tied up for years determining the constitutionality of these bills.

The State Chamber must express grave concern about other aspects of A-1308. We believe that the New Jersey Division of Investment and the State Investment Council continue to do a sound job in handling their responsibilities. We can find no justification to expand the Council to include two additional members who shall be legislators, appointed jointly by the Senate President and Assembly Speaker.

The State Chamber believes that the provision in Section 3 of A-1308, to establish a Citizen's Advisory Committee, is unnecessary and unwise. To create a Committee to advise the Council that advises the Division of Investment is unwise and is fraught with the opportunity to politicize sound investment policy. This idea deserves to be rejected.

Pension investments have been guided under the common law responsibility known as the "prudent man" rule. ARISA added the "prudent expert" rule. A-1308 will add fiscal roulette by applying an additional set of principles that could lead to investments being governed by current and variable social moods.

While it may appear desirable or even good current politics to inject social issues into pension investment, that is not, in our view, an obligation that should be imposed on those charged with securing the best possible and most secure return on the investment of State pension moneys. Rather than legislating a set of social investment principles, it would be more prudent to urge, by

resolution, guidelines that could be considered by the Council and the Division. By restricting investment decision-making and adding burdens to the prudent investment activities of the Division of Investment, we run the very real risk of long-term shortages in our pension funds.

I believe that most of the six state funded pension plans are fixed benefit programs. The plans must pay by formula. If investments fail to earn sufficient funds to meet the formula, then the taxpayers of the State will have to make up the difference.

The State Chamber respectfully urges the Legislature to resist the temptation to inject politics into our State's public pension programs.

Thank you, Mr. Chairman. I tried to be hasty.

ASSEMBLYMAN CHARLES: We allowed you a few extra moments, considering the fact that you have been here for a few extra moments also.

MR. MORFORD: You are very kind, Mr. Chairman; thank you.

ASSEMBLYMAN CHARLES: That is not unlike the other people who have been here; they waited also.

MR. MORFORD: Almost all of us have been here since about 10:00 this morning.

ASSEMBLYMAN CHARLES: That's correct.

ASSEMBLYMAN THOMPSON: Mr. Chairman, through you?

ASSEMBLYMAN CHARLES: Yes, Assemblyman Thompson.

ASSEMBLYMAN THOMPSON: I know it is getting late but the State Chamber's position sounds like a fable out of Alice in Wonderland. I don't know whether the gentleman was listening to some of the other speakers or not.

MR. MORFORD: I heard most of them, sir.

ASSEMBLYMAN THOMPSON: Well, the situation in South Africa involves people dying of starvation and malnutrition. They are forced to carry passes. Their property is taken from them without due process and you mention the Fourteenth Amendment. There is no such thing as the Fourteenth Amendment in the South African statutes. There is jail and unemployment.

You interviewed six business people from South Africa. I wonder whether they are self-employed, or who they work for? You take six individuals out of a population of 22 to 30 million people who are oppressed, and you come to a conclusion. I don't think that is fair. We are intelligent people here, and there is no way in the world

that a court of law would buy that type of argument. That doesn't sit well.

Even some of the men who testified earlier, in reference to the situation with Ford and other companies who have investments in South Africa, have said it is not a perfect situation; they are trying to improve it. To take the testimony of six people seems unreasonable and unreal. It just doesn't make any sense. People who live in South Africa have come here to testify. One young man got so emotional when he was talking that he could hardly talk. He has lived with this type of situation.

It seems the Chamber has taken a position of "the prudent man test." First of all, under the law-- In law school the first thing one deals with concerning the prudent man rule is a statement that says at times prudent people act imprudent." So, you are putting an economic argument above a human argument, in total disregard to the situation as it exists.

I have to agree with the last brother who spoke, that if you follow this type of rationale the solution is going to be blood in South Africa. We would hate to see that, but that's coming because I can see, in some of the arguments that are advanced against what we think is very sound legislation, that you are taking an economic consideration and putting it above a human situation and that is not going to work. That situation is going to explode over there if this country continues to follow this course. It might cost millions of lives, but that's exactly the road it is going down. With the type of analogy and rationale that you come here and advance, representing the Chamber of Commerce, those people have no other course but to become violent. There is no question about that.

If it was a different situation in South Africa and Jews were oppressed like that, you wouldn't even be arguing about this. That is out of the question.

MR. MORFORD: Mr. Chairman, I reject the last allegation. I think that was uncalled for. However, I would like to call to the Assemblyman's attention the section that I did not read from my testimony. I hope he will take the time to read it. It was an excerpt

from a speech given by the President of Inkatha, Mr. Buthelezi, who represents 750,000 members in South Africa, pleading against disinvestment policies.

So, Mr. Chairman, my opinion on behalf of the State Chamber of Commerce and the expressions expressed were solely based on the four people that I had the privilege to talk with about the issue.

I do take issue, I have to, Mr. Thompson-- Perhaps you advocate blood; I do not. I personally am more impressed with the teachings of Ghandi and Martin Luther King, which were non-violent. I cannot subscribe, as you seem to, to violence.

ASSEMBLYMAN THOMPSON: I am not advocating blood, but I am dealing with the realities of life and the situation that exists. It is not Alice in Wonderland; it is the real world.

MR. MORFORD: I think the transcript will show that you said there would be the spilling of blood and that is okay.

ASSEMBLYMAN CHARLES: Well, I don't believe that's--

MR. MORFORD: (interrupting) That is not to be argued at this point, sir.

ASSEMBLYMAN CHARLES: Yes, it is not to be argued. The record, as you said, will speak for itself. Just for the record, it is not my recollection that those were the words of Assemblyman Thompson.

SENATOR LIPMAN: May I ask a question?

ASSEMBLYMAN CHARLES: Yes.

SENATOR LIPMAN: Mr. Morford, I read somewhere that the government of South Africa is very conscious of what the outside world thinks about the way they go about operating apartheid. Don't you think it would be a great psychological blow to the South African government if we disengaged the United State's corporations from their profitable investments?

MR. MORFORD: Senator Lipman, the State Chamber would enthusiastically join with you in a resolution condemning apartheid in South Africa. As you know, we discussed SJR-16 at some length, and we are glad you recognize that it was not telling South Africa anything without providing a mechanism to communicate its request to rescind apartheid to that government. Thank you for urging that amendment.

SENATOR LIPMAN: Thank you.

MR. MORFORD: I would join in any resolution that condemns apartheid and that condemns the deprivation of human rights, whether in South Africa or in any other nation.

The question that we tried to deal with is, would American disinvestment, which this legislation seeks to achieve, have a positive effect on the destruction of apartheid? We do not see evidence that convinces us it would. We see evidence which indicates to us that the example set and the social consciousness that has been applied by American companies in South Africa is responsible for some of the progress. Maybe it is not enough progress in our view and in your view. We would all like to see it end tomorrow. I see no evidence which convinces me, or which convinces us at the State Chamber, that whatever pressure is used, even if they succeeded in forcing withdrawal -- because this strikes one blow which asks New Jersey not to invest pension moneys in companies who do business in South Africa -- it is not inconceivable that some of those companies, even without New Jersey pension fund investments, would be able to continue to do business in South Africa.

So, the blow that is struck may or may not have a direct economic impact on specific companies. Will it advance the cause of destruction of apartheid? We are not convinced that the evidence suggests it will. We think, in fact, that it will perhaps have the opposite effect if it did remove the positive influences which we think many American companies have been applying in that country.

ASSEMBLYMAN CHARLES: Mr. Morford, I am interested in moving the public hearing along. I was withholding comment with regard to some of the other speakers and I am tempted to do that now -- to ask you to surrender the chair to someone else. But, something occurs to me now that I think should be said. Something troubles me regarding the testimony we have been hearing today from the groups associated with the Chambers of Commerce -- the business groups. It just seems to me that all the interest -- the main concern of those who speak for Chambers of Commerce and businesses -- centers on the absolute maximization of profit, or return. That is an absolute. I say that because I pick that up from your statement and your position with regard to these two bills.

It is one thing to say -- one could argue this anyhow -- that divestiture may not have any kind of positive effect on the situation in South Africa. That is a position one can take. But, when one takes the further position that a state investment policy that contemplates the use of the public pension funds for targeted investments, designed to improve the economy of the State of New Jersey and different capital gaps within the State, has to be opposed, it then calls into question what the position of these groups really is. Is it that if you can maximize return everything else is to be rejected? The concern I have with that kind of attitude is, we have a feeling right now in this country that government ought to get out of a lot of businesses, even social services, and that these things ought to be given over to industry and the private sector.

Now, we know that government has an obligation to take moral positions on subjects. If we see at this point that the position of industry is an amoral one, or one that contemplates nothing but absolute maximum profit, then what can we think the prospects are for the situation if that is the attitude of the private sector? I mean, it has caused alarm with regard to pension funds, and it has to cause some alarm with regard to just the general participation of private groups and private industry in the progress of democracy and in the progress of social and human services.

I think the State Chamber of Commerce and other business groups ought to at least develop some kind of position which explains that clearly, so that the concerns I have and the concerns I am sure others are picking up here can at least be responded to. It worries me, frankly, that the only thing anybody from those groups is concerned about is the absolute maximum return of dollars. The other things, as good as they may be to achieve, "Well, they will take care of themselves," or, "we will take care of them in another way." That is a troubling prospect to me.

MR. MORFORD: Mr. Chairman, I understand your concern. I am very sorry if what I said, or didn't say, led you to that conclusion because I don't think I mentioned profits. Indeed, if this Legislature deemed it useful to encourage the Division of Investment to seek

another mechanism by using other measures of return, and by investing in, enhancing, and providing jobs in New Jersey, I don't think we would find great objection to that.

Being an advocate of the private enterprise system, I don't think that profits are necessarily a sin. I think they enable us to--

ASSEMBLYMAN CHARLES: (interrupting) No one here takes that position. Everyone agrees that people should derive profits, there is no question about that.

MR. MORFORD: Okay. Because sometimes we get that impression, and I didn't want to get that impression from what you were saying.

ASSEMBLYMAN CHARLES: No. I don't believe anybody got that impression from what I said, nor does anyone on this Committee feel that way. In fact, the legislation -- 1308, or whatever it is; Speaker Karcher's bill -- talks about the prudent man rule, and keeping that concept in tact. There is no indication whatsoever that there should be any derogation of that rule.

MR. MORFORD: No.

ASSEMBLYMAN CHARLES: So, I don't understand opposition based upon some fear that the prudent man rule is somewhat usurped or diminished by this legislation.

MR. MORFORD: We seek to urge you to consider the advice and counsel of investment experts, one of which I am not.

With respect to the problems that can arise regarding pension investment -- insofar as the guaranteed return for which the State has an obligation to its employees -- should additional restraints be put on them, we are asking that you consider the advice of the experts on that subject before moving in that direction. We do think there can be some problems resulting from adding these other restrictions and burdens.

ASSEMBLYMAN CHARLES: Yes, Assemblyman Brown?

ASSEMBLYMAN BROWN: Mr. Chairman, I too thought we could move along with that question. I think the New Jersey State Chamber of Commerce is a very significant group in this State, but after looking through all these different comments, I think they give us more reason to argue for this legislation.

I would just like to raise some questions, Mr. Morford. On the first page you talk about: "The issues before you today are most difficult issues to address because they are charged with emotionalism and opportunities for demagoguery..." What do you mean by that?

MR. MORFORD: Mr. Chairman, I--

ASSEMBLMAN BROWN: (interrupting) It is on the first page of your statement.

MR. MORFORD: I know where it is, Mr. Brown.

ASSEMBLMAN BROWN: You suggest that what we are doing is somewhat emotional.

MR. MORFORD: No, I said it starts with-- Whenever you take an issue that is as emotionally charged as this one is, speaker after speaker today made a presentation condemning apartheid as if apartheid were necessarily the question of the day. As I said earlier, I think we can all stipulate -- I don't think there is anyone in this room who would not stipulate this -- our abhorrence of apartheid. So, to parade the tragedies of apartheid becomes redundant and, in our view at least, presents itself with the opportunity to add emotionalism to an issue that needs very cool and very sound judgment -- if it can be dealt with without emotionalism, and that is very difficult. Emotionalism in the extreme can lead to demagoguery.

ASSEMBLMAN BROWN: But, you have to admit that where emotionalism is concerned, it is a matter of personal opinion. I think the fact that it is an emotional issue should suggest that it is a very significant issue.

I would like to point out that we had this paper done prior to the speakers' becoming emotional, so you evidently had some anticipation of how sensitive the issue is.

MR. MORFORD: You and I have discussed the issue, Mr. Brown, so we know it can be emotional.

ASSEMBLMAN BROWN: I just wanted to clear that up.

You also mentioned that you talked to four black and mixed-race South African business persons, or whatever it was, four out of a population of 22 million. I am curious as to what percentage of them could actually speak for the people of South Africa. Also, it is

difficult to reach out for black politicians. You have in your statement that we should invite, to some degree, all black political leaders. Indirectly, you said you know they are not in this room, which suggests that maybe they should be in the State, or in other parts of the U.S.

I am just curious. It is interesting that they found you, but they didn't find us. What efforts did they make to find us? I would question who they work for and what they do?

MR. MORFORD: I believe, Mr. Brown, that you were invited to the meeting.

ASSEMBLMAN BROWN: No one called, and I am sure I would have been there. It is significant that I don't recall them coming to Trenton where we were.

MR. MORFORD: I believe all the members of the Committee were invited to that meeting.

ASSEMBLYMAN BROWN: Yes, but I think if they wanted to meet with us, they would have come to Trenton.

MR. MORFORD: Well, North Jersey is closer to your base than Trenton.

ASSEMBLYMAN BROWN: You probably had it on a Session day; and, anyway, I don't want to deal with that.

MR. MORFORD: Now, you know I wouldn't do that.

ASSEMBLYMAN BROWN: You mentioned -- and Speaker Karcher further stated this in his statement -- that this was the only country with an explicitly-stated policy of systematic racial prejudice. You said that isn't correct. Could you give me the name of another country that has the exact same policy as South Africa has?

MR. MORFORD: That is not what Mr. Karcher said.

ASSEMBLMAN BROWN: Well, this is quoted from you now.

MR. MORFORD: I am responding to Mr. Karcher's statement, Mr. Brown, and that is not what he said, that it was the only country in the world that had these exact words. You know, no one disagrees: apartheid is the most vicious, unjust form of racial system in the world.

ASSEMBLMAN BROWN: But, you said that was a direct quote from Mr. Karcher's statement.

MR. MORFORD: That is not what I said.

ASSEMBLMAN BROWN: Well, you said, "Speaker Karcher further stated," etc., "at his January 25th press conference that South Africa was the only country with an explicitly stated policy of systematic racial oppression."

MR. MORFORD: That is correct.

ASSEMBLYMAN BROWN: Okay, I will read you the statement because you said you disagree. Okay, "racial oppression," but he also said that it is the only country with that policy, and that the constitution states that. Tell me of another country with that.

MR. MORFORD: He said--

ASSEMBLYMAN BROWN: (interrupting) I would like to have that information. If you have done the research, I would like to hear it.

MR. MORFORD: Mr. Brown, he said that South Africa was the only country with an explicitly stated policy of systematic racial oppression.

ASSEMBLMAN BROWN: Policy then is the key word. Other countries may have racial oppression, but it is not a policy -- such as the United States.

MR. MORFORD: I cited Lyberia as one whose constitution provides that no white may own land or vote. Indeed, it does it by saying that only negroes and people of negro descent may be citizens and no one who is not a citizen may vote or own property.

ASSEMBLMAN BROWN: Which is not the majority of the people of that population.

MR. MORFORD: That is not what Mr. Karcher said. That is what I was responding to, Mr. Brown.

ASSEMBLMAN BROWN: Well, that's what makes it unique, because you even said I am suggesting that that's what it is. You also mentioned Ghandi. It was Ghandi, I think, who wrote that if civilization was going to destroy itself, it would be in South Africa. Maybe you would want to read that part of Ghandi.

I don't want to get into a discussion on this but--

MR. MORFORD: (interrupting) But, you know from our own private discussions that I share with you the anger and distress over apartheid in South Africa.

ASSEMBLYMAN BROWN: That is why I find it interesting to see what you show me privately and our discussion and confrontation now.

MR. MORFORD: But, I am not saying anything different in that statement. I am not here to defend apartheid.

ASSEMBLYMAN BROWN: I think this is significant, and I think the Chairman pointed this out, that the Chamber of Commerce in this State -- the State Chamber of Commerce -- represents a very significant level and group of people, and just as they are taxpayers, they are also the beneficiaries of consumers. I think that at one point they should take another look at their position. I would suggest that more research be done.

I should think that the Chamber of Commerce would have given a better statement, even in opposition. But, I find it really disturbing to have this presented before a Legislative Committee. I just can't believe that the Chamber of Commerce of a State where taxpayers and consumers purchase from all their businesses has taken a position that I find very interesting.

MR. MORFORD: Mr. Brown, you know it is always a disappointment to me when I can't support your bills. I assure you that if you want to work with us to find a mechanism that we can mutually agree would be productive in striking a blow against apartheid, my hand is out to you. I would welcome the opportunity to do that.

ASSEMBLYMAN BROWN: After I resign from office, I will consider it.

MR. MORFORD: That shouldn't be a factor.

ASSEMBLYMAN BROWN: All right. Thank you very much.

MR. MORFORD: Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Our next witness will be Albert Robinson.

ALBERT ROBINSON: Mr. Chairman, distinguished Committee, my name is Albert Robinson. I am a Councilman from the City of Trenton. I represent myself here today; I do not represent the City of Trenton.

I am here to lend my support to Assembly Bills 1308, 1309, and Joint Resolution 16.

The sponsors of Assembly Bills 1308 and 1309, Assemblymen Brown, Charles, Karcher, Thompson, Watson, Bryant, Assemblywoman Garvin and Senator Lipman, sponsor of Senate Joint Resolution 16, have put before the legislators of this State an opportunity to strike a major blow for the human rights of an oppressed majority.

The hard-earned money of the people who have served, and are serving, the good of the public of this State should not be taken out of this State and used to support, directly or indirectly, the obnoxious system of apartheid and national oppression in the Republic of South Africa.

The Republic of South Africa survives because it is a haven for investors who don't seem to mind the fact that the racist white minority there will torture, maim, and kill the African majority to guarantee a high rate of return. The most brutal oppression presently practiced on this planet is perpetrated against Africans in the Republic of South Africa. The United States has sought to measure the severity of this oppression, not in terms of loss of human life and the potential it has caused, but in terms of the dollars and cents that can be profited from it.

Both of these bills and the Resolution, which serve as the basis for today's hearing, have unquestionably strong moral content. What is at issue primarily is the price tag to be placed on morality. Can the Public Employee Pension system afford to divest its so-called indirect South African holdings? My feeling is that it can't afford not to do so. My faith is placed in the consciousness of the public employees of this State.

I have read that 50,000 of New Jersey's public employees are black. These people have been made unwitting supporters of apartheid and national oppression. My feeling is also that they are unwilling. What they have lacked in the past has been information about where their money is going and what it is supporting. They will not be knowing hypocrites.

Just as I felt compelled to be here today to speak in favor of Assembly Bills 1308 and 1309, and Senate Joint Resolution 16, when in fact I only learned of them last week, the knowledge of the use of

pension system moneys to bolster the Republic of South Africa and the injustice for which it stands will bring about increased sentiment against such investments.

I urge passage of the bills and adoption of the resolution. I would like to add, just as an off-the-cuff comment, that I read in the Sunday newspaper where Pope John was unalterably opposed to apartheid in South Africa.

There are some politicians in this City that I know of who parade as liberals. But, when money is involved, principle is forgotten. That is what we are talking about: A matter of money over principle. As Assemblyman Brown said, it is not a policy here but it is a practice in the United States; we do have some form of racial oppression in this country which should never exist. So, how can we eliminate racial oppression in South Africa when we can't totally eliminate it here in the United States? Thank you very much.

ASSEMBLYMAN CHARLES: Thank you, Councilman.

Our next witness will be the Reverend Dudley Sarfaty.

REVEREND DUDLEY SARFATY: Mr. Chairman and members of the Committee, I am Dudley Sarfaty, the Associate General Secretary of the New Jersey Council of Churches. I will be brief. I do want to say though that Bishop Desmond Tutu, who is an Episcopal Bishop, is the General Secretary of the South African Council of Churches, which is the same position that Paul Stagg holds here in New Jersey for us.

The New Jersey Council of Churches is representative of 15 denominations, the largest black and white denominations in the State, and Bishop Tutu has been here, spoken with our people, led us in worship, and said things that I would not have said when the earlier people were present who were on the payroll of South Africa.

Bishop Tutu is under house arrest. There is a technical term in South Africa for it. I am a little tired, as you certainly must be, but the term used is something like detention.

I guess there is very little doubt in most of your minds what Bishop Tutu really has said, and I will come to your next meeting; however, I am not willing to speak publicly.

The Council of Churches has had this position for as long as anyone has had it -- except in the hearts of black Americans whom the churches are now responding to. I have been working on this agenda, among others, for over 20 years, and I had a conversation with the Director of the Bond Department of the Chase Manhattan Bank who told me that there was no morality in investment.

I can't tell you what you haven't already heard about South Africa, but I think it is my duty to suggest what I suspect you already all believe, that there are places where your moral position has to take precedent over the height of your profit. My wife is a school teacher and I was embarrassed to tears by the presentation of the State Education Association, even if the more kindly grandfather type from General Motors said similar things in a nicer way.

I think in this day, when a lot of public officials are being demagogic about how to stop communism, that we have to listen very carefully to perhaps the youngest person we had speak to us today at your Committee hearing, a man who is already convinced that no non-violent approach to South Africa is going to have any effect.

I think one justification for your pressing Assemblyman Brown's bill before both Houses of our Legislature is that if we as Americans don't spend our money where our conscience is, there is no alternative to armed revolution in South Africa. It is amazing to me that there has been as much peace as there has been for as long a time.

We have been very active, as many of you have, in the nuclear freeze movement in New Jersey, and a lot of our people went out to the World Council of Churches this past summer in Vancouver, British Columbia, where they met a lot of Christians from the third world. Those people said: "Look, you cannot talk about peace while you are ignoring our need for justice." And, unless we act to provide that justice, I think we are going to reap the whirlwind, and all of us as Americans, and all sorts of other people in the world, will suffer.

So, I would just urge you to have the courage of your convictions, and I will save some of the comments I would like to make about people who say, "Well, you are doing the right thing, but you are doing it the wrong way." Some of you have heard that before. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much, sir. Is there anyone else who would like to make a statement? (no response)

Well, we have had, I think, 27 speakers. We started at about 10:15 and it is now 5:35. It has been a continuous hearing. I would like to thank the Committee members who are here, Harry McEnroe, Tom Long -- Vice Chairman Long -- and, of course, Assemblyman Brown, who has been here and helped us, Eugene Thompson, Senator Lipman, and others, such as Speaker Karcher, who appeared and helped with the testimony.

For those of you who were here from the beginning, and who are still here, I appreciate your presence here today. This is a very important issue and the bills we are considering today are very important. I must say that I have attended some public hearings during the course of my stay in the Legislature -- and some time before that -- and I feel that the hearing we have had today on this issue and on these bills has been a very good hearing. I am really pleased with the quality of the information given in the testimony we have had. I think that most of the witnesses who appeared and gave testimony were thoughtful in their presentation, and they were prepared for their presentation. We do not always get that, but I think we did get that this time. I think that really goes more to the importance of the issue and also to the assistance that staff has given in putting together this public hearing, getting the word out, and inviting the testimony from people who have information and knowledge about apartheid.

I would just like to, for the record, publicly thank the Committee aide, Don Margeson, for all the help he has been to us; Peter Guzzo, for the assistance he has given to us; and Greg Edwards, who has been helpful in putting together this list of witnesses today, and in getting the people out to testify.

For your information, we are not finished. The public hearings on A-1308, A-1309, and the Senate Joint Resolution by Senator Lipman, and the matters contained in all the legislation, will be continued at another public hearing. There are some additional speakers we would like to hear from, and whose testimony, information,

and knowledge is critical, I think, to a full exploration of all the particulars involved in these bills.

For example, we have not heard testimony from the State Investment Council, the people who sit and actually invest the pension funds of the State of New Jersey. I should say that at some point during the hearing today, when it became apparent that we had a lot of witnesses and time was going to run out, it was the decision of the members here that rather than getting into testimony from those people who are going to be vitally affected by this and whose testimony is obviously very critical, we would hear them at another time, at a time when they could be placed at the top of the agenda and there would be no time constraints nor pressure to finish the testimony. We would then have a thorough question and answer situation with them.

This Committee will now adjourn until a future date. That date will be announced when all the particulars are pulled together. I suspect it will be sometime in September.

Again, I would like to thank all the Committee people who are here -- those of you who showed. As a final word, I would like to say that I request and invite those of you who are still here and who know of others who might have relevant testimony to present on this issue, to contact them and be in touch with them once the notice of the second public hearing is announced.

Before we conclude, I would like to ask if any of the Committee, or the other Assembly people who are still here, have any comments they would like to make to the group for the record?

ASSEMBLYMAN EUGENE THOMPSON: I would just like to commend you, Mr. Chairman, and the Committee. This is my fourth term in the Assembly. I sit on a very important Committee, as you do also, and we handled some very important legislation: the death penalty, the juvenile code, and the criminal justice package. But, I think in all the time I have been down here, this has been one of the most informative hearings I have had the opportunity to participate in. I commend you, I commend Assemblymen Brown and Karcher, and all the cosponsors of this legislation, and I commend Senator Lipman for bringing this type of legislation forward. Thank you.

ASSEMBLYMAN BROWN: Thank you, Mr. Chairman. I too would like to commend you, as the Chairman of the Committee, and the members of the Committee, Assemblyman Long and Assemblyman McEnroe, who have demonstrated a sophisticated knowledge of the legislative process, and what the Committee process is all about.

I would like to thank Senator Lipman, who is from my District. I am glad to know that the 29th District was fully represented here today with Assemblyman Thompson, Senator Lipman, and me. I think that what has taken place here today really demonstrates what the process is all about. You ran a very sophisticated meeting. I would like to commend you and the Committee for what you have done, and also those individuals who have participated and stayed here the entire day.

Again, thank you for giving us the opportunity to be heard. I look forward to participating at the next hearing. Thank you.

ASSEMBLYMAN MCENROE: I, likewise, am very proud of our Chairman, Assemblyman Charles. It has been a pleasure to participate in such a lively debate on such a compelling and interesting subject.

ASSEMBLYMAN LONG: I too would like to commend you, Mr. Chairman, on the character of this meeting today, and the input that was derived from it. I am sure if this type of hearing could be held in South Africa, we wouldn't be here meeting today with this purpose in mind. I think democracy in action was again exemplified when we can listen to both sides of a question and then make an intelligent decision, based upon the input from the two sides of that question.

So, I commend you again for an outstanding hearing.

ASSEMBLYMAN CHARLES: Thank you. The Committee now stands adjourned.

(Hearing Concluded)

APPENDIX

JULY 5, 1984

STATEMENT OF SPEAKER ALAN J. KARCHER BEFORE THE
ASSEMBLY STATE GOVERNMENT COMMITTEE ON A-1308

1. CAPITAL FORMATION AND CAPITAL ALLOCATION WILL BE IMPORTANT ISSUES FOR POLICY MAKERS THROUGHOUT THE 1980's.
2. A GREATER PROPORTION OF THIS COUNTRY'S NATIONAL INCOME MUST BE CHanneLED INTO PRODUCTIVE INVESTMENT TO OVERCOME THE ECONOMIC STAGNATION OF RECENT YEARS.
3. WE CANNOT TALK ABOUT CAPITAL FORMATION OR CAPITAL ALLOCATION IN TODAY'S ECONOMIC CLIMATE WITHOUT CONSIDERING PENSION FUNDS. PUBLIC AND PRIVATE PENSION FUNDS ARE WORTH MORE THAN \$800 BILLION; MORE THAN \$300 BILLION OF PENSION FUND ASSETS ARE HELD BY STATES AND LOCALITIES.
4. PENSION FUNDS OWN MORE THAN ONE-FIFTH OF THE COUNTRY'S CORPORATE STOCK AND PRODUCE ABOUT ONE-FOURTH OF ALL NEW CAPITAL GENERATED THROUGHTOUT THE ECONOMY.

5. THE EXISTENCE OF NEW JERSEY'S PUBLIC PENSION FUNDS CAN BE A TREMENDOUS ASSET IF PROPERLY UTILIZED WHEN YOU CONSIDER THE DAYS OF UNLIMITED GOVERNMENT SPENDING HAVE ENDED. WE CAN NO LONGER RELY ON FEDERAL OR STATE TAX REVENUES ALONE TO SUPPLY THE RESOURCES NECESSARY TO REVITALIZE THE STATE'S ECONOMY.

6. WE MUST ASSESS THE RESOURCES AVAILABLE TO US AND DEVELOP BOLD AND IMAGINATIVE STRATEGIES FOR DERIVING THE MAXIMUM BENEFITS FROM EXISTING RESOURCES.

7. THIS IS WHY I SPONSORED A-1308, WHICH ESTABLISHES A NEW DEVELOPMENT INVESTMENT STRATEGY FOR OUR SIX STATE PUBLIC PENSION FUNDS, TOTALLING MORE THAN 365,000 ACTIVE EMPLOYEES AND HAVING A BOOK VALUE OF \$9 BILLION.

8. A-1308 WOULD AMEND THE PUBLIC PENSION FUND LAW TO REQUIRE THAT:

(A) THE STATE INVESTMENT COUNCIL, WHICH GUIDES THE STATE DIVISION OF INVESTMENT IN THE INVESTMENT OF PUBLIC PENSION FUNDS, MUST ESTABLISH A POLICY PREFERRING THE INVESTMENT IN NEW JERSEY OF PUBLIC PENSION FUNDS WHICH DO NOT DISPLACE OTHER SOURCES OF AVAILABLE CAPITAL BUT WHICH IMPROVE THE ECONOMIC DEVELOPMENT AND SOCIAL WELFARE OF THE STATE WHENEVER THE EXPECTED RATE, RISK OR TERMS OF THE IN-STATE INVESTMENT ARE COMMENSURATE WITH THOSE AVAILABLE FOR OTHER INVESTMENTS;

(B) THE STATE INVESTMENT COUNCIL MUST INCLUDE IN ITS ANNUAL REPORT AN EVALUATION OF ITS INVESTMENT PERFORMANCE WITH RESPECT TO THE AMOUNT AND IMPACT OF SUCH INVESTMENTS IN THE STATE;

(C) THE COUNCIL MUST EXCLUDE NEW INVESTMENTS IN COMPANIES AND COUNTRIES WITH VERY POOR RECORDS OF COMPLIANCE WITH HUMAN RIGHTS, EQUAL AND FAIR EMPLOYMENT PRACTICES, LABOR RELATIONS, AND HEALTH AND OCCUPATIONAL SAFETY STANDARDS AND DIVEST CURRENT INVESTMENTS FROM SUCH COUNTRIES AND COMPANIES WHENEVER AN EXPECTED RATE, RISK OR TERM OF INVESTMENT COMMENSURATE WITH THE INVESTMENT IN SUCH COUNTRIES OR COMPANIES EXIST.

9. THE AREAS OF THE STATE'S ECONOMY WHICH WOULD BE GIVEN PREFERENCE BY THE PUBLIC PENSION FUNDS ARE:

A. BUSINESSES WITH HEADQUARTERS LOCATED IN NEW JERSEY WHICH HAVE AT LEAST HALF OF THEIR EMPLOYEES RESIDING IN THE STATE, ANNUALLY EXPEND AT LEAST 50% OF THEIR ANNUAL EXPENDITURES FOR WAGES, FACILITIES, EQUIPMENT, SUPPLIES AND SERVICES WITHIN THE STATE, HAVE THE POTENTIAL FOR JOB EXPANSION, AND PRODUCE PRODUCTS OR PROVIDE SERVICES IN THE BEST INTERESTS OF THE STATE. EMPHASIS SHALL BE PLACED ON SMALL AND NEWLY CREATED BUSINESSES OFFERING UNIQUE OR NEW PRODUCTS, MARKETS OR SERVICES, AND TO IMPROVING THE ECONOMIC AND SOCIAL CONDITION OF MINORITIES, THE HANDICAPPED AND BUSINESSES OWNED BY SUCH PERSONS OR GROUPS. IN MAKING INVESTMENTS IN BUSINESSES LOCATED IN NEW JERSEY, THE DIVISION OF INVESTMENT MAY MAKE THE INVESTMENTS DIRECTLY, THROUGH PRIVATE INSTITUTIONS

WHICH, IN TURN, INVEST IN BUSINESSES, DEPOSIT PENSION FUNDS IN IN-STATE BANKS WHICH AGREE TO MAKE LOANS TO DESIGNATED BUSINESSES, AND ENTER INTO LIMITED EQUITY PARTNERSHIP ARRANGEMENTS WITH BUSINESSES OR PARTICIPATE IN PUBLIC OR PRIVATE DEVELOPMENT PROGRAMS TO ASSIST THE DEVELOPMENT OF DESIGNATED BUSINESSES.

B. ACTIVITIES THAT INCREASE THE SUPPLY AND QUALITY OF HOUSING IN NEW JERSEY AND THE RANGE OF HOUSING CHOICES FOR LOW AND MODERATE INCOME FAMILIES. IN MAKING INVESTMENTS IN SUCH HOUSING, THE DIVISION OF INVESTMENT MAY PURCHASE PACKAGES OF MORTGAGES OR SECURITIES IN SUCH PACKAGES FROM PRIVATE FINANCIAL INSTITUTIONS AND PUBLIC HOUSING PROGRAMS AND DEPOSIT PENSION FUNDS IN LENDING INSTITUTIONS COMMITTED TO MAKING MORTGAGES AVAILABLE IN PREFERRED AREAS OF THE STATE FOR NEEDED HOUSING AND ON CERTAIN TERMS.

C. PUBLIC DEVELOPMENT INVESTMENT ENTITIES CREATED OR AUTHORIZED BY THE STATE TO PROMOTE, AMONG OTHER THINGS, THE CONSTRUCTION AND RENOVATION OF INFRASTRUCTURE SYSTEMS, TO ENCOURAGE THE EXPORT TRADE OF NEW JERSEY BUSINESSES, AND TO ENGAGE IN COOPERATIVE ENDEAVORS WITH PRIVATE CAPITAL TO DEVELOP SMALL BUSINESSES.

D. REAL ESTATE INVESTMENTS NEEDED TO ASSIST THE DEVELOPMENT OF BUSINESSES, HOUSING AND FAMILY FARMING AND WHICH DO NOT RESULT IN AN UNSATISFACTORY RELOCATION OF EXISTING BUSINESSES, RESIDENCES OR FAMILY FARMS.

E. THE DEVELOPMENT OF ALTERNATIVE ENERGY SYSTEMS AND PROGRAMS TO ENCOURAGE ENERGY CONSERVATION AND REDUCE NEW JERSEY'S DEPENDENCY ON OUT-SIDE ENERGY SOURCES.

10. A POLICY OF PREFERRED DEVELOPMENT INVESTMENT IS NOT CONCESSIONARY INVESTMENT. CONCESSIONARY INVESTMENTS, WHICH ARE BELOW THE MARKET RATE OF RETURNS, ARE MOST LIKELY A VIOLATION OF THE PRUDENCY LAW. DEVELOPMENT INVESTMENT SHOULD NOT INVOLVE THE INVESTMENT OF PUBLIC PENSION FUNDS IN INVESTMENTS FOR WHICH THERE ARE ALREADY A HIGH DEMAND BY OTHER INVESTORS.

11. DEVELOPMENT INVESTMENT IS MEANT TO FILL "CAPITAL GAPS" IN BUSINESSES OR HOUSING WHICH CAN PAY COMPETITIVE PATES OF RETURN BUT DO NOT HAVE CAPITAL AVAILABLE BECAUSE OF VARIOUS IMPERFECTIONS IN THE FINANCIAL MARKET, E.G., LACK OF INFORMATION OR PURE DISCRIMINATION BASED ON UNFOUNDED FEARS OF THE SECURITY OF AN INVESTMENT.

12. EXAMPLES OF DEVELOPMENT INVESTMENTS:

A. HOUSING (1) CONNECTICUT, MICHIGAN AND COLORADO USE INTERMEDIARY MORTGAGE CORPORATIONS TO PACKAGE IN-STATE TARGETED MORTGAGES FOR RESALE TO PENSION FUNDS (BOTH PUBLIC AND PRIVATE). THE CORPORATIONS -- WHETHER STATE CREATED SUCH AS THE HFA/MFA OR PRIVATE -- DIRECT MORTGAGE MONEY TO AREAS OF THE STATE AND TO THE TYPE OF HOUSING OTHERWISE WITHOUT CAPITAL. IF COMBINED WITH GRADUATED OR SHARED PAYMENT MORTGAGE PLANS, THEY CAN MAKE

MORTGAGES MORE AVAILABLE AND AFFORDABLE ESPECIALLY FOR THE FIRST TIME MORTGAGOR.

(2) ANOTHER MORTGAGE DEVELOPMENT INVESTMENT PLAN INVOLVES THE PLACEMENT OF PENSION FUNDS IN THRIFT INSTITUTIONS AND MORTGAGE BANKS WHICH HAVE AGREED TO INCREASE MORTGAGE ACTIVITIES IN PREFERRED AREAS OF THE STATE AND FOR NEEDED HOUSING. THIS IS KNOWN AS A LINKED DEPOSIT SYSTEM. COMBINED WITH GRADUATED OR SHARED MORTGAGE PAYMENT PLANS, IT COULD STIMULATE HOUSING.

B. BUSINESS (1) THE PENSION FUNDS CAN ASK EXISTING FEDERAL BUSINESS PROGRAMS, SUCH AS THE SMALL BUSINESS ADMINISTRATION (SBA), TO TARGET LOANS IN NEW JERSEY TO CERTAIN SMALL ENTERPRISES OR VENTURE ENTERPRISES WITH THE UNDERSTANDING THEY WILL PURCHASE THE SBA LOANS FROM THE DESIGNATED COMMERCIAL LENDERS. THE SBA GUARANTEES 90% OF A LOAN UP TO \$300,000. THE INTEREST RATE ON SUCH LOANS USUALLY FLOATS ABOUT 3 POINTS ABOVE PRIME. IF THE PENSION FUNDS RETURN A POINT OR TWO TO THE COMMERCIAL LENDER FOR SERVICING THE LOANS, THEY STILL KEEP 11% TO 12% INTEREST IN PROFITS.

(2) BUSINESS DEVELOPMENT INVESTMENTS CAN ALSO BE MADE THROUGH VARIOUS DIRECT PLACEMENTS OF PENSION FUNDS IN LENDING INSTITUTIONS WHICH MAKE LOANS TO CERTAIN BUSINESSES IN DESIGNATED AREAS. BASED ON THEIR PERFORMANCE, THEY RECEIVE PREFERRED BORROWER INTEREST RATES WHICH ARE LOWER THAN THE RATES THEY MUST PAY OTHER LENDERS BUT HIGHER THAN THE RATE OF RETURN ON STATE INVESTMENTS. THIS

SAME APPROACH CAN BE USED WITH MINORITY BANKS TO HELP FILL CAPITAL GAPS IN URBAN AREAS. SINCE BANK FUNDS ARE INSURED, NO RISK IS POSED TO THE PENSION FUNDS.

C. SPECIAL DEVELOPMENT INVESTMENT VEHICLES

1. INFRASTRUCTURE FINANCING BANK AND PROGRAM

PENSION FUNDS COULD BE DEPOSITED IN THE PROPOSED INFRASTRUCTURE BANK AND USED AS BOND OR LOAN DEFAULT RESERVES. THE LOANS COULD BE INSURED BY THE BORROWING MUNICIPALITIES TO REDUCE THE RISK TO THE PENSION FUNDS. OR THE BANK'S LOANS, ONCE INSURED, COULD BE PURCHASED BY PENSION FUNDS TO FREE UP MORE LOANS, THUS CREATING A SECONDARY MARKET FOR THE LOANS.

2. STATE EXPORT-IMPORT BANK

THE CREATION OF A STATE EXPORT-IMPORT BANK SHOULD BE CONSIDERED. THE SAME PRIMARY (AS A LOAN DEFAULT RESERVE) OR SECONDARY MARKET INVOLVEMENT OF PENSION FUNDS COULD BE USED TO SERVE AS LEVERAGE IN ATTRACTING PRIVATE BANK PARTICIPATION. ALL LOANS COULD BE GUARANTEED THROUGH THE FEDERAL EXPORT-IMPORT BANK LOAN GUARANTEE PROGRAM OR PRIVATE INSURERS, WITH THE COST PASSED ON TO BORROWERS. STATE INVESTMENT IN THE BANK WOULD SEND A MESSAGE OF CONFIDENCE TO PRIVATE BANKS.

D. REAL ESTATE

PENSION FUNDS COULD BE USED TO DEVELOP FAMILY FARM SECURITY PROGRAMS, ASSISTING FARMERS TO MAINTAIN THEIR HOLDINGS WITH A DIRECT BUT LIMITED EQUITY IN THE FARM AS SECURITY, AND TO FUND LAND BANKS IN NEW JERSEY, AGAIN USING DIRECT EQUITY AS IN THE REAL ESTATE SECURITY. FUNDS COULD ALSO BE INVESTED IN LAND TO ASSIST BUSINESS OR HOUSING STARTS.

13. THE "MULTIPLIER" AND "SPIN OFF" EFFECTS OF THE INVESTMENTS ADVOCATED REPRESENT CONSIDERABLE GAINS FOR THE ECONOMY OF THE STATE WITH INCREASED TAX REVENUES, NEW JOBS, PRODUCT PRODUCT SALES TO LOCAL BUSINESSES AND HOMES FOR OUR CITIZENS. THE STATISTICS ON ECONOMIC GROWTH ASSOCIATED WITH CONSTRUCTION AND NEW HOUSING INVESTMENT ARE IMPRESSIVELY FAVORABLE FOR NEW JERSEY. IN ADDITION TO THE CREATION OF NEW JOBS FOR CONSTRUCTION WORKERS AND INCREASED SALES FOR ALLIED INDUSTRIES SUCH AS WALL AND FLOOR COVERINGS, PLUMBING FIXTURES, KITCHEN EQUIPMENT, FURNITURE, ETC., AND PROVIDING HOMES FOR ITS CITIZENS, NUMEROUS STUDIES HAVE SHOWN THAT THE "SPIN OFF" EFFECT IS INCREASED REVENUES FOR THE STATE IN THE FORM OF PERSONAL INCOME TAXES, CORPORATE INCOME TAXES, PROPERTY TAXES AND SALES TAXES, AS FOLLOWS:

A. EVERY BILLION DOLLARS THAT IS INVESTED IN THE CONSTRUCTION OF PRIVATE SINGLE FAMILY HOUSING GENERATES 19,100 ON-SITE,

14,600 INDIRECT AND 103,100 INDUCED JOBS FOR A TOTAL OF 217,700 JOB YEARS. (GEORGE VERNES, ET AL, REGIONAL CYCLES AND EMPLOYMENT EFFECTS OF PUBLIC WORKS INVESTMENTS, SANTA MONICA, CALIFORNIA: RAND CORPORATION, 1977.)

B. FURTHERMORE, 18.4 PERSONNEL YEARS ARE REQUIRED TO CONSTRUCT \$1 MILLION WORTH OF NEW RESIDENTIAL STRUCTURES AND FOR EVERY JOB CREATED IN THE CONSTRUCTION INDUSTRY, AN ADDITIONAL 2.66 JOBS ARE CREATED IN LINKED INDUSTRIES--INDUSTRIES WHICH SUPPLY PRODUCTS WHICH ARE USED IN CONSTRUCTION. (CALIFORNIA DEPARTMENT OF WATER RESOURCES, SACRAMENTO, 1977.) AS A RESULT, A TOTAL OF 76.4 JOBS ARE CREATED FOR EACH \$1 MILLION SPENT IN THE CONSTRUCTION INDUSTRY.

C. THIS SAME STUDY ESTIMATES THAT 42¢ OF EVERY DOLLAR SPENT ON NEW CONSTRUCTION BECOMES INCOME FOR STATE CONSTRUCTION WORKERS. AS THIS INCOME AND INCOME EARNED BY WORKERS IN LINKED INDUSTRIES IS SPENT, IT BECOMES INCOME FOR OTHER STATE RESIDENTS. WHEN BOTH CONSTRUCTION AND NON-CONSTRUCTION INCOMES ARE TOTALED, THE MODEL INDICATES THAT FOR EACH DOLLAR SPENT ON CONSTRUCTION, A TOTAL OF \$1.44 IN INCOME WILL ACCRUE TO ALL STATE RESIDENTS.

D. THE TAX EFFECTS OF THIS CAN BE ESTIMATED BY APPLYING TAX RATES TO ANTICIPATED INCOMES. STATE GOVERNMENT WILL DERIVE SALES TAX REVENUE FROM THE INCOME GENERATED BY NEW HOUSING CONSTRUCTION, BY THE PRODUCTS THAT GO INTO THESE NEW HOMES AND BY ARTICLES BOUGHT BY THE SALARIES OF THE JOBS THAT ARE CREATED;

BUT NOT ALL THE INCOME WILL BE SUBJECT TO THE TAX. SOME WILL BE SUBJECT TO THE TAX. SOME WILL BE SAVED, SOME WILL BE SPENT OUT OF STATE AND SOME WILL BE SPENT ON NONTAXABLE ITEMS. HOWEVER, MOST STUDIES INDICATE THAT ABOUT 75% OF THE INCOME WILL BE SUBJECT TO THE SALES TAX. (GOVERNOR'S PUBLIC INVESTMENT TAX FORCE, STATE OF CALIFORNIA, OCTOBER, 1981). PROPERTY TAX REVENUES CAN BE MORE EASILY ESTIMATED AND WILL INCREASE AS ASSESSED VALUE INCREASES.

E. IT IS OBVIOUS THAT INVESTING IN NEW JERSEY INSTEAD OF INVESTING IN THE SUN BELT MAKES MORE SENSE AND BENEFITS ALL THE CITIZENS OF OUR STATE.

July 10, 1984



Mr. Chairman:

My name is Michael Moffitt and I am an investment adviser at Shearson Lehman/American Express, the second largest brokerage firm in the United States. Together with two other colleagues, I manage individual and institutional accounts for investors whom, for a variety of reasons, exclude certain kinds of securities from their portfolios.

I must emphasize, however, that I appear here as an individual and do not speak for Shearson Lehman/American Express or the American Express Company.

Moreover, I want to stress that I will not address the specific issue of what action the State of New Jersey should take on the legislation before us. That is for you to decide. Our expertise is in the financial arena. That said, I believe we are qualified to answer the following question: would laws barring investment of state funds or state pension fund assets in U.S. corporations that do business in South Africa prevent the state from earning the highest return possible on its investments?

Our experience with both our institutional and individual clients indicates that the answer to the above

question is an unequivocal no.

We manage money with a much greater series of restrictions placed upon us than those under consideration today. Still we find the remaining universe of investment opportunities sufficiently broad to permit us to carry out our responsibilities. If we were given the task of managing New Jersey State's funds within the framework under discussion today, we would have no problem in finding suitable alternatives to those investments that would be prohibited.

Investment performance is a function of the accuracy of the investment managers' judgements about the market overall, the future course of interest rates, hence the ability to select investments that will appreciate over time. Our performance would not be hindered, limited, or in any way adversely affected by the restrictions of avoiding investments in companies that do business in South Africa.

The question of what if any effect exclusion of South-African related securities would have on investment performance for public funds is critical given the growing number of states and localities that are debating or enacting divestiture bills of one kind or another.

Traditional money managers might be expected to take the position that a reduction in the universe would narrow the selection and also increase risk. However, an examination of what is being eliminated might result in a different conclusion. For example, in the investment area, if one were to eliminate all nuclear utilities as an investment, it would restrict the investment availability but would increase the performance by

eliminating securities of greater risk and poorer performance. The same is true of the major money center bank stocks. This same conclusion has been demonstrated to be correct concerning the exclusion of investment in companies heavily involved in South Africa.

Several studies have attempted to verify quantitatively what has or would have happened to large portfolios which exclude investments of companies in South Africa. Each of the studies has in their own way found that for virtually any given period of time in the past, portfolio performance would have been no worse, and in some cases would have been better, if a screen of avoiding investments in South Africa had been placed on a fund. While one cannot and should not predict future investment returns based upon past performance, the results of these studies are instructive.

The first study we would mention is a recent one performed at our request by the Boston Company, a wholly-owned subsidiary of Shearson Lehman/American Express. This study excluded 135 companies from the Standard and Poor's 500 that had been identified as having significant investments in South Africa or poor employee relations. In eight of the eleven years from 1973 to the end of October 1983 the 365 remaining companies outperformed the 135 that were excluded. For the overall period the non-excluded companies appreciated a statistically significantly 13.6% more than the ones left out. Please note also that our screen included companies that were not^{only} in South Africa, but had a poor track record with employee relations.

In recent years, several other major institutional studies have been done. These include: a report prepared by the Council on Economic Priorities for the State of California Retirement Systems, entitled "Pension Funds and Ethical Investment", a report by Franklin Research and Development of Boston prepared for the Washington D.C. Retirement portfolio, and an internal study by Chemical Bank that reviewed Chemical's own "buy list" with corporations doing business in South Africa left out.

. Each of these studies has documented the statistical fact that, all other things being equal, a portfolio that avoided stocks of U.S. companies in South Africa would have outperformed a portfolio that included these companies.

The Council on Economic Priorities report on the two large California Public funds is important to this consideration because of the size of the Funds, totalling \$17 billion in 1980, the depth of the study and the exclusion of two areas of investment, South Africa and poor employee relations.

The Council report concluded,

CEP did discover that divestment and/or exclusion would not have significant financial consequences for the pension funds themselves. Therefore, basic fiscal and legal concerns need not stop (the Public Employees Retirement System) and (State Teachers Retirement System) from taking these actions.

A Franklin Research and Development report was prepared specifically for the District of Columbia March 4, 1983 hearings before its City Council Committee on Consumer and Regulatory Affairs. Their study prepared an alternative portfolio of the D.C. Retirement Fund with companies in South Africa eliminated and a backtracking was done. It showed that over the past 9 years the Washington D.C. stocks related to South Africa had a growth in earnings and appreciation of 8% a year while those not involved in South Africa averaged 11.2% a year.

Franklin Research concluded: "In our opinion there is no material investment disadvantage created by excluding less than 1% of the listed companies from the approved investment list."

There are two generic problems with all of the studies of the sort mentioned above. The first is that past is not prologue and the fact that a certain group of stocks behaved in one way in the past cannot be used to make a case that they would perform similarly in the future. Nevertheless, the fact remains that past performance would not have been made worse if South African related stocks had been omitted. The second problem with these studies is that for the majority of the time periods covered, smaller companies have performed better in the stock market than have the larger capitalized multinationals that tend to have operations in the Republic of South Africa. For reasons of liquidity, volatility, and occasional investment restrictions large institutional investors do not always have the luxury of investing freely in all of the smaller capitalization companies remaining when the U.S. corporations in South Africa are excluded, but the trend in the larger portfolios is toward lifting restrictions on investing in smaller, growth-oriented companies.

A frequent objection raised to divestiture proposals is that funds would have to incur abnormally large transaction costs. Since the funds which have been directed to divest usually allow the divestiture to take place over a period of at least two to four years, the argument that extra commissions would have to be paid does not really apply. Institutional investors of size normally pay low negotiated rates of five or six cents a share and somewhere between 25 to 75 percent of a portfolio may turnover each year in the normal course of events. Thus, a program of divestiture could be instituted over a time period so that many of the required sales are done when independent investment judgements would have warranted a sale anyway. Commissions are a negligible part of portfolio cost.

In addition, I find the definition of risk implicit in various criticisms of divestiture to be rather limited and therefore misleading. At a time when international loan defaults threaten to bankrupt major U.S. banks and wars, revolutions and terrorism disrupt international commerce and destroy corporate property, the concept of "country risk" must be taken into account. Surely investors in South Africa face above average country risk.

South Africa is a country which is becoming ~~increasingly~~ more politically and militarily explosive. A man well known to the investment community, former Secretary of Defense and former President of ^{H2} International Bank for Reconstruction and Development, Robert McNamara, in a speech in October 1982 at the University of Witwatersrand in South Africa, drew attention to the escalating social tensions created by apartheid and stated that "South Africa may become as great a threat to the peace of the world in the 1990's as the Middle East is today." If this is so, the companies operating

in South Africa face considerable risk that their assets may be damaged or destroyed in a violent conflict between black nationalist forces and the South African regime. Earnings and share prices would be affected accordingly.

In conclusion, it is our view that a decision on divestiture should be made on the basis of whether New Jersey wishes to take a stand on the question of investing in companies that do business in South Africa. The decision should not be made because of a fear that a portfolio performance would suffer. In both the areas of debt securities and equities the remaining universe of securities is sufficiently broad to enable the fund managers to match or outperform the averages. We are not aware of a single industry that a fund would be prohibited from investing in if companies in South Africa were left out. As far as debt securities are concerned, the huge U.S. government and agency markets offer limitless potential for bond swaps of almost any coupon, yield and maturity. With regard to equities, a program of divestiture should, if enacted, be phased in over a period of time so that maximum benefit to the funds concerned can be ^{derived} ~~devised~~ from existing stock positions in this market cycle.

We have made clear at the outset that our testimony does not represent the views of Shearson Lehman/American Express or American Express. For the record, American Express Co. and its

Shearson Lehman/American Express subsidiary have stated their abhorrence of the system of apartheid. In joining those opposed to the practice of apartheid the American Express Company and its subsidiaries have taken a number of public actions including the discontinuance of all advertising for the sale of Kugerrands and not extending loans to the South African Government or its agencies. The company believes however, that a more effective opposition to that system would come from a continued presence in South Africa of those American companies which attempt in their various fields of endeavor to improve the situation of the black population. The American Express Company has supported the Sullivan Principles even while recognizing that there are some weaknesses in them. American Express is opposed to divestiture because it believes that the presence of forward-looking companies will be beneficial to the majority.

Finally, let me add as a resident of New Jersey that the proposal to direct investments in-State whenever possible is sound and long overdue. Some steps in this direction have been taken recently and we look forward to a day when more of the state's assets are invested in ways that will encourage the formation of jobs and new industries here in New Jersey.

Thank you.

Shearson Lehman/American Express Inc
Short Hills Plaza
636 Morris Turnpike
Short Hills, NJ 07078

Telephone:
(201) 376-8000
(212) 962-2100 From NYC

Member of all principal
security, option and
commodity exchanges

Sidney D. Krasner
Executive Vice President



July 9, 1984

Roland M. Machold
STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF INVESTMENT
Trenton, NJ

Dear Mr. Machold:

The Asset Management Group of Shearson Lehman/American Express has not used political affiliations of corporations as a determining factor in making investment decisions, nor have political affiliations of corporations been used by our Asset Management Group as a determining factor for portfolios managed by our organization.

We believe that a forced restriction of portfolio purchases and forced divestiture of restricted securities could seriously impair the ability of money managers to effectively manage, therefore placing them at a disadvantage in the market place. We estimate that one third of the universe of corporate bonds, and a high percentage of the universe of equities that we would potentially recommend to pension plans would be eliminated. The result is that our universe would be substantially reduced, curtailing opportunity, and probably causing liquidity problems at time of purchase or sale. Under these circumstances we anticipate that a deviation in performance from non restricted portfolios managers could result.

It is important that we act responsibly and we respectively suggest that restricting portfolio managers and money managers will probably yield poorer results for large portfolios compared to those who are unrestricted.

Sincerely,



Sidney D. Krasner
Executive Vice President

SDK:mm

Statement Submitted to the
New Jersey Assembly State Government Committee
on July 10, 1984

by
William D. Broderick, Director
International Governmental Affairs
Ford Motor Company

Mr. Chairman, members of the Committee: My name is William Broderick and I am Director of International Governmental Affairs for the Ford Motor Company. One bill under consideration, A-1309, would prohibit the Division of Investment in The Department of the Treasury from investing assets of pension or annuity funds under its jurisdiction in the stocks, securities or other obligation of any company doing business in or with South Africa. Ford Motor Company believes there is a strong and reasonable case against such divestment, for reasons I should like to explain briefly.

First, let me emphasize that Ford does not oppose the use of social responsibility as an investment guideline. We do insist however, that the presence and activities of Ford and other Sullivan Principle signatories in South Africa constitutes a socially responsible position, as I hope to demonstrate. I am including with the copies of my testimony a detailed listing of the kinds of socially responsible activities and programs Ford is carrying out in South Africa. I urge you to take a moment to look them over.

It is our position that such a law is bad public policy because:

- it can increase the risk to State pension funds and increases chances of a lower rate of return on the pension fund's investments.
- it does nothing to improve the status of Black South Africans, and could affect them adversely.

Regarding the impact on pension funds I would urge you to review carefully the many studies and analyses of the impact of divestment. Such studies have been made in several states including Oregon, Illinois, Connecticut, and Ohio. They all point to the problems of increased risk and possible lower rates of return.

I am not an investment specialist. Nonetheless it does appear to me that preventing investment in nearly 50% of the Standard and Poors 500 stocks, representing over \$500 billion in market capitalization will create problems for fund managers and for pensioners.

Let me quote four sentences from the report of the Ohio Retirement Study Commission published in June 1983. "A total divestment and exclusion policy affecting 16 percent to 20 percent of the Ohio Retirement System's combined funds could have significant consequences and might result in lowered returns, higher risks and less diversification. Many of the largest and most successful American corporations have business operations in South Africa. A total divestment/exclusion policy would prohibit investment in any of these major corporations. The type of portfolio which resulted would likely be made up of a larger percentage of middle sized companies which could create some diversification problems, higher risk ratios and perhaps smaller rates of return over the long term."

An even more important issue is what this kind of legislation does to help Black South Africans. We do not differ with advocates of divestment about apartheid. We all agree that it is a morally indefensible system and that it should be changed. The real difference between us is over the most effective means to achieve such changes. Sullivan Signatories say: Stay, and work for change on the spot. Others say, get out, and change will come.

The fact is, that there is no evidence to support that claim. History shows that economic boycotts, investment freezes, etc. do not work - especially when applied by only one country, whose competitors are delighted to move in and take over the market. Withdrawal, as Andrew Young said, makes American liberals feel good, but doesn't do anything for South African Blacks.

We - The Sullivan Signatory Companies - think that the more effective way to change policies is to work at it on the spot, not from 10,000 miles away.

And we've gotten specific results. We have helped to obtain collective bargaining rights for Black workers, and to block offensive racial legislation. We are giving financial support to public interest law firms that provide legal assistance to Blacks. We are providing technical and managerial training to the new generation of Black South Africans.

We are providing housing assistance, and medical clinics, and tuition scholarships to Blacks. We are actively developing Black entrepreneurs and suppliers to our manufacturing operations. In other words, we are making real and significant contributions toward weakening the apartheid system in South Africa.

If we leave South Africa, all these things will stop. What will the divestment advocates do to replace them?

Unless you can get a satisfactory specific and convincing answer to that question, you should not be supporting divestment.

The actions of American companies will not, by themselves, change the apartheid system. But their presence and activities contribute to change, and serve as a catalyst to encourage and produce change in others, too. That is a matter of record.

It is important to emphasize that no course of action will bring about rapid change in South Africa, given the government's present policies and attitudes. Progress will be slow, frustrating and uneven, under any alternative. But the Sullivan Companies have done more real good for Black South Africans in the last seven years than the divestment advocates have in the last twenty-four.

If Ford had pulled out of South Africa in 1977 - as our critics urged us to do - instead of organizing and acting under the Sullivan Principles - Black South Africans would be worse off than they are today. We believe this and our South African employees (70% of whom are Black) believe it. From our frequent discussions with a broad range of Black leaders in South Africa we know that they, too, want us to stay in the country, as long as we continue our present efforts.

This is our intention. We believe, Mr. Chairman, that our presence there makes us part of the solution, not part of the problem.

Multinationals are co-ordinating help

By LIN MENCE

MULTINATIONAL companies in the Eastern Cape have come together to assist in the development of local coloured and black suppliers.

Mr Roland Huckle, manager of New Business Development for Ford Motor Company in Port Elizabeth, said it became clear last year that the various multinationals trying to assist black suppliers should co-ordinate rather than duplicate their efforts.

Quarterly discussions have now been set up between companies such as Ford, Firestone, Goodyear, Borg Warner, General Motors and Volkswagen.

They discuss current and potential suppliers and arrange to combine volumes on certain products so that the manufacturer can operate cost-effectively.

"If we develop a supplier we will assist him in costing," Mr Huckle said. "We must make sure he is not operating at a loss because we are looking at future viability."

"Then once he's set up for Ford, the way is clear for, say, GM to go in with their own specifications."

"At Ford we go round our plants and look for products that could be made by black manufacturers without much capital investment. Because today's big suppliers turn out even simple items by the million, we have to look for labour-intensive products which need individual cutting or stitching," Mr Huckle said.

"Then, provided the small manufacturer can obtain his raw materials at a reasonable price, he will be able to compete. So we also ask our own raw-material suppliers to consider supplying him at a competitive price."



Mr Brian Pitt, managing director of Ford South Africa, with Mr Eric Mtyobo in front of the house Mr Mtyobo is building as part of the 64-home self-help housing project jointly financed and administered by Ford and the Urban Foundation.

Ford promotes novel PE housing project

HERALD REPORTER

FORD Motor Company, in association with the Urban Foundation, is to give R100 000 toward materials for and administration of a self-help housing project in Zwide, it was announced yesterday.

The project, which will provide 64 houses, is the first of its kind in South Africa in that it involves a single company in association with the Urban Foundation and in that the sites are all in one place, said Mr Bob Kernohan, Press relations officer for Ford.

Making the announcement, Mr Arthur Shipalana, Ford's community relations manager, said the R100 000 provided by the company was to be used as a rotating fund to purchase materials and cover administrative costs.

The Urban Foundation and Ford will help prospective home-owners decide on the type of housing, to comply with legal and administrative requirements, and provide the most economical way to build their homes.

The home-builders are to be encouraged to do as much of the building as possible themselves. Foundations, plumbing and electricity — all specialist jobs — will be undertaken by contractors on a bulk-purchase basis. Courses in bricklaying have been organised at the Emthonjeni Technical College.

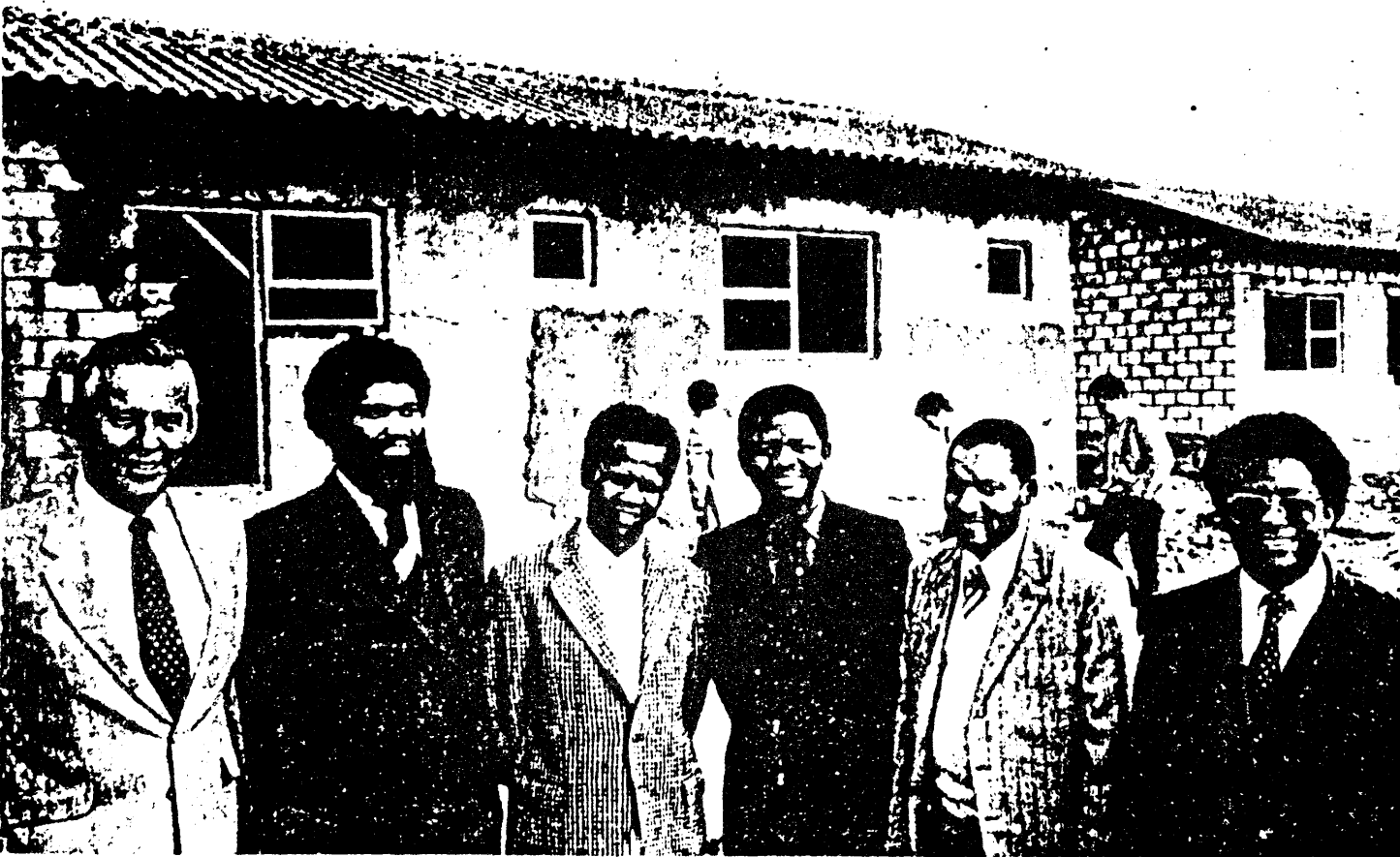
The sites selected for the project are available under the 99-year leasehold scheme, enabling the home builders to apply for building society bonds.

The initial sum required from the prospective builder is R500 which covers the cost of registering the bond with the Deeds Office. A minimum monthly salary of R350 is required from any participant.

Six different house designs can be chosen, all of which have electricity and water. The houses vary in cost from R11 000 to R16 000.

Fifty-seven of the 64 sites have already been allocated and four houses are under construction.

Zwide self-help housing project launched



Construction of the first four homes of a self-help housing project in Zwide, undertaken by Ford Motor Company in conjunction with the Urban Foundation, is under way. Inspecting the site today were (from the left) managing director of Ford South Africa, Mr BRIAN PITT, and Ford employees Mr E MTYOBQ, Mr L HANDLING, Mr D MAKANDA, Mr M MATEBENI and Mr A SHIPALANA.

By CATHY SCHNELL

A SELF-HELP housing project which will provide 64 homes in Zwide has been undertaken by Ford Motor Company in conjunction with the Urban Foundation.

Ford would be giving R100 000 towards the scheme, the company's managing director, Mr Brian Pitt, said today.

Announcing details of the scheme, the company's community relations manager, Mr Arthur Shipalana, said the money would be used as a rotating fund to buy materials and cover administrative costs.

The property site was at Zwide Four and the 64 plots would be available under the 99-year leasehold scheme.

After the registration of the plot, the new home owner would be encouraged to do as much of the basic building as possible. To facilitate this arrangements had been made with Emthonjeni Training Centre to offer six training sessions, Mr Shipalana said.

In this way, the "sweat equity" of the individual could lessen costs by between 30% and 40%.

Mr Shipalana said he hoped all the homes would be built by Ford employees, but should the 64 sites not be taken up by the company workers, they would be made available to other people.

An employee wanting to qualify for one of the homes must earn at least R350 a month and have an initial deposit of R500 to cover bond registration.

Four homes were already under construction and the first houses should be completed within a few months, Mr Shipalana said.

The six different house designs vary from R114 000 to R16 000. All have electricity and water.

FORD AND THE SULLIVAN PRINCIPLES

In 1977, Ford Motor Company was one of the twelve original signatories to the Sullivan Principles. Developed under the leadership of the Rev. Leon Sullivan, American Baptist minister and long-time civil rights leader, the Principles' purpose is to improve the quality of life of black South Africans in and outside the workplace and to serve as a catalyst to encourage similar actions by others.

Ford South Africa has been a vigorous implementer of the Principles since their inception. It has:

- . pioneered the use of full-time union shop stewards
- . dramatically expanded its training programs
- . more than tripled the percentage of non-whites in salaried supervisory jobs
- . upgraded the quality of housing in black townships
- . introduced and helped finance a self-help housing program
- . funded health, recreational and educational facilities in the local communities
- . selected and assisted black auto dealers and component suppliers to the auto industry

In the following pages, we itemize briefly some specific accomplishments under each of the Principles.

June, 1984

THE CASE AGAINST DIVESTMENT

DIVESTMENT is bad for State employees.

- . It increases the risk for the State's pension and retirement fund investments.

It increases the chances of a lower rate of return on the pension fund's investments.

DIVESTMENT is bad for workers in the State.

- . It lowers the chances for new private investment in the State.
- . It therefore means fewer jobs for State residents.

DIVESTMENT is bad for Black South Africans.

- . Sullivan Principles companies in South Africa have helped since 1977 to:
 - Obtain collective bargaining rights for Black workers.
 - Eliminate legal job discrimination against Black workers.
 - Obtain apprentice training rights for Black workers.
- . Sullivan Principles companies have:
 - Increased average Black employee wages faster than for White employees.
 - Instituted large-scale training programs for Black workers.
 - Contributed to education programs at all levels for employees and their dependents.
 - Increased the proportion of Black workers in supervisory positions.
 - Provided ~~common~~ medical, pension and insurance plans to all employees.
 - Greatly increased expenditures on housing and ~~community~~ development for Black workers.
 - Supported public interest law firms which defend legal rights for Black South Africans.
 - Lobbied for changes in discriminatory legislation.

If American firms leave South Africa, these corporate efforts would cease.

July 10, 1984

THE SULLIVAN PRINCIPLES: A PRAGMATIC APPROACH,
NOT THE TOTAL SOLUTION

I am Daniel W. Purnell, the executive director of the International Council for Equality of Opportunity Principles, Inc. (ICEOP). The Council was established as an administrative unit to facilitate the implementation of the Sullivan Principles. The Principles were authored by the Reverend Leon H. Sullivan to use the power and influence of U.S. Companies in South Africa as instruments which will contribute to nonviolent change.

The Principles are the result of two profound changes--the first being a change in direction, not course, by Leon H. Sullivan, and second, the acceptance by U.S. Companies of a voluntary code not mandated by a government or other entity which ascribed a code of behavior for U.S. Companies in another Country. When Leon H. Sullivan was appointed to the board of directors of the General Motors Corporation, he immediately advocated that the Corporation should withdraw all of its holdings from South Africa, and Sullivan vigorously campaigned for such action until 1975. On the other hand, U.S. Companies have zealously guarded their rights to conduct their businesses with the norms of the nations where they do business. Some of the Companies which have not signed the Principles maintain (1) they are not social agents, but businesses; (2) it only makes sense to adjust to the situation existent in a country; (3) and how they conduct their affairs is their own decision.

Going back to the evolution in Sullivan's thinking, encouragement by South Africans, primarily blacks, to require U.S. Companies to live up to the same standards expected in the United States may have been one factor. Another surely was the intransigence of the General Motors Board to accept Sullivan's withdrawal campaign. But the evolution was difficult. First, those who know Leon Sullivan attest to his consistency and refusal to accept the rejection of his efforts. Strong determination and unrelentless activity are Sullivan characteristics. As a civil rights leader who brought several Philadelphia Companies to change their policies, and the founder of the Opportunity Industrialization Centers which have trained and placed several hundred thousands who were untrained or underemployed, Sullivan always thinks that there is a road to success. And he simply changed his direction and sharpened his focus.

Explaining why U.S. Companies accepted Sullivan's invitation constitutes the second aspect of change. Undoubtedly, the mounting pressure from investors and other publics provided some of the impetus needed to persuade the Companies to join a concerted effort to improve the quality of life in South Africa. Some contend, and rightfully so, that becoming a signator and accepting the Principles merely enforced good and enlightened business practices. Few, if any, observers grasp the point that there were U.S. Company representatives who were relieved to become involved in a process which they believed necessary, and made them contributors toward the solution of problem instead of contributors to the problem. Many accept the notion as expressed in the Ethics of Business in Developing Countries (1980) that:

- the economic and social development of underprivileged countries and regions must be seen as a top priority. Inhumane conditions, wherever they exist, must be improved as a matter of prime urgency;
- companies are responsible to society. In fact, social responsibility is inextricably bound up with the free enterprise system. If companies dissociate themselves from the impact and effects of their operations on society, they will eventually lose their autonomy. This social responsibility takes on a special meaning and urgency when it is applied to firms operating in an underdeveloped environment.

Twelve (12) U.S. Companies, after considerable persuasion agreed to become Signators to a Statement of Principles, of U.S. Firms with Affiliates in the Republic of South Africa, commonly referred to as the Sullivan Principles. The Principles are:

STATEMENT OF PRINCIPLES

- Principle 1-- Nonsegregation of the Races in all Eating, Comfort, Locker Rooms, and Work Facilities
- Principle 2-- Equal and Fair Employment Practices for All Employees

- Principle 3-- Equal Pay for All Employees Doing Equal or Comparable Work for the Same Period of Time
- Principle 4-- Initiation and Development of Training Programs that Will Prepare Blacks, Coloreds, and Asians in Substantial Numbers for Supervisory, Administrative, Clerical and Technical Jobs
- Principle 5-- Increasing the Number of Blacks, Coloreds, and Asians in Management and Supervisory Positions
- Principle 6-- Improving the Quality of Employees' Lives Outside the Work Environment in Such Areas as Housing, Transportation, Schooling, Recreation, and Health Facilities.

Although these Principles remain the same, they have been amplified and are now adjudged by many as the most demanding and comprehensive corporate code of conduct in the world. A copy is attached for your information. Yet, it is proper to advise you that a mere examination of words contained in the Sullivan Principles, however forceful and lucid, may lead one to think that the essence of the Statement is the sum total of its works. Such a misconception would indeed denigrate the force of the Principles.

For the strength of the Principles lie in the implementation process. As the noted U.S. general Sherman once stated, "Saying is not doing, but doing can eliminate much saying." The dynamic force of Reverend Leon H. Sullivan makes the Principles a living and breathing process. In fact some of the U.S. Company representatives with a genuine interest in assuring the effectiveness of the Principles declare that his demands are "outrageous and unattainable." Already, some of these previously labeled "outrageous and unattainable" goals have been reached.

- 6,500 college scholarships;
- 200,000 pupils acquiring improved education through Adopt-A-School Programs in Black schools;
- 100,000 persons who have received literacy training;
- 47,000 Black workers who received technical training last year;

- 20 skill centers which have provided training for 10,000 black workers;
- 5,500 in supervisory in management and supervisory, positions where Blacks were previously excluded;
- 1,000,000 Blacks reached by health care programs;
- 5,287,641 rand (\$4,850,000) spent last year on housing and community development programs;
- 80,000 (98 percent) employees in desegregated facilities;
- 75,000,000 expenditures by U.S. Companies in varied program activities affecting Blacks;
- equal pay for equal work (100%);
- bridging the wage gap between white and black employees by more than 25 percent;
- recognition of unions guaranteed by 100 percent of U.S. Companies with unions in the U.S. and other countries;

You will probably hear today that:

- The Principles, alone, do not completely address the fundamental problem, the unequivocal rights of Black South Africans.
- U.S. Companies employ less than 100,000 of the nation's workers--approximately 1.5 percent of the labor force.
- Less than one-half of the U.S. Companies are signatories to the Sullivan Principles.
- U.S. Companies are in South Africa because they seek profits.

And may I confirm that all of these allegations are correct. The Principles alone can not change conditions in South Africa. They are, however, a model, catalyst, and also platform for the Black workers. Following this model other codes have emerged which affect 10 times more workers than those employed by U.S. Companies. The Principles call for the provisions as outlined in

Third Amplification which have sweeping measures related to policies, pay, working conditions, and the rights of black workers. The Principles address housing, economic, and the social needs of blacks at the company site and in their communities. Already, they have reached levels considered impossible 5 years ago, activating the legal system and unions to aggressively seek rights, heretofore, disregarded. "These Principles," stated a black South African who visited Sullivan, are a mandate for change. They have sparked multinational competition.

Therefore, the sum total of U.S. Company presence can not be measured in terms of the 100,000 workers they employ or that these workers constitute less than 1.5 percent of South Africa's workforce. Some critics are unaware that European countries own 71 percent of the foreign investment in South Africa; the U.S. share is less than 16 percent.

It is correct that less than one-half of the U.S. Companies in South Africa have signed the Principles. You may also know that:

- The 127 Signatory Companies employ more than 75 percent of those employed by U.S. Companies;
- Only 21 U.S. Companies which employ more than 500 have not signed;
- Thirty-nine (39) of the non-signatory companies have less than 10 employees;
- Fourteen (14) U.S. non-signatory companies have less than 50 percent equity in their operations;
- U.S. Signatory Companies own 78 percent of U.S. Company investment in South Africa.

There is no pronouncement in history that a multinational company has invested in a nation without expecting a profit. The bottom line for companies is the investment return; our bottom line is the integration of that bottom line with ours: Social Justice.

The United States Companies which are signatories to the Principles continue to make progress. In fact they have become more creative in their efforts, and significant improvements

in organization have occurred. Several companies are actively seeking to change obstructive and de-meaning laws in housing, urban dwelling laws, and other restrictions in the movements of Blacks. The activities of the companies are spreading in other areas, and several sincere and dedicated people in South Africa are committed to these activities. On the other hand, the U.S. colleagues of these persons work very closely in this effort.

In spite of our collective desire to bring to an end the unjust system in South Africa, a fundamental question must be addressed. The question is: What can we do now that will change the attitudes of the people in South Africa to the extent that progress will be made in the establishment of a truly free and multiracial society?

The question has already been addressed by "The Study Commission on U.S. Policy Toward Southern Africa." The methodology used by the Commission consisted of:

- background studies of South Africa's history, institutions, social processes and people;
- interviews with persons from varied academic, economic, legal, and social institutions knowledgeable about South Africa;
- interviews with persons from all stations of life in South Africa; and
- examination of the social setting of the nation.

Based upon these studies, some of the recommendations submitted were:

- make clear U.S. opposition to apartheid;
- U.S. Companies should not expand operations and adhere to the Sullivan Principles;
- increase expenditure standard for social programs which reach blacks;
- promote genuine power sharing with a minimum of violence; and
- support organizations and people in South Africa working for change.

To withdraw our resources from South Africa would simply signal:

- a reactive, not a proactive stance, and such would diminish our influence and power to effect change;
- an approach that would increase human suffering without any positive or predictable results;
- capitulation to political forces in our own nation;
- and the concept that cursing the darkness is more effective than lighting a candle;
- a lack of understanding about a complicated social dilemma; and
- a decision to do nothing.

Changing attitudes, building trust, developing respect for all people, and values clarification are processes which involve people. What can be done:

1. Urge our government to use its political power to effect change in South Africa. Yes, our government.
2. Support persons and institutions in the activities to promote change.
 - a. Church to church support and communication should be increased; U.S. clergy should visit and encourage the many clergy who have already committed themselves to change.
 - b. U.S. colleges and universities should offer scholarships to blacks and whites, and develop peer linkages.
 - c. U.S. unions should support unions in that nation to improve worker rights and benefits.
 - d. U.S. companies should continue and expand expenditures to improve education, health care, housing, and other living standards;

- e. A joint effort to bring the races closer together and support power sharing, freedom and justice for all people.

Until the system of apartheid (apartness) is uprooted in the Republic of South Africa, the proponents of varied strategies will continue to present their views in the public forums. Moreover, they will continue to deprecate strategies not consistent with their positions. However, there is common agreement that there is no plausible reason for the existence of such a political structure in the world today. Voluminous materials describe the human depredation and suffering of the majority of South Africa's people. Those who have visited the nation also inform varied publics of their findings. And the most compelling descriptions of the system emanate from persons in exile from that nation--many of whom can vividly present their experiences.

The U.S. public is more knowledgeable than ever before about the social dilemma in South Africa. This increased knowledge has precipitated responses on several levels and required reactions by most of the major institutions.

Internal and external pressures have led churches, banks, colleges, unions and other institutions to establish policies which will contribute toward effecting change in South Africa.

U.S. companies in South Africa have borne the brunt of these reactions, since investments in these companies may provide the most accessible area for instant and concerted action. Approximately 325 U.S. companies have subsidiaries in South Africa, constituting 14 to 17 percent of South Africa's multinational investment.

We need the courage to make our own emotions, political aspirations and interest secondary to using our influence and power, even when it isn't popular, to solve a massive man-induced problem. Does your approach include this formula?

Although there are proponents of varied approaches to change the social system in South Africa, it is commonly agreed that: (1) The system of Apartheid is cruel, inhumane, and defies every concept of justice and freedom. (2) A non-violent solution, which will result in the unequivocal freedom for all of the nation's people, is the preferred outcome. (3) The system of apartheid is doomed to failure, (4) unless there

is a concerted effort within the nation and external pressure without, which will lend to change, the time for a peaceful solution will expire, resulting in massive suffering and bloodshed.

(5) And if this happens, the results in South Africa, regardless of the victor, will lead to further suffering and deprivation for a considerable period of time.

The Sullivan Principles have charted a course, and those who believe in the arduous tasks that confront us, pledge to continue to use the sum total of our resources in the most productive manner. Simply put: we shall follow the universal concept common to all faiths, 'we will use all talents, however large or small and stay the course'. And when change comes, we will know that we did our best.

STATEMENT OF ASSEMBLYMAN EUGENE THOMPSON
BEFORE THE ASSEMBLY STATE GOVERNMENT COMMITTEE
ON A-1308 AND A-1309

MR. CHAIRMAN AND COMMITTEE MEMBERS:

I SIT BEFORE YOU TODAY TO PUBLICLY EXPRESS MY CO-SPONSORSHIP OF
AND SUPPORT FOR A-1308 AND A-1309.

THE CRUEL OPPRESSION OF SOUTH AFRICA'S SYSTEM OF APARTHEID IS
WELL-KNOWN AND WIDELY CONDEMNED. YET THE SYSTEM PERSISTS, PARTLY
BECAUSE THE STATEMENTS OF OUTRAGE ONLY RARELY HAVE BEEN MATCHED
WITH EFFECTIVE ACTION.

BUT THE TREND TO TAKE SUCH ACTION IS GROWING RAPIDLY AMONG STATE
AND CITY LEGISLATURES AND THE POLICY-MAKING BOARDS OF PENSION
FUNDS AND OTHER ORGANIZATIONS. CONTROLLING LARGE BLOCKS OF
INVESTMENT CAPITAL. SIX STATES, AT LEAST TEN CITIES, MORE THAN
30 UNIVERSITIES, AND SEVERAL LABOR UNIONS, CHURCHES AND OTHER
GROUPS HAVE ADOPTED POLICIES REQUIRING TOTAL OR PARTIAL
DIVESTITURE OF FUNDS FROM CORPORATIONS AND FINANCIAL INSTITUTIONS
WHICH DO BUSINESS WITH SOUTH AFRICA.

✓ MANY OF SOUTH AFRICA'S BLACK LEADERS BELIEVE THAT FOREIGN
INVESTORS SHOULD PULL OUT OF THE COUNTRY. AS STRONGLY AS THEY
DARE, THEY HAVE URGED U.S. ECONOMIC PRESSURE AS A NECESSARY
MEASURE TO FORCE AN END TO APARTHEID. BISHOP DESMOND TUTU, THE

NATION'S MOST PROMINENT BLACK CLERGYMAN, PUT IT THIS WAY:

ANY BLACK LEADER WHO CALLS FOR ECONOMIC SANCTIONS
IS ALREADY GUILTY OF TREASON UNDER THE TERRORISM ACT
AND SUBJECT TO FIVE YEARS IN PRISON OR DEATH. WE HAVE
REASONABLY INTELLIGENT FRIENDS OVERSEAS WHO WILL KNOW
WHAT WE'RE SAYING.

ROBBINS
ISLAND
←

IN THE UNITED STATE, PUBLIC AND PRIVATE ORGANIZATIONS ARE
ENACTING A VARIETY OF POLICIES TO BRING PRESSURE ON CORPORATIONS
AND FINANCIAL INSTITUTIONS TO CEASE OPERATIONS IN SOUTH AFRICA.
BECAUSE MOST SUCH POLICIES ALLOW A TIME PERIOD OF ABOUT TWO YEARS
TO IMPLEMENT THE RATHER COMPLICATED PROCESS OF DIVESTITURE, THE
RESULTS OF SUCH ACTION ARE ONLY BEGINNING TO BE FELT NATIONWIDE.

THE PLANS ALREADY IN EFFECT REQUIRE DIVESTITURE OF LITERALLY
HUNDREDS OF MILLIONS OF DOLLARS. PHILADELPHIA ALONE IS DIVESTING
\$70 MILLION IN PENSION FUND INVESTMENTS. THREE CHURCH
ORGANIZATIONS WITHDREW \$65 MILLION FROM CITIBANK. THE AMERICAN
LUTHERAN CHURCH IS DIVESTING \$20 MILLION.

THE EFFECTS ON THE DIVESTING INSTITUTIONS ARE EQUALLY
ENCOURAGING. THE AVAILABLE STUDIES SHOW NO LOSS OF PORTFOLIO
INCOME AS A RESULT OF DIVESTITURE; IN SOME CASES, INVESTMENT
PERFORMANCE HAS IMPROVED. MICHIGAN STATE UNIVERSITY REPORTED A
\$1 MILLION EARNINGS INCREASE AFTER SWITCHING \$7.5 MILLION OUT OF
SOUTH AFRICA-RELATED INVESTMENTS.

IT'S PRETTY MUCH THE AMERICAN CONSENSUS: SOUTH AFRICA IS THE MOST BRUTALLY RACIST COUNTRY IN THE WORLD, AN OUTCAST AMONG NATIONS. AMERICANS ARGUE ENDLESSLY OVER HOW BEST TO EXERT PRESSURE TO GET SOUTH AFRICA TO CHANGE ITS WAYS.

AND YET THE EVIDENCE IS THAT A GOOD DEAL OF THE EVIL THAT SOUTH AFRICA DOES IS FINANCED BY AMERICAN INVESTMENTS.

AS YOU MAY ALREADY BE AWARE, CONNECTICUT'S LAW ON SOUTH AFRICAN INVESTMENT HAS DRAWN THE ATTENTION OF MANY STATES AND INSTITUTIONS SEEKING TO ADOPT RESTRICTIONS ON THEIR OWN SOUTH AFRICAN INVESTMENTS. CONNECTICUT CAN TAKE PRIDE FOR OFFERING THE NATION A MODEL APPROACH TO SOUTH AFRICAN INVESTMENT THAT NOT ONLY MEETS OUR FIDUCIARY RESPONSIBILITIES, BUT ALSO OFFERS A STRONG STATEMENT OF OUR POSTURE AGAINST THE RACIST SYSTEM OF APARTHEID.

MASSACHUSETTS HAS ALREADY DIVESTED \$80 MILLION WORTH OF INVESTMENTS FROM BANKS AND CORPORATIONS DOING BUSINESS IN SOUTH AFRICA AND EXPECTS TO DIVEST ANOTHER \$10-20 MILLION IN THE NEXT THREE YEARS. CONNECTICUT HAS ALSO PASSED LEGISLATION DEALING WITH THE DIVESTITURE OF SOUTH AFRICA INVESTMENT.

THE FRANKLIN RESEARCH AND DEVELOPMENT CORPORATION OF BOSTON CONDUCTED COMPUTER ANALYSES OF THE IMPACT OF THE DISTRICT OF COLUMBIA DIVESTITURE BILL AND CONCLUDED THAT THE DIVESTITURE OF THE STOCKS AND OBLIGATIONS OF COMPANIES DOING BUSINESS WITH SOUTH AFRICA WOULD ITSELF CAUSE NO ECONOMIC DAMAGE TO THE PENSION FUNDS GIVEN RESPONSIBLE, PRUDENT EXECUTION BY THE FUNDS' MANAGERS.

MR. CHAIRMAN AND COMMITTEE MEMBERS: GIVEN THE ABOVE MENTIONED EXAMPLES OF BOTH STATES AND EDUCATIONAL INSTITUTIONS, HOW CAN ANYONE SAY THAT DIVESTITURE DOESN'T WORK. LET US NOT TAKE THIS PUBLIC HEARING LIGHTLY. POSITIVE STEPS CAN BE MADE HERE TODAY WHICH WILL SIGNIFICANTLY ADVANCE TO ANOTHER CONTINENT THE IDEALS OF FREEDOM.

STATEMENT ON SENATE JOINT RESOLUTION 16

BY SENATOR LIPMAN

THIS JOINT RESOLUTION URGES THE GOVERNMENT OF SOUTH AFRICA TO RECONSIDER AND RESCIND ITS PRESENT POLICIES OF APARTHEID, AND TO ACCORD ALL OF ITS CITIZENS BASIC HUMAN RIGHTS AND PRIVILEGES OF EQUALITY. THE RESOLUTION ALSO REQUESTS UNITED STATES FIRMS WITH INVESTMENTS IN SOUTH AFRICA TO RECONSIDER THOSE INVESTMENTS WITH A VIEW TOWARDS DIVESTITURE. FURTHER, THE RESOLUTION REQUESTS THAT THE GOVERNOR REVIEW THE FIRMS WHICH HAVE INVESTMENTS IN SOUTH AFRICA AND WHICH ARE DOING BUSINESS WITH NEW JERSEY IN ORDER TO MAKE THEM AWARE OF THE LEGISLATURE'S OPPOSITION TO SOUTH AFRICA'S POLICIES OF APARTHEID AND ALSO TO MAKE THESE FIRMS AWARE OF OUR DESIRE THAT THEY CONSIDER DIVESTING THEIR INVESTMENTS.

IT IS IMPORTANT THAT THE STATE OF NEW JERSEY PUBLICLY AFFIRMS ITS POSITION THAT THE PRACTICE OF APARTHEID IS ONE WHICH DENIES THE BASIC HUMAN RIGHTS OF EQUALITY AND, AS SUCH, CANNOT BE CONDONED OR SUPPORTED BY THE LEGISLATURE. WHEN WE LOOK BACK TO THE FOUNDING IDEALS AND PRINCIPLES OF THIS COUNTRY -- IDEALS OF LIBERTY, JUSTICE AND EQUALITY FOR ALL PEOPLE -- AND COMPARE THEM TO A SYSTEM SUCH AS THAT IN SOUTH AFRICA, WE HAVE NO CHOICE BUT TO STATE, FOR THE RECORD, THAT SUCH SYSTEMS ARE COMPLETELY CONTRARY TO EVERYTHING WE HOLD DEAR.

THIS RESOLUTION MERELY VOICES SUPPORT FOR THE MORAL IDEALS WHICH WE ALL, AS A NATION AND AS A STATE, MUST VALUE MOST OF ALL.

FACT SHEET

U.S. CORPORATIONS IN SOUTH AFRICA

1. U.S. investors have found South Africa a plus for cheap labor.

- 1981 U.S. direct investment totaled \$2.63 billion (Triple the book value of U.S. direct investments a decade earlier).
- 1982 U.S. direct investment was estimated at \$2.8 billion.

2. Approximately 6,000 U.S. companies do business in South Africa.

- December 1982, U.S. financial institutions had outstanding loans to South African borrowers totaling over \$3.6 billion.
- 1982 U.S. based investors were estimated to hold \$8 billion worth of shares in South African mines.

Because of the tight rein the South African government keeps on all elements of the society and the intertwining of political and economic power, capital infusions that bolster the South African economy necessarily serve to strengthen the forces that maintain apartheid.

Many corporations play a direct role in supporting the apartheid system by providing goods, know-how, on high level technology in strategic sectors of the economy.

3. Much of the U.S. corporate involvement in South Africa is concentrated in sectors of the economy that required sophisticated technology or access to materials not readily available in South Africa, such as oil, chemicals, and electronics.

The South African government has declared petroleum to be a strategic commodity because of the critical importance of liquid hydrocarbon resources to the functioning of a modern economy....."five major transnational corporations control 85% of the distribution and marketing of petroleum products, and two U.S. corporations, Mobil and Caltex control almost 40% of petroleum sales.

Several U.S. corporations have contributed directly to South Africa's attempt to achieve energy self-sufficiency by assisting in the construction of oil-from-coal operations. The automobile industry is also considered a strategic sector of the South African economy.

4. The extensive involvement in South Africa by U.S. computer companies has not only spurred the Republic's economic growth, but has directly facilitated the government's legal enforcement capabilities.

- The Department of Interior uses an IBM computer to monitor part of its computerized population registry which is part of the categorization scheme used to differentiate between races and to maintain the apartheid system of racial discrimination.

- IBM is the largest computer corporation in the South African market and the South African government is the largest single customer, accounting for almost one-third of IBM's sales. Other U.S. firms in the computer market include Burroughs, NCR, Sperry, Univac and Control Data.
- U.S. firms sold 75% of all computers and handled 77% of all local rentals in South Africa

A 1982 study on computer companies in South Africa concluded that the presence of U.S. corporations directly supports the government.

5. U.S. corporations counter criticisms that they support the apartheid system by arguing that they are able to play a role in reforming apartheid by implementing non-discriminatory operating practices.....the Sullivan Principles. These corporations also argue that by contributing to the economic growth of the country they also stimulate the process of reform.

.....History does not support this claim. Between 1970 and 1981 the economic involvement of U.S. corporations more than tripled, yet apartheid was in no way weakened.

.....The Sullivan Principles call for workplace reforms which, at best, only 1% effect ~~10%~~ of the black work force. The Sullivan Principles change the focus of the debate from the conditions in South Africa and the role of U.S. corporations in perpetuating the status quo to a discussion of labor conditions for a tiny percentage of the work force.

.....Code compliance with the Principles is questionable, because there are no sanctions.

.....Rev. Leon Sullivan himself in a 1984 luncheon at Blair House in Washington called for an end to all bank loans and all new investments in South Africa and no sales of strategic goods to South African police and the military.

.....The real inadequacy of the Sullivan Principles is that even if every U.S. firm in South Africa fully enforced each of the Principles, apartheid would not be threatened. The Sullivan Principles coexist with disenfranchisement, and strict population control. They coexist with detention, with curfews, and with restriction of personal liberty. These Principles cannot bring an end to apartheid, and they are dangerous because they give the impression that they can.

NOTE: Excerpts taken from "Economic Disengagement and South Africa: The Effectiveness and Feasibility of Implementing Sanctions and Divestment". Jennifer Davis, James Cason and Gail Hovey.

STATEMENT IN SUPPORT OF NEW JERSEY STATE ASSEMBLY BILLS NOS. 1308
AND 1309 AND SENATE JOINT RESOLUTION NO. 16.

BY CAROLE COLLINS, ASSOCIATE FELLOW,
INSTITUTE FOR POLICY STUDIES, WASHINGTON, D.C. and
FORMER NATIONAL COORDINATOR, CAMPAIGN TO OPPOSE BANK LOANS TO
SOUTH AFRICA

BEFORE THE ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS,
PENSIONS AND VETERANS' AFFAIRS COMMITTEE OF THE STATE OF NEW
JERSEY, July 10, 1984.

Mr. Chairman and Members of the Committee.

I appreciate the opportunity to testify before this Committee today in support of Assembly Bills Nos. 1308 and 1309 and Senate Joint Resolution No. 16. The proposed legislation would join this State, in which I grew up and where I have family roots going back to 1765, to the growing national and international movement to divest public funds from banks and corporations which lend to, invest in, and profit from racism in, South Africa.

What your Committee is doing today would be considered a crime in South Africa. Assemblymen Karcher, Brown, Thompson, Watson, Charles, and Bryant, Assemblywoman Garvin and Senator Lipman would face five to ten year prison sentences for publicly supporting divestment. Any union or church official, investment expert, human rights advocate, or academic, any Republican or Democrat, any ordinary citizen would face going to jail in South Africa for saying what many New Jersey citizens and a growing number of city and state legislatures across this nation are saying: That our public funds have no business helping to prop up South Africa's system of legalized racism and no business profiting from that racism. It was not so many years ago that Americans were jailed for demanding basic civil rights--including the right to vote--for black Americans. It was outrageous then in our own country. It is equally outrageous today in South Africa.

My name is Carole Collins. I am currently an Associate Fellow at the Institute for Policy Studies in Washington, D.C. Since the mid-1970s, the Institute has researched the economic, political and human rights impact of US investment in South Africa. It has published two critical studies of these issues: South Africa: Foreign Investment and Apartheid by Lawrence Litvak, Robert DeGrasse and Kathleen McTigue (1978) and Decoding Corporate Camouflage: U.S. Business Support for Apartheid by Elizabeth Schmidt (1980). The latter, which strongly critiques the code of corporate conduct known as the Sullivan Principles, was reprinted by the United Nations Centre Against Apartheid.

From 1981 to 1983 I was national coordinator of the Campaign to Oppose Bank Loans to South Africa (COBLSA). The Campaign is a network of national and local affiliates and activists across the nation working to end US financing of apartheid in South Africa. The Campaign was launched in early 1977 following the Soweto student uprising in June 1976. It built on the efforts of national church

denominations which--since the mid-1960s--worked to end lending by American banks to the South African government, to its parastatal corporations, and to corporations doing business there.

Our national office has monitored the status of bank lending to South Africa and assisted community and student groups, churches and unions, state and city legislatures seeking to end US financial support for racial injustice in South Africa. The Campaign joined eight other organizations in sponsoring the first national conference on state and municipal divestment in June 1981, and the second conference in April 1983, in which legislators from over 17 states participated. I have testified on behalf of the Campaign at United Nations' sponsored international conferences and before legislative committees in Philadelphia, Illinois, the District of Columbia and Maryland. We have worked with residents of many states over the years in support of their efforts to end US bank lending to South Africa and to have that money reinvested in creating jobs and revitalizing our neighborhoods at home.

In 1976 and 1977, I travelled through several countries in East and southern Africa. I was able to interview a few of the thousands of young black South Africans--students, seminarians, factory workers, professionals--who had been forced to flee the land of their birth. Why? Because they had protested the daily injustices inflicted on them by a system of racial segregation that destroys black family life while denying the most basic human and civil rights. They repeatedly asked me--as an American--how I could continue to allow US companies to build the trucks that carried troops into Soweto, to sell the oil that fuels South Africa's jets and tanks when they invade neighboring countries, to provide the South African government with computers to run its passbook system, to provide the money for developing South Africa's nuclear energy--and weapons--program.

SIGNIFICANCE OF THESE BILLS

The consideration of these bills is very timely. The U.S. Congress is currently considering amendments to the Export Administration Act which would prohibit all bank loans to or new investment in South Africa and bar the sale of Krugerrands in this country. In February, the US House District Committee--in the first Congressional review of the issue of divestment from South Africa--upheld a District of Columbia law barring investment of city funds in firms doing business with South Africa.

In April, the Iowa and Nebraska legislatures joined Massachusetts, Michigan, and Connecticut in passing divestment legislation. Twenty other states have considered or are considering similar legislation, including Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Michigan (seeking to broaden divestment coverage), Minnesota, Nevada, New York, Oregon, Ohio, Pennsylvania, Rhode Island, Texas, Washington and Wisconsin.

Cities have also been active in pressing for divestment. In 1982, Philadelphia became the first major city to bar pension fund holdings in companies active in South Africa. They were soon joined by

Grand Rapids, hometown to Gerald Ford and to many Dutch-Americans with strong ethnic and church ties to South Africa's ruling Afrikaners. Berkeley and Santa Cruz (CA), Wilmington (DE), Cambridge (MA), Hartford (CT), Cleveland (OH) and Atlanta (GA) have all passed some form of divestment legislation. A majority of New York City's pension fund trustees recently proposed partial divestment of their fund's \$8 billion from companies doing business with South Africa. And as I am sure you all are aware, several New Jersey city councils—including Newark, Jersey City and Atlantic City—have passed resolutions urging the State not to license a South African company to run an Atlantic City casino.

States and cities have passed several types of divestment legislation, including bills barring investment of public employee pension funds in banks and corporations active in South Africa; bills prohibiting deposit of public funds in banks which lend to South Africa; and bills barring state universities from investing in banks lending to or companies operating in South Africa.

Many banks and corporations argue that their presence in South Africa helps to improve the situation of blacks there. However, this has not been the case historically or recently. Blacks have lost what little franchise they had, been forced into bantustans, seen increasing numbers of government opponents be jailed, tortured, even die in detention—all during the period of most dramatic increase in US investment in South Africa.

WHAT IS APARTHEID?

For four hundred years, the majority of South Africans who are black have been denied basic democratic and human rights. But since 1948, South Africa has become a society of walls—legal walls erected to isolate and segregate South Africans from one another. The 84% of South Africa's people who are black:

- cannot vote for the government that rules them;
- cannot live or work where they choose; and
- cannot strike for better wages and working conditions without suffering severe legal penalties.

Passbooks—which record a person's fingerprints, work history, taxes, family status, and tribal or ethnic identity—must be carried by black South Africans, and produced on demand, at all times.

Cheap labor has been central to this system called apartheid. Since the 19th century, black South Africans have been heavily taxed by white-controlled governments in which they had no representation. They have been dispossessed of their land in order to force them to work in the white-controlled economy. "Influx control" and passbook laws channel them into areas where white employers feel their labor is needed. When their jobs are done, they are sent back to so-called "homelands" or bantustans selected for them by the white-minority government.

In South Africa, home is not where you were born or choose to live. It is where the white government decides to send you. The so-called "African homelands" are located on the poorest 13% of

South Africa's vast, wealthy and fertile land. These areas have no major industrial areas or mines. They are barren. They serve as vast reservoirs of the unemployed. They are places where women, children and old people not needed in South Africa's white-controlled economy are sent to live--and often to die of malnutrition or starvation. This system--whatever its other injustices--destroys black family life, separating husband from wife, parents from their children.

AMERICAN LOANS AND INVESTMENT HELP MAINTAIN APARTHEID

We as Americans can no longer ignore the situation in South Africa. It grows more explosive every day. Unless the white minority comes to realize the justice and urgency of black demands for majority rule and acts on that realization, a growing confrontation between blacks and whites is inevitable. It will be a tragic and costly conflict. There will be many casualties, black and white. And it will threaten US economic interests as well as the stability of that region for years to come.

Without the economic involvement of U.S. and other foreign banks and corporations in South Africa, the white minority government would be unable to maintain its rule. It would not have the technological sophistication to dominate the black majority. It could not operate its passbook and "influx control" system without the help of U.S.-built or designed computers. It could not bomb refugee camps in Angola, Lesotho and Mozambique without fuel to operate its aircraft, fuel which is provided to them by US and European corporations. Most importantly, it could not fund its apparatus of repression without foreign capital--including billions of dollars from U.S. banks.

WHAT IS THE U.S. CORPORATE STAKE IN SOUTH AFRICA?

The U.S. is South Africa's second largest foreign investor. Direct U.S. investment in South Africa in May 1982 was estimated by the New York Times at about \$2.63 billion. But a State Department cable cited by Jack Anderson in a July 30, 1983 article indicates the actual figure may well be double that, if one includes European-based US subsidiaries that have invested in South African-based companies. US citizens also own approximately \$8.1 billion of all South African portfolio investment, particularly gold mining shares. Added to approximately \$3.6 billion in outstanding loans to South Africa, the overall US stake in the South African economy probably amounts to at least \$14.6 billion.

The dollar amount of direct US investments is of secondary importance to their strategic importance. U.S. companies control major sectors of the South African economy vital to maintaining white minority rule:

- 33 % of the motor vehicle market is controlled by U.S. companies. (U.S. companies built the trucks which ferried troops into Soweto in 1976.)
- 44% of the petroleum products market is controlled by U.S. companies.
- 70% of the computer market is controlled by companies.

- U.S. banks and companies have been instrumental in helping South Africa develop its nuclear energy--and nuclear weapons--programs.

Any U.S. corporation which invests in South Africa must pay taxes to the South African government, for which amount it is credited on its US taxes owed. All companies must invest a proportion of their assets in South African bonds (generally 7-9%), in some cases defense bonds. And all foreign companies, in the event of civil unrest, are subject to the provisions of South Africa's Keypoint Industries Act, which mandates the right of the South African military to take control of any factory and turn its facilities to military production.

U.S. FINANCING OF APARTHEID

The U.S. provides almost one-third of South Africa's foreign capital. At end of June 1983, U.S. banks had \$3.883 billion in outstanding loans to South Africa's public and private sectors.

International loans and credit have helped white South Africa to:

- * expand its strategic investments, including its indigenous arms and nuclear industries, to become less vulnerable to the growing international movement--led by the United Nations--to isolate South Africa economically, politically, militarily and culturally.

- * buy advanced technology strengthening its military and police apparatus for monitoring, controlling and repressing South Africa's non-white majority.

In the mid-1970s, foreign credit was critical in helping South Africa overcome a balance of payments crisis caused by increased oil prices and rising arms imports. Between 1974 and 1976, South Africa tripled its foreign borrowing to help finance a doubling of its military budget.

125 U.S. banks extended over \$3.1 billion in loans and trade-related financing to South Africa between 1972 and 1978. This critically-needed foreign exchange enabled South Africa to overcome unprecedented balance of payments deficits resulting from increased oil prices and rising military-related imports.

The pattern of U.S. lending has varied from open, direct loans to less-publicized inter-bank lending. Main areas of connection have been:

- * direct loans to the South African government and its parastatal corporations and to companies doing business there.

- * trade-related financing to facilitate U.S. exports to and imports from South Africa (in 1980, the U.S. emerged as South Africa's leading trading partner).

- * correspondent bank relations that provide letters of credit, interbank loans and the like with little visibility (e.g. Chemical Bank's correspondence relationship with Volkskas, S.A., a South African bank that acts as a depository for government, military and police accounts).

- * Sales of South African Krugerrands (one-ounce gold coins)

which bring South Africa much-needed foreign exchange.

Although South African government officials talk about South Africa's self-sufficiency, the truth is that it is more dependent than ever on foreign financing to maintain repression of its black majority and a high standard of living for its white minority. As early as 1972, then-Prime Minister John Vorster said: "Each trade agreement, each bank loan, each new investment is another brick in the wall of our continued existence."

Some of South Africa's public borrowers include:

- the Electricity and Supply Commission (ESCOM), which runs South Africa's energy and nuclear power program, the latter related integrally to South Africa's nuclear weapons's program
- South African Transport Service (SATS), which constructs and operates South Africa's airlines, harbors and transport
- the Strategic Oil Fund (SOF), which purchases and stockpiles strategic oil supplies to protect South Africa against a possible future international oil boycott

South Africa's private borrowers include the African Explosives and Chemicals Industry (AECI) which has manufactured munitions for the South African government in the past and which, according to a recent article in the August 1982 Progressive, has links to South Africa's nuclear weapons program.

Due to public protests in the United States (and in other countries) following the 1976 Soweto student revolt as well as bankers' concern over South Africa's stability, direct loans to the South African government and to private companies there dropped dramatically in 1977-1980. However, less visible loans to South African banks increased, as well as short-term trade-related credit.

South Africa emerged once again on international capital markets in 1981 and 1982, because of:

- * declining gold prices reducing income from its major foreign exchange earner (gold generally accounts for 25% of South Africa's foreign export revenue);
- * commitments to massive infrastructure and mechanization projects planned to enable the white minority to withstand rising black protests and any international sanctions (\$10 billion in the next decade and \$30 billion by 2000 A.D.); and
- * escalating inflation eroding its spending power (now close to 16% or more yearly, and which hits black South Africans the hardest).

US banks began to dramatically increase their loan exposure in South Africa in 1981 and 1982, and this has continued during the first half of 1983. Outstanding US loans to South African public borrowers (the government and its parastatals) had dropped from \$1.186 billion in June 1977 to \$278.1 million in June 1981. By December 1981, it had almost doubled to \$516.6 million and by June 1982, increased to \$623.4 million. It has subsequently dropped to \$326.7 million in June 1983 as US banks have upped their less visible lending to private South African banks and corporations.

The switch by US banks from lending to the South African government to lending to its private sector underscores a growing reality: there is little distinction between South Africa's public and private sectors. Most "private" South African banks are in reality closely linked to the South African government, whether through receipt of government deposits or contracts to provide the government with services. One young Black South African college graduate whom I interviewed in 1981 told of how her employer, a British bank, would rent its computers for government use during the evenings and weekends.

Loans to South African banks rose by over \$1.8 billion during the two-and-a-half year period from December 1980 to June 1983 (from \$444.2 million to \$2.377 billion). Lending to other private borrowers in South Africa tripled during the same period.

This renewed lending reflected several factors:

1) Many US loans made between 1974-76 are coming due, forcing the banks to decide whether to "roll-over" such loans (i.e. re-lend or renegotiate the money) or terminate them.

2) US banks have decided to "test the waters" in hopes that public opinion is less organized on this issue than several years ago and that support of the Sullivan Principles—a code of conduct for US corporations generally rejected by black South African workers in those corporations (See Appendix III)—will effectively deflect demands for ending all investment in and lending to South Africa.

3) Reagan administration policies that are forging closer links to South Africa: lifting export controls on sales to the South African military and police and to South Africa's nuclear program; voting in favor of a \$1.1 billion IMF loan to South Africa (which South Africa used to pay off commercial loans taken out at higher interest rates); allowing export of electric shock batons to South African police.

Do these loans assist South African blacks? Citibank, which participated in a \$250 million direct loan to the South African government in 1980, claims that they do. Their loan was to help finance housing, educational and health projects for blacks, according to their documents. In reality, that loan helped to implement apartheid, not ease its burden on blacks. The housing projects subsidized by the loan were part of the white government's forced relocation of South African blacks from their traditional homes in urban areas now reserved for whites. The educational projects funded were for segregated educational facilities.

Such loans modernize apartheid. They do not alleviate its effects. In reality, it will be black people who will pay back Citibank's loan, with interest. All Citibank and its four European co-participating banks did was to replace a line item in the South African Government's budget (\$254 million for the same projects), allowing the government to spend its money on other things.

What is most striking about the renewed lending to South Africa is that it more reflects U.S. banks' lack of better opportunities for international loans than any confidence in the

future of South Africa. An astounding 80% of outstanding US loans to South Africa in June 1983 are for loans repayable within one year. Only \$573.7 million in outstanding loans are repayable between one and five years from now and a bare \$110.9 million repayable between five and ten years from now.

CAN DIVESTMENT BE DONE PRUDENTLY?

A growing body of research and analysis indicates that divestment can be done prudently, with little or no loss, and in some cases with improved portfolio performance and earnings.

Over 36 US universities have divested part or all of their holdings in banks and corporations active in South Africa. Some of them feel divestment has had no adverse impact on portfolio performance.

* Mrs. Nancy Elliott, Director of Investments and Trusts, Michigan State University: "The divestment worked out to our advantage because the firms that are involved in South Africa are the big industrial firms that have not been doing as well as other types of firms. By getting out of those stocks and into relatively smaller companies doing better, we have come out ahead. Our stock portfolio today has a higher value than it would have if we had remained in South Africa-related companies...."

*Mr. David Konshak, Accountant for University Trust Fund, University of Wisconsin: "Disinvestment of South Africa-related stocks has not hampered or limited our ability to find suitable sources of investment." (The University of Wisconsin reported a higher return on its investment in "clean" stocks after divesting.)

Andrew Rudd, writing in the Spring 1979 issue of the Journal of Portfolio Management, concluded that the "effect on portfolio risk of excluding companies operating in South Africa...is, contrary to intuition, not particularly important" and that "the disutility cost of divestment is so small that divestment may be justified should trustees choose to exclude South Africa investments from their portfolio."

A 1982 report by the Connecticut Governor's Task Force on South African Investment Policy contains an assessment of the impact of divestment done by the U.S. TRUST CO. of Boston, Massachusetts. It studied the performance of the S&P 500 over the past 10 years with and without South Africa-related companies. The 380 firms in the index that do not do business in or with South Africa produced a return over the last ten years the same or in excess of the entire index.

Most significantly, Chemical Bank, which has lent to South Africa's public sector in the past but now only makes trade-related loans, is now setting up a special fund to invest in non-South Africa related companies, hoping to capture part of the growing market in divested public pension funds and church endowments. An article on the January 24, 1983 issue of Barron's quotes a Chemical Bank official as saying South Africa is "the most commonly cited aversion among clients." Chemical is currently completing a study of projected performance of a non-South Africa portfolio; preliminary results indicate it performs as well as its

er list of 400 companies.

Even U.S. corporations are beginning to see the growing
stment risk of remaining in countries with gross human rights
ations. Nowhere is this clearer than in the case of Iran,
e many US companies lost their investment or loan
sure--because they ignored the potential explosiveness of the
's continued repression. In 1980 and 1981, I attended the
al shareholders' meetings of the First National Bank of
ago, a lender to South Africa. Shareholders repeatedly raised
issue of why the bank had lost \$90 million in Iran. One person
part of that loss was due to the banks' refusal to take
ally responsible criteria for investment into account in
ng their loans. Shareholders who urge divestment from South
ca are urging just that, and some companies are beginning to
en.

I have appended to this statement an article I wrote in 1983
arizing the extent of divestment activity across the country. I
also appended a brief statement summarizing why I feel the code
corporate social responsibility known as the "Sullivan Principles"
totally inadequate to justify continued US corporate presence in
Africa. Based in part on the Institute for Policy Study's book
ecoding Corporate Camouflage, it documents the inadequacy of the
ciples to significantly affect apartheid's functioning. A July 9,
article in Fortune magazine confirms the central function of the
ciples: to shield US corporations from public and shareholder
sures for divestment at home. Currently, the US State Department
nging corporations to sign the principles as a means of defusing
ort for Congressional measures aimed at ending all new bank loans
investment in South Africa.

The American Chamber of Commerce in Johannesburg inadvertantly
cted the critical impact of US calls for divestment in a December
1982 letter to the South African government protesting legislation
er restricting the free movement of South African blacks.
ough opposed to divestment, AmCham found it useful to cite growing
lative pressures in the US for corporate divestment as a key
on why the South African government should refrain from passing
bill.

INTRODUCTION OF THESE BILLS IS TO BE COMMENDED.

Both Assembly Bills Nos. 1308 and 1309 would be effective and
nt vehicles for ensuring that New Jersey public employee pension
are divested from banks and corporations active in South Africa.
are written to ensure that divestment is done in a manner which
not jeopardize the funds' return on investment. Both reflect
a growing number of legislatures, universities and churches have
: that investment or divestment based on socially responsible
iples does not have to lower and may even increase the return on
tment. I think A-1309's section requiring quarterly reports on
lance is particularly useful.

One should note that neither bill would bar deposit of public
in banks which have outstanding loans to South Africa. I

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THE SULLIVAN PRINCIPLES: A FACELIFT FOR APARTHEID

by Carole Collins, Associate Fellow, Institute for Policy Studies

Since early 1977, many American companies in South Africa have endorsed and partly implemented a code of corporate conduct called the "Sullivan Principles." By October 1982, about 146 of the 350 or more US companies doing business in South Africa had signed this employment code. These companies employed 69,013 workers (64% black and 36% white) or .7% out of a total national workforce of 9.4 million. By early 1984, the number of Sullivan signatories had dropped to 125.

As more and more Americans demand an end to US investment in South Africa, more and more corporations have cited their signing of the Principles to justify their continuing to profit from apartheid. The Principles have become the main tactic used by companies attempting to weaken city, state and national legislation that would bar investment or deposit of public funds in banks and corporations active in South Africa.

WHAT ARE THE PRINCIPLES?

First proposed by Rev. Leon Sullivan, a black Baptist minister who was the only black on the board of General Motors, the Principles call for "Sullivan Signatory" companies to:

- (1) desegregate dining and locker rooms, toilets and work facilities;
- (2) implement fair employment practices;
- (3) pay equally for equal or comparable work;
- (4) develop training programs to advance black workers;
- (5) increase the number of non-whites in management and supervisory jobs;
- (6) improve the quality of workers' lives in areas such as housing, transportation, education, health care and recreation.

HAVE THEY MADE A DIFFERENCE?

Almost none. They have failed to challenge or affect the basic structures of racism in South Africa. Most US companies were attracted to South Africa by the cheap labor provided by the apartheid system—a system that denies black people the right to vote for the government that rules them and the right to live or work where they choose.

Sullivan Signatories under South African law must:

- (a) pay taxes to the white-controlled South African government (which amount they can deduct from their US tax bill);
- (b) invest a portion of their assets in South African government bonds, in many cases military bonds;
- (c) come under the direct control of the South African military in the event of "civil unrest".

US companies control vital sectors of the South African economy—33% of the motor vehicle market, 44% of the oil/petroleum market, and 70% of the computer market. American technology and expertise have helped the white minority maintain their control of the black majority and to become strategically self-sufficient and better able to resist international pressures for change. What minimal benefits and employment these corporations provide are insignificant compared to their strategic importance to maintaining white minority rule.

HAS IMPLEMENTING THE CODE HELPED BLACK WORKERS OR UNDERMINE APARTHEID?

No! One black union, the Motor Assemblers' and Component Workers Union of South Africa, at Ford Motor Co.'s Port Elizabeth factory said in January 1982 that the Code was a "toothless package" of "pie-in-the-sky reforms that would have no real impact on the lives of black workers."

(1) desegregation of the workplace: since 78% of black workers at Ford worked in job categories where there were no whites, job discrimination on the basis of race was perpetuated "in its entirety."

(2) fair employment practices: blacks at Ford must undergo further training for advancement while less-educated whites fill supervisory and senior posts.

(3) equal pay for equal work: 84% of the workers in the lowest job category are black and 98.5% of those in the top job category are white, making this principle lip service only.

(4) training for advancement: Ford has failed to admit they spend more money educating whites per person than blacks.

(5) advancing to supervisory positions: the union calls this "tokenism" since blacks still have no supervisory roles over whites.

(6) quality of workers' lives: Ford has funded housing that is part of South Africa's forced resettlement program for blacks; such housing is too high-priced for most workers and "is a window-dressing scheme aimed at promoting a black middle class."

The union concluded that the Principles "circle around apartheid's basic structures," seeking "merely to modernize and ensure its perpetuation."

WHAT DO OTHER BLACK SOUTH AFRICANS SAY?

It is illegal in South Africa (and punishable by up to 5 years in prison) to publicly support divestment. Yet leaders like Bishop Desmond Tutu, head of the South Africa Council of Churches, have said that economic pressures are one of the few ways left to bring about peaceful change in South Africa. During our own Civil Rights Movement, the power of economic boycotts proved one of the most potent ways to bring about significant changes in the American South.

WHY DO US COMPANIES SUPPORT THE PRINCIPLES?

Because the Principles imply that US companies can play a positive role for blacks in South Africa by investing there. More recently, Sullivan has supported partial divestment—from companies that have not signed the Principles. Yet many Signatories provide the greatest economic and military assistance to South Africa, helping finance and equip the white minority to resist the legitimate aspiration of the black majority for democracy, freedom and majority rule.

Roger Crawford, the new white South African coordinator for the Sullivan Code, opposes making the Code mandatory for companies, "because the SC principles are merely good management tools." A confidential 1983 study of the divestment movement by the Shell oil company says most companies feel "adherence to the Sullivan code is an essential tool for responding to domestic critics and institutional investors....On the whole, the Sullivan code has been extremely useful to U.S. companies in maintaining credibility with domestic critics...." It makes people think

they have really done something about apartheid.

In fact, the very success of the divestment movement has forced spokesmen for Rev. Sullivan to assert that "they, too" are part of the divestment movement. The US Chamber of Commerce in South Africa has cited the growing strength of the movement for total divestment in the US as a major reason why the South Africa government should suspend passage of even more restrictive laws limiting black movement.

No. A-14-34

ORDINANCE

Date _____

1st Reading 5-13-84

of the

Date to Mayor _____

2nd Rdg. and Final Passage

CITY OF RAHWAY, N.J.

Date Returned _____

6-13-84

Date Resubmitted
to Council _____

Approved as to Form and Legality on Basis
of Facts Set Forth

Factual contents certified to by _____

Corporation Counsel

Title

Councilman Williams Presents the following Ordinance:

AN ORDINANCE CONCERNING DEPOSIT OF
CITY FUNDS IN INSTITUTIONS DOING
BUSINESS WITH OR IN THE REPUBLIC
OF SOUTH AFRICA.

BE IT ORDAINED by the City of Rahway as follows:

SECTION ONE: STATEMENT OF POLICY; PURPOSE

The system of apartheid in the Republic of South Africa which has been condemned by the United Nations as "a crime against humanity" systematically denies economic, political and social freedoms to the vast majority of the populace. Apartheid laws which separate black families, keep blacks in the lowest paying jobs and deny them the right to vote exemplifies the institutionalized violation of human rights.

Millions of dollars of public monies are invested or deposited by state, county and municipal governments in banks and other financial institutions doing business in or with the Republic of South Africa. These monies support the racist government of South Africa.

Therefore, the people of the City of Rahway declare that public monies should be removed from banks or other financial institutions doing business in or with the Republic of South Africa.

No. A-14-84 (con't)

ORDINANCE

Date _____

1st Reading _____

of the

Date to Mayor _____

2nd Rdg. and Final Passage _____

CITY OF RAHWAY, N.J.

Date Returned _____

Date Resubmitted
to Council _____

Approved as to Form and Legality on Basis
of Facts Set Forth

Factual contents certified to by _____

Corporation Counsel

Title

Councilman _____ Presents the following Ordinance:

SECTION TWO: DEFINITIONS

For the purpose of this Ordinance "city funds" are: any monies invested or deposited directly by the City of Rahway.

SECTION THREE: PROHIBITION REGARDING DEPOSIT OF FUNDS

1. No City funds shall be deposited or invested in any bank or financial institution which directly or through a subsidiary has any outstanding loans to: a) the Republic of South Africa; b) a national corporation of or other corporation organized under the laws of the Republic of South Africa; and, c) any company for the purpose of investment in the Republic of South Africa.

2. Any public funds deposited or invested in banks, financial institutions and their subsidiaries or affiliates as described in Paragraph 1 above on the effective date of this Ordinance shall be withdrawn or divested in accordance with this Ordinance, except, nothing herein shall be considered to require the premature redemption, divestment or withdrawal of an investment.

3. The withdrawal or divestment required by this Ordinance shall be completed within two (2) years of the effective date of this Ordinance.

New Jersey State Library

No. _____

ORDINANCE

Date _____

1st Reading _____

of the

Date to Mayor _____

2nd Rdg. and Final Passage _____

CITY OF RAHWAY, N.J.

Date Returned _____

Date Resubmitted
to Council _____

Approved as to Form and Legality on Basis
of Facts Set Forth

Factual contents certified to by

Corporation Counsel

Title

Councilman _____ Presents the following Ordinance:

SECTION FOUR: CERTIFICATION

Before any City funds can be deposited or invested in any bank or financial institution, the Comptroller shall require that each bank or financial institution submit an Affidavit certifying that said bank or financial institution does not directly or through a subsidiary, have any loans to: a) the Republic of South Africa; b) a national corporation of or other corporation organized under the laws of the Republic of South Africa; and, c) any other company for the purpose of investment in the Republic of South Africa.

SECTION FIVE: SEVERABILITY

If any provision of this Ordinance or application thereof to any circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and this to end the provisions and applications of this Ordinance are severable.

SECTION SIX: REPEALER

-- Any Ordinance or parts thereof inconsistent herewith are, to the extent they are inconsistent, hereby repealed.

SECTION SEVEN: EFFECTIVE DATE

This Ordinance shall take effect upon publication according to law.

BIA New Jersey
Business & Industry
Association

P.O. Box 230
102 West State Street
Trenton, New Jersey 08602
609-393-7707

Statement Before

The

Assembly State Government Committee

on

Assembly Bills A-1308 and A-1309

by

The New Jersey Business & Industry Association,

Bruce Coe, President

July 10, 1984
Assembly Chamber
State House
Trenton, NJ

Introduction

Good morning Mr. Chairman and members of the Committee. My name is Bruce Coe; I am President of the New Jersey Business and Industry Association. The Association has 12,000 members in New Jersey and is the nation's largest generic trade association. My testimony today is in opposition to both A-1308 and A-1309.

First, I would like to commend the sponsors of both A-1308 and A-1309 for their well-intentioned efforts to address current social problems, both at home and abroad; through the power of the state's investment policies. However, what is being proposed, may not be effective in terms of actually changing those conditions or the actors involved in oppression, unfairness, and discrimination. Also these bills could actually hurt state investments by imposing "political" controls on the investment decision and thereby barring pension investment in otherwise worthwhile investment vehicles.

Before going into any detail on either of these bills, please let me state at the outset that, while the Association does not endorse these bills, neither does it endorse the racist, oppressive policies of the South African Government or, for that matter, racially oppressive policies in any country. Nor would we

endorse any government that does not accord its citizens basic human rights, fair employment opportunities, health and safety, and reasonable environmental standards. Our opposition to these bills should not be read as support for any government that does not achieve the minimal threshold of human decency and fairness with regard to all its citizens.

A-1309

While the intent of both A-1308 and A-1309 are inextricably intertwined, I would like to address A-1309 -- the South African Investment bill -- first.

I will establish some principles in my comments on A-1309 that provide a foundation for some additional comments on A-1308 -- the bill negating the "prudent man" rule for investment decisions.

If New Jersey's investment in companies that do business in South Africa declines, one of two things can happen -- each of which will have negative effects on the black population of that country. First, that investment will be replaced by funds from countries with less clearly formulated human rights stances. The outcome would be a retrogression in whatever gains have been made by South Africa's blacks. Second, if no replacement capital flows in, an economic recession is bound to occur in South Africa. The instantaneous victims of such a recession would, again, be the black citizens of South Africa.

A discussion of the Sullivan Principles and Their Effects

One of the substantial characteristics of much of the American investment in South Africa is the adherence of many American companies to the Sullivan Principles. These principles are essentially simple and essentially powerful. Briefly, each signatory company to the Sullivan Principles pledges to work toward:

1. Non-segregation of the races in all eating, comfort, and work

facilities;

2. Equal and fair employment practices;
3. Equal pay for equal work;
4. Training programs to prepare blacks and non-whites for supervisory and technical positions; and
5. Improving the quality of employees' lives outside the work environment in such areas as housing, transportation, schooling, recreation and health.

The Rev. Sullivan, a director of the General Motors corporation who opposed American investment in South Africa until 1975, began the signatory group with 12 American companies. By 1984 there were 127 American signatories; the signatories represent 74% of the South African work force in American subsidiary companies. Reverend Sullivan sees these principles as "an evolving process... they could be expanded step by step." Also, in 1980, 10 South African companies -- employing 750,000 workers, mostly black, agreed to adopt the principles in total. The voluntary association of South African companies with the Sullivan signatory group is a clear demonstration of the power of the example set by American investors in South Africa. It is by these examples that the South African government will be induced, or even forced, to reevaluate its basic position regarding treatment of indigenous blacks.

Do these principles work? Yes. There has been significant progress for blacks within the signatory companies. 75% had desegregated eating and comfort facilities by 1979 -- although local law prohibited this. (Those laws are now under great pressure and are beginning to be changed.) By 1983, 99% had achieved this goal. By 1978, more than 96% of the signatories had established equal pay standards. In 1983 this has risen to full compliance -- 100% of the

signatories have achieved this goal. By 1983, over 13,000 blacks had been enrolled in basic training programs, industry training centers, or have received scholarships. This has been achieved at a cost of over \$6 million for 1983 alone. By 1983, signatory companies had contributed over \$13 million to programs covering education and training for the black population of South Africa. They have also contributed over \$24 million to housing, health, welfare, civic, and other programs designed to enhance the quality of employees' non-working lives.

Since 1982, just about \$10 million has been spent by signatory companies on a black entrepreneurship program. This type of program offers long-run potential benefits not only in generating ~~wealth~~ for individual blacks but in placing the black community in a position to recycle dollars within itself for the benefit of even those persons not directly involved in the program.

Are these results adequate -- no; not at all! Are the financial commitments sufficient -- probably not! They are, however, a force for positive good in an otherwise detestable socio-economic system. These changes are much more fundamental than cosmetic and would not have been accomplished without American involvement and investment. American investment not only provides a source of wealth generation, it also provides a force for positive social change. Disinvestment on the part of modern, free western industrial economies will set in motion an economic cycle that will surely result in retrogression for the black indigenous population and increases in oppression and further denial of civil rights.

American-owned multinational corporations have been very active investors in the South African economy. In addition to the positive social changes I've just discussed, this investment has played a role in the modernization and

maturation of the South African industrial system. It is a mature, modern economy. Inside and external social pressure will be effective in changing the skewed distribution of income in South Africa that is a direct result of its racial discrimination.

Effects on Pension Investments

In addition to the negative effects that disinvestment would have on the black population of South Africa, it could pose serious problems for the investment policies of the State of New Jersey. Attached to my written statement is a partial list of major American companies doing business in South Africa. In total about 350 U.S. companies are involved in South Africa. Together they have a capital investment of \$2.5 billion dollars. The capital investment of European, South American and other foreign countries is about \$19 billion dollars. It would be difficult to structure an effective investment strategy that would not include some investment in many of these companies. Most are Fortune 500 companies, most are leaders in their own industries if not in the economy as a whole, and these companies are socially responsible and actively involved in community projects.

The state's investments -- currently totaling some \$10 billion -- are and should be selected on the basis of dispassionate, professional assessment of risks and rewards. These funds are held in trust for public employees and the selection process must have the dual goals of preservation of capital and maximizing returns. It would be imprudent for the pension trustees to avoid investments in those companies. The pensions and the future livelihood of state workers is also a valuable goal in and of itself. Excluding investments in the nation's industrial leaders with the hope that it will force a renegade government to change its policies will hurt not only the return on investment of .

the pension plan, but also, the black population of South Africa.

Comments on A-1308

Section 5.a of A-1308 would change the thrust of the long standing "prudent man" rule and is a much broader application of the substance and principles of A-1309. It would, rather than solve any problems, broaden the negative effects of engrafting otherwise appropriate social and foreign relations policies to the investment decisions that govern the future income of state pensioners. This bill would require that

"[i]nvestments shall be made with full recognition of their social and ethical consequences, and no investment shall be made in a security of a public or private entity if the activities of the entity serve to undermine basic human rights or dignities, or if the entity engages in substantial business in a country which condones or encourages policies which serve to undermine basic human rights or dignities ..."

Again, this is a truly laudable goal. But this investment criteria, would be difficult to apply in reality, and could cause a global replication of the effects of disinvestment in South Africa. It sublimates the legitimate expectations to the exigencies of global politics. In addition to initially barring investments in otherwise profitable vehicles, this section would create an extremely unstable investment climate possibly requiring rapid divestiture in a wide variety of securities at imprudent or, at least, improvident times. This would be a difficult, if not impossible rule for investment strategists to follow. Since the New Jersey state pension plan is a defined benefit plan, any losses would have to be financial by general revenues, further jeopardizing other, much needed social programs.

This section forces state workers and taxpayers to actively engage in punitive foreign policy which is not an appropriate role for state governments, may not be in accord with national foreign policy, and may even worsen foreign

alliances.

Sections 5.b to 5.g of A-1308, while not dealing with foreign affairs, are just as restrictive in terms of the overall scope of investment policy. The financial solidity of new ventures, in New Jersey or elsewhere, is generally questionable. They are not usually considered investment grade securities and are infrequently purchased by fiduciaries in pension plan contexts.

Sustainable, long-term economic development for the state requires that its private sector businesses pass the tests imposed by the capital markets.

Last, and just as important, this is a well intentioned but ill-conceived attempt to address statewide economic development and social policies with a vehicle never designed nor intended for that use. Surely the state government should be concerned with a financial climate conducive to the financing of new ventures, minority ventures, and ventures with local positive impacts. These have been the real sources of growth and dynamism in the national economy. Implementing this noneconomic policy is not, however, a role for pension fund investments. The capital risk is simply too great!

A-1308 pays lip service to selection of these investments such that the expected rate of return, risk of capital loss, and other investment terms must be equal before the pension trustees can make a "preferred" investment. The bill does not deal with the realities of the investment market and by creating and mandating in-state "preference" investment it attempts to avoid the discipline of the capital markets.

In summary, while we applaud the intention of each of these bills and agree that investment is not without its social dimensions, we cannot support either. Sections 5.b through 5.d of A-1308 deal with several dimensions of economic development issues. Economic development in New Jersey is held back by some

artificial barriers; we urge this Committee to examine the legislative and administrative barriers to natural capital formation in New Jersey. As an example of what can be done, please note the progress that has been made in the area of urban revitalization through a concentrated legislative effort culminating in such programs as the proposed Urban Development Corporation, the Urban Enterprise Zone program, and the Local Development Financing Fund, to name only a few programs. These are effective vehicles for dealing with a now clearly articulated problem. A similar effort has to be made regarding capital formation and small business assistance in New Jersey. Provision of tax-loss carryforward could do a great deal to assist new and small businesses over the financial hurdles all new businesses encounter -- even those that will eventually become strong and profitable. Returning New Jersey to the ACRS depreciation system used for federal tax returns could also provide a significant stimulus to new investment. In any event, New Jersey's return to ACRS would remove the "extra" costs associated with New Jersey investments. This would clearly assist new and small businesses. Reexamination of the extremely high level of mandated health care costs in New Jersey could also do much to bring the costs of doing business in New Jersey more in line with business costs in major competitive states. These will provide more efficient and more effective stimuli for overall economic development for both large and small businesses, for both new and existing businesses, and especially for minority businesspeople who have more than their fair share of business start-up problems. Consideration of these less dramatic, more traditional and sounder approaches can carry us for toward the goal of economic development and will not unnecessarily burden the taxpayers of the state through dampened rates of return on pension investments.

Section 5.f's concern with the availability of new and refurbished housing is splendid, but it might better be dealt with by a public policy that recognizes that housing is more than a mere private good; that it has social and quality-of-life dimensions affecting all residents of the state. The state has been active in this area through agencies such as the Housing and Mortgage Finance Agency and several urban rehabilitation programs. These are, however, stopgap, limited efforts. Only a prosperous and growing economy will be able to build sufficient new housing and rehabilitate the stock of existing housing.

For these reasons the New Jersey Business and Industry Association urges the Assembly State Government Committee to take no positive action regarding either A-1308 or A-1309.

South Africa Changes, if Only by Inches

By NEIL ULMAN

CAPE TOWN, South Africa—Ever since the National Party took power here in 1948 and began to impose its harsh policy of apartheid, Americans and other outsiders have been predicting Armageddon for South Africa.

This nation's 20 million blacks make up 72% of the population. Yet they are segregated into homelands in the countryside and black townships in the white urban areas. They are condemned to separate and inferior education and denied any voice in the national government. According to the Armageddon school, the time is coming, in "three to five years," when the blacks will rise up in a struggle that will drench this beautiful country in blood. In this analysis, South Africa must move, and quickly, to avert this disaster, for time is running out.

Since this outlook has proved so consistently wrong over the past 36 years, it is now being replaced, at least in the U.S. State Department, with estimates that white minority rule can prevail here into the next century. And two new theories are now available to explain why Armageddon has been postponed.

Lid on Discontent

The first theory says that overwhelming white military power and brutally efficient security measures are holding the lid on discontent here. "The South African army, police force and security network are highly sophisticated. It would take a full-scale war, supported by the major Western countries of the world, to bring about change through violence," says Chief Gatsha Buthelezi, the able chief minister of the KwaZulu territory.

The second theory is favored by the government because it tends both to vindicate its policies and to discredit its critics as naive at best. Yet it also appears to contain as much truth as the military power theory.

Says Jan Christiaan Heunis, Minister for Constitutional Development: "Americans have consistently misjudged the South African time frame because in their first-world frame of reference they have asked themselves what they would do if they were black and lived here."

But the American or European answer to that question hasn't been the answer of the South African black, he contends. More important to South African blacks, for the time being, he asserts, are "social and economic aspirations in terms of housing, income, health services" and the like. That contention, at least, is born out by independent surveys taken by those with little sympathy for the government. Government policy is to dole out political power to

blacks in tiny increments on the local level to maintain a perception of progress.

Other reasons Americans have miscalculated events in South Africa relate to the complexity of the government's motives. Mixed with a desire to assure peaceful progress for all South Africans are also racism and a natural inclination to preserve a sweet economic deal for whites. If outsiders see only the racism and greed, they miss the patriotism, patience, wisdom and the heart of the problem.

A second confusion for Americans is their tendency to see South Africa's racial politics through the lens of American experience. The encounter of European and African culture in America came through the institution of slavery. The racism, fear and emotionalism of that evil still haunt the

other. Those who accept local power and try to build on it are labeled "stooges." One black political activist of Xhosa origin told me how much he deplored tribalism as a bane to black unity. In the next breath he dismissed the legitimacy of Chief Buthelezi's Inkatha Movement because it is, he said, "all Zulus."

The white government is delighted to cite such divisions as reasons that it could never create a black chamber of parliament as it has just created chambers for colored (mixed race) and Asian South Africans. It wouldn't work, says Mr. Heunis. "You would have to have a separate house for Xhosas, Zulus, Vendas, Sothos and so forth."

All this reinforces Mr. Heunis's view, as chairman of a cabinet committee investi-

While many blacks I met hope talk of boycotts will apply pressure for change, they also hope such talk does not actually result in boycotts or disinvestment.

gating how wider political powers may be granted to urban blacks, that South Africa has nothing so much as an abundance of time. It squares with the new analysis that the whites are firmly in control and can regulate the pace of change to suit their wisdom or whim. This, too, is wrong.

Change is, in fact, irreversibly under way, and with it is already coming the unrest born not so much of despair, as in the Soweto riots of 1976, but of rising expectations. After Soweto the government came to the conclusion that South Africa must, in the words of current Prime Minister P.W. Botha, "adapt or die." Black trade unions have been legalized. Local self government has been extended to many black townships. The government has accepted the permanence of blacks resident in urban areas and is supporting black business there. It is acceding to black demands for better education.

South African spending on education will rise 23% next year, the biggest increase of any budget item. Outlays for black education are rising twice as fast as those for white, and it seems clear that if this pace is to continue, spending on white education will eventually decline in real terms. Asked why the Conservative Party hasn't begun to scream about these prospects, a civil servant in the Finance Ministry replies, deadpan, "They haven't figured it out yet."

Yet per-pupil spending on black education still lags that for white by a ratio of more than 7 to 1. Many black teachers are woefully underqualified and their students know it. The result is unrest in the schools, some of which were recently closed by the

government after weeks of black boycotts and protests.

The broader answer to where the government is headed is where internal pressure pushes it. The cabinet is mulling "city state" status for black townships like Soweto. After last year's dispensation for Asians and coloreds, most South Africans are waiting for the other constitutional shoe to drop for blacks. Meanwhile, black trade unions are slowly growing in membership and power and are expected to flex some political muscle sooner or later.

Mr. Heunis vows that whatever move comes next, it will be negotiated with and agreed to by the black community rather than imposed as in the past. If elected leaders of homelands and townships can hold the government to that promise in the eyes of the world, there is potential for a significant black voice in the future of South Africa.

Need it be one man, one vote in a unitary state? Almost all whites say never and almost all blacks say yes. Black leaders like Zulu Chief Buthelezi say yes, but it doesn't have to come all at once. There could be an interim power-sharing arrangement from which to negotiate further. Whether that means a confederation of black and white provinces or one or more black chambers of parliament or something else is open for debate for a long time to come.

Lack of Certainties

Disappointing to some will be the moral ambiguity of it all. Change is under way and petty racial discrimination is slowly disappearing. But government credibility as it proclaims its own high moral mission is regularly undermined by the remaining petty racism and economic advantages built into the system for whites.

Gone, too, is the warm moral certainty that since apartheid is evil one must shun South Africa and all its works, maintain economic boycotts and withdraw investments. While many blacks I met hope talk of boycotts and disinvestment will apply pressure for change, they also hope that such talk won't actually result in boycotts or disinvestment. That, they say, would cost blacks jobs and slow the economic impulse that is actually creating change.

If the critics can enjoy no certainties, neither can South Africans say for sure where change is leading. But there is a growing sense among blacks and whites that should it bring peaceful evolution—a white minority living in genuine political accommodation with a black majority in a modern industrial nation—that will be a unique historical accomplishment.

Mr. Ulman is the Journal's senior international correspondent.

SUBMITTED BY BRUCE COE

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NEWS from CWA

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO

Testimony presented by CWA on A-1308 and A-1309

CWA thanks speaker Karcher and the numerous distinguished guests present here for the opportunity to address the issues raised at this hearing.

The investment of pension monies in firms who derive income from business activities carried on in apartheid South Africa demonstrates a lack of commitment to moral and ethical standards upon which this nation was founded.

Our union stands for the equality and dignity of all workers. The civil rights struggles of the 1960's and 1970's led to legislative action at both the national and state levels which was designed to lend substance to the principles inherent in the Declaration of Independence.

To derive income from the subjugation of those in another part of the world flies in the face of our supposed commitment to human rights.

Pensions represent the commitment of the employer to assist workers in providing for their economic future. There is also a responsibility to insure that the fruits of our labor are not used to finance corporate exploitation of labor somewhere else.

Some of the arguments advanced by those who oppose A-1309 are clouding the real issues, let's examine a few arguments.

1. The 2-year period for divesting pensions funds from corporations involved in commerce with S. Africa is insufficient to protect our pension funds.

Most economists are fearful of making predictions on the state of the world economy six months into the future. Our prudent person investment standard will not be compromised if we invest in safe, but high yeilding instruments, the benefit of which does not come directly from the backs of workers in a racist system.

2. The rate of return this State enjoys would be compromised by pulling out of these investments.

The political system and the strife caused by the apartheid governmental policies in S. Africa make any investment there more risky - not less. Concern over the viability of corporations who are economically involved in S. Africa should be an impetus to divest, not the reverse.

Overall, our union lauds the efforts of our Legislative officials in their attempts to separate our pension funds from a system which stands so far apart from what we as Americans stand for.

CWA also considers it a progressive notion to prefer pension investments to be in vehicles which benefit our State. Our union in no way wishes to have the soundness of our pension system compromised, but if two like yielding investment opportunities are being analyzed and one is in this State, then obviously investment in that New Jersey opportunity benefits the citizens of this State.

It also is important, in light of the consideration of the S. African divestiture, that A-1308 recognizes that poor human rights or employment practices records of companies be a consideration, when new opportunities are evaluated.

We understand and share the concerns of those advocating investments to provide quality housing in this State. However, we would wish that all possible means be exhausted to protect against risk of our workers funds since housing is so sensitive, as an industry, to the general economy.

Our State is being aggressively pictured in a positive light through the efforts of Gov. Kean and this is to be applauded. It is important that we realize that the recent shift of business to the sunbelt has hurt this State. If, by the prudent and sound management of our pension funds, we can provide jobs and advance the economic condition of our State, still receiving the necessary rate of return which safeguards our future, then we ask the Legislative to consider A-1309.

Thank you for allowing us to comment in this hearing. We trust that all future issues important to our workers and the citizenry of this State get equal disclosure as well.

BY: John Kelly
CWA Local 1033 Representative



NEW JERSEY STATE
CHAMBER OF COMMERCE
GOVERNMENTAL RELATIONS OFFICE
240 WEST STATE ST. - SUITE 1518
TRENTON, N.J. 08608 • (609) 989-7888

STATEMENT OF
NEW JERSEY STATE CHAMBER OF COMMERCE
BEFORE THE
ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS,
PENSIONS, AND VETERANS' AFFAIRS COMMITTEE
AT A PUBLIC HEARING
TUESDAY, JULY 10, 1984
ON THE SUBJECTS OF
A-1308, A-1309 AND SJR-16
PRESENTED BY
JAMES C. MORFORD, VICE PRESIDENT
NEW JERSEY STATE CHAMBER OF COMMERCE

Mr. Chairman, members of the Committee, I am James C. Morford, Vice President, New Jersey State Chamber of Commerce. Thank you for the opportunity to appear before you today to address an issue of major public policy significance to the citizens of New Jersey.

Since it was organized nearly seventy-five years ago, the New Jersey State Chamber of Commerce has been a leading voice on behalf of the business community, not only on the economic issues confronting our State but also on a broad range of social and public policy issues that affect the quality of life in New Jersey.

The issues before you today are most difficult issues to address because they are charged with emotionalism and opportunities for demagoguery which can all too easily cloud and confuse the facts on which judgements need to be based.

First, let it be clearly and indelibly written on the record, that the New Jersey State Chamber of Commerce deplores and condemns apartheid, racism and the deprivation of human rights whether in South Africa or in any other country in the world.

There are three legislative proposals before you today. One, SJR-16, states that its purpose is to urge "the Government of South Africa to reconsider and rescind its present policies of apartheid..." It further establishes, as policy of the State of New Jersey, a request that U.S. firms with investments or holdings in South Africa consider divestiture of those investments or holdings.

A major fault in this proposal is that it fails to provide any mechanism to communicate its request that the Republic of South Africa rescind apartheid to that government. Furthermore, the tone of the resolution would suggest that American businesses are, by their presence, supporting apartheid. An American business presence in any particular country does not constitute support for that country's social or political philosophy.

(OVER)

The improvements that have and are taking place in South Africa have occurred largely as a result of American companies who are signatories to the Sullivan Principles. These principles are named after the Reverend Leon H. Sullivan, civil rights activist and a director of the General Motors Corporation, who created a set of principles designed to bring about equality for blacks at South African subsidiaries of American companies. Compliance with the Sullivan Principles is continuously monitored and annual compliance ratings given by the prestigious Arthur D. Little management consulting firm of Boston.

The State Chamber suggests that it would be more appropriate if SJR-16 was amended to convey the feelings of the Legislature directly to the government of South Africa. We suggest that the resolution call on U.S. businesses with investments or holdings in the Republic of South Africa to fully subscribe to the Sullivan Principles and encourage other companies to do so.

The State Chamber feels these changes would enable the New Jersey Legislature to make a statement against apartheid without placing inaccurate and inappropriate labels on U.S. firms who are making positive contributions toward racial progress in South Africa.

The other proposals under consideration today are closely linked. Both would have the effect of prohibiting investment of State pension funds in companies that are directly or indirectly linked to South Africa. A-1308 has additional proposals that would further restrict the effectiveness of the State Division of Investment.

After reviewing A-1308 and A-1309, we must state the opposition of the New Jersey State Chamber of Commerce to both proposals. Much has been written and said with respect to the abomination that is apartheid. Unfortunately, there is a great deal of political posturing for the benefit of domestic constituencies that has little relationship to the oppressed blacks and people of mixed races in South Africa. If the intention is to seek some domestic political advantage then we suggest that A-1308 and A-1309 should be rejected out of hand.

Should there be, however, a desire to strike a blow against apartheid, then let us consider the affects the legislation may have.

Though I profess no personal expertise on South Africa, I recently had the privilege of participating in a meeting with four black and mixed race South African business persons. Their unanimous plea was that American businesses not be urged to leave South Africa. These business people - three men and one woman - pointed out that it is economic forces that are responsible for bringing about the changes and improvements that are helping the oppressed of South Africa.

I asked them two specific questions. One was, who would benefit by American divestment? They answered, those who support apartheid, for the loss of American business involvement would greatly reduce the pressure for racial progress. The second question I asked of the four was, how do you deal with charges of "sell-out" and what we call "Uncle Tomism"? Their answer to this question was, we must live with apartheid, we cannot vote, we must use separate facilities, we cannot live and travel freely but we know where the changes for the good of our people are coming from. They are coming from economic pressures.

One gentleman pointed out that his people have tried force and violence and it hasn't worked, but that now they are making progress through the peaceful application of economic pressure.

I was deeply disturbed by the group's statement that even though most of them had made several trips to this country, they have encountered much difficulty meeting with American black political leaders. They felt that American politicians are not so much interested in dealing with the realities of South Africa as they are with political advantages to be gained at home.

(OVER)

Mr. Chairman, permit me to insert in the record the words of Mr. Mangosuthu G. Buthelezi, President of Inkatha and Chairman of the South African Black Alliance. The excerpts are taken from a statement of Mr. Buthelezi dated March 9, 1984:

"There is oppression in South Africa. We know the real meaning of the word. 72 percent of all South Africans have no vote, simply because they are Black, and that 72 percent have no say over what happens in over 87 percent of the land of their birth. They have no say in the government which directs the country's internal policies, which directs its foreign policies, and which directs the country's economy. This 72 percent who are politically disenfranchised and disowned by the constitution itself do not have freedom of movement in the land of their birth. Pass laws and influx control proclaim the cities and industrial areas to be the White man's domain where Blacks are permitted only because they contribute towards the labour requirements of the economy there. We know the meaning of word oppression. We experience the most systematic form of racial oppression that mankind has evolved in the modern world. Apartheid is rightly condemned by the international community, and quite rightly the international community demands urgent reform in South Africa.

The disinvestment question and the more general question of South Africa's isolation in the international community, is constantly raised on numerous platforms and in numerous forums and by a wide range of governments, semi-government organizations, private organizations and church groups. South Africa's internal policies are so repugnant to the human conscience, that the isolation of the country and the crippling of its economy to damage the South African Government's ability to enforce its apartheid laws and its racial discrimination practices, seems to so many to be moral courses of action. To so many it seems natural that the repugnant must be shunned; that that which is offensive to mankind must be isolated. I understand the moral indignation of the world; I am glad for that moral indignation and I understand how so many believe that disinvestment and isolationist tactics on the part of the international community is right and proper.

Where, however, a people are suffering in desperate poverty and are struggling against inhuman odds, oppressed economically and economically fettered by Draconian laws supporting racist government, the question of strategies and tactics becomes crucial. The more desperate the situation the less room there is for making errors of judgment and the more tragic such errors of judgment become. No matter how human decency cries out against apartheid in the international community; no matter how repugnant apartheid appears to the world, and no matter how indignant the international community becomes about South Africa's internal policies, disinvestment is a wrong strategy, a misguided strategy, and a strategy which does not aid the struggle for liberation at home.

For me therefore the first question that needs to be asked in the disinvestment debate is what the people of South Africa themselves say about it. There are South African voices clamouring for disinvestment. The African National Congress Mission in Exile, having abandoned the internal struggle against the apartheid in favour of mounting an armed attack against the Government of South Africa, and working in collaboration with international forces favouring a revolution, and the use of violence for political purposes, espouse disinvestment as an essential tactic. Within the country there are minority groups, there are church groups and there are groups amongst the intelligentsia who also favour disinvestment as a strategy in the struggle for liberation. Lobbyists in the international community do therefore have

allies to support them, and many regard the disinvestment lobby as being legitimised by those South African voices who support the lobby. There are, however, other voices - the voices of the masses; the voice of the average Black South African who regards disinvestment as tactical madness.

Disinvestment as a strategy must be rejected in the first instance because it is a strategy which will just not work. The South African economy has reached a level of self-sufficiency where disinvestment becomes a spur of increased self-sufficiency. South Africa is a net exporter of food and it is a net exporter of food to Africa and the Third World, as well as to the First World. South Africa is an exporter of energy and it is an exporter of energy to Africa and the Third World, as well as to the West. South Africa is an exporter of minerals to a mineral hungry industrial West. The South African economy is an economy integrated with the vested interests of the Western industrial world, and with the developing industrial world of Africa. South Africa is a valued trading partner of many industrial countries. The destruction of the South African economy will have repercussions in Africa and the Western world. The disinvestment tactic as a tactic will only become effective if the South African economy is destroyed. That is the end purpose of the disinvestment debate. Without achieving that purpose, the tactic as a tactic will fail.

When I survey South Africa's economic location in the world; when I perceive the degree of economic interaction between South Africa and the West, and when I go beyond this perception and I perceive South Africa's economic interaction with Africa, I shake my head at the naivety of those who spend so much time and so much energy pursuing the utterly impossible.

I do not rest my arguments in rejection of the disinvestment debate on the fact that it just will not work as a tactic. There are far more cogent reasons why it must be rejected as a tactic, even it is could be made to work. In addition of being a failing tactic, disinvestment must be rejected because it is not the choice of tactic supported by the Black people of South Africa. Every foreign investor who has created employment opportunities in South Africa knows that every Monday morning there are hordes of unemployed at the factory gates desperately seeking a job. Black South Africans are ordinary human beings. They themselves have bellies to fill; they have shoulders to clothe against the rawness of the elements; they have families to care for; they have children to feed and educate. Earning a cash wage for them is not a luxury which they can abstain from as though they were indulging themselves in a prolonged Lent fast. Those who fast have something to return to when the fast is over. For millions of people living below the bread line, the loss of a job means sickness and death for them and their loved ones. Whatever is said about Black South Africans in the disinvestment lobby, it is just not true that there is general support for disinvestment as a tactic among ordinary Black South Africans. I say this authoritatively and not merely in the sense of expressing a personal opinion. I am the President of Inkatha which has a card-carrying membership now well exceeding the 750,000 mark. It is a mass movement in South Africa, the like of which has never been seen before in the history of the country. No Black organization has ever achieved anything like the support Inkatha enjoys at the grass root level. The vast, vast majority of Inkatha's membership is drawn from the peasants and the working class. It is the ordinary people of South Africa who are Inkatha members and strive for Inkatha's aims and objectives of bringing about radical changes through negotiation and non-violent means. Every year at our Annual General Conference, the question of disinvestment crops up and every year, there are unanimous resolutions rejecting disinvestment as a strategy. Black South Africa speaks when Inkatha passes a resolution, and it is the ordinary Black South African speaking. The man struggling to keep body and soul together, suffering day and night to keep his family in tact and to ensure that his children have chance of survival and have at least some prospects of progress in life, rejects disinvestment."

(OVER)

We are concerned with broad brush attacks on American businesses who have interests in South Africa. In his January 25, 1984 press release, Speaker Karcher stated, "Businesses which are involved in South Africa are profiteering from an immoral, oppressive system. In some cases, they are directly playing an active role in maintaining an unspeakably inhumane system which the world knows as apartheid."

The State Chamber is disappointed with that kind of statement from the Speaker of the New Jersey Assembly. He is either unaware or chooses to ignore the many contributions of American firms. While we cannot assert that every American business with holdings in South Africa has done everything it could possibly do to improve conditions in that country, we do assert that what progress has been made in improving the plight of the racially oppressed in South Africa has resulted substantially from the efforts of American businesses. American businesses are contributing significantly to positive changes by their presence and activities. American firms have helped win changes in labor laws, have helped block offensive racial legislation, have given financial support to public interest law firms, are providing technical and managerial training to blacks, and are providing housing assistance, medical clinics and tuition scholarships to blacks. Between the extremes of apartheid and violent revolution, American business interests are providing the non-violent forces the mechanisms to bring about progress toward a stable multi-racial society. Many good corporate citizens, some with their world headquarters in New Jersey, must take great offense at such accusations on the part of the Speaker.

Speaker Karcher further stated at his January 25 press conference that, "South Africa is the only country with an explicitly stated policy of systematic racial oppression." While we agree with the Speaker in condemning South Africa's policies, his statement in this instance is inaccurate. The Institute for the Study of Plural Societies in the Netherlands, found that more than 60 countries officially recognize some form of racial discrimination. For example, the nation in Africa most closely linked historically to the United States, Liberia, has a constitution which provides that no white may own land or become a citizen. According to Freedom House in New York, there are more than two dozen nations in Africa alone whose human rights records are worse than South Africa's. This is not to suggest that two wrongs, or even 60 wrongs, make a right. It does suggest that not only is the sponsor of A-1308 inaccurate but the requirements under Section 5.a could have very far reaching consequences not only for American business interests throughout the world but also for the Division of Investment. We certainly hope that it is not the intention of the sponsor to selectively impose sanctions by applying a double standard.

As I stated earlier, there is no attempt on the part of the New Jersey State Chamber of Commerce to defend the social practices of South Africa - they are abhorrent. From our consideration of this issue, however, we feel that what South Africa may need is more, not less, involvement of U.S. business as well as other foreign participation from companies willing to pursue social change through economic pressure. We should encourage assistance in applying the lessons we Americans have learned in our own and continuing struggles for racial equality.

Herman Nickel, U.S. Ambassador to South Africa, has observed that there is little logic to the idea that economic stagnation is more likely to produce the peaceful transformation of South Africa from institutionalized racism into an equitable multi-racial society.

"The notion would seem all the more bizarre when put forward by Americans, for the whole history of racial progress in the U.S. points in the opposite direction. Practically every major step forward was linked with economic progress. Just as the hard-headed interests of Yankee businessmen helped to pave the way for the abolition of slavery, so the emergence of the "New South" and the opening up of equal opportunities for black Americans 100 years later could have happened only against a background of growth, while they would have been unthinkable during the Depression. Economic growth did not strengthen institutionalized racism in the United States; it effectively destroyed it."

(OVER)

The State Chamber would urge extreme caution with respect to proceeding with the legislation under discussion here today. We suggest that the legislation violates the Supremacy Clause of the U.S. Constitution, which grants the federal government the responsibility to conduct our nation's foreign policy. We think A-1308 and A-1309 are in conflict with the Commerce Clause of the U.S. Constitution which gives the federal government the right to regulate interstate and foreign commerce. We think these bills are at variance with the Fourteenth Amendment, which prevents discrimination on the part of any governmental entity against any person (a corporation is a person under the law). The courts could be tied up for years determining the constitutionality of these bills.

The State Chamber must express grave concern about other aspects of A-1308. We believe that the New Jersey Division of Investment and the State Investment Council continue to do a sound job in handling their responsibilities. We can find no justification to expand the Council to include two additional members who shall be legislators appointed jointly by the Senate President and Assembly Speaker.

The State Chamber believes that the provision in Sec. 3 of A-1308, to establish a Citizens' Advisory Committee is unnecessary and unwise. To create a Committee to advise the Council that advises the Division of Investment is unwise and is fraught with the opportunity to politicize sound investment policy. This idea deserves to be rejected.

Pension investments have been guided under the common law responsibility known as the "prudent man" rule. ARISA added the "prudent expert" rule. A-1308 would add fiscal roulette by applying an additional set of principles that could lead to investments being governed by current and variable social moods.

While it may appear desirable or even be good current politics to inject social issues into pension investment, that is not, in our view, an obligation that should be imposed on those charged with securing the best possible and most secure return on the investment of State pension monies. Rather than legislating a set of social investment principles, it would be more prudent to urge, by resolution, guidelines that could be considered by the Council and the Division. By restricting investment decision-making and adding burdens to the prudent investment activities of the Division of Investment, we run the very real risk of long term shortages in our pension funds.

I believe that most of the six state funded pension plans are fixed benefit programs. The plans must pay by formula. If investments fail to earn sufficient funds to meet the formula, then the taxpayers of the State will have to make up the difference.

The State Chamber respectfully urges the Legislature to resist the temptation to inject politics into our State's public pension programs.

Thank you.

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TESTIMONY OF DR. HORACE J. DePODWIN
ON A-1309 BEFORE THE NEW JERSEY STATE ASSEMBLY
CIVIL SERVICE, ELECTIONS, PENSIONS AND VETERAN'S AFFAIRS COMMITTEE
July 10, 1984

I am Horace J. DePodwin, Professor, Graduate School of Management, Rutgers - The State University of New Jersey. I come before the Committee to speak on Assembly A-1309 concerning State investments in companies doing business in the Republic of South Africa. I represent no-one but myself. The issue facing the Committee and the Legislature is a difficult one -- one which defies snap judgments and conventional answers. My experience with these matters may help the Committee in evaluating my testimony.

I was Dean of the Rutgers Graduate School of Management from 1966 through 1982. Since we are located in Newark, I have learned intimately the economic problems of Black people and other minorities. Following the riots in Newark in 1966, I organized the Rutgers Minority Business Program which, 15 years ago, created the Rutgers Minority Investment Company, a Small Business Investment Company chartered by the Federal government. That program operates actively to assist minorities in New Jersey and has been responsible for over \$25.0 million in loans to minority business persons. I am Vice Chairman of the investment company I described.

Several years ago I chaired the Rutgers University Senate Committee on Investments and that committee formulated Rutgers present policy on investments in firms doing business in South Africa -- the same issue which faces this Assembly Committee.

Beyond these experiences in the United States, since the mid-1970's I have worked in South Africa with those persons this Committee seeks to help. My work has been through the National African Federated Chambers of Commerce (NAFCOC). Executives of that organization first visited the Rutgers Graduate School of Management to secure our help with Black Chain, the only supermarket in Soweto. That group represents business persons discriminated against by the laws on apartheid.

Specifically, my work with disadvantaged South African business persons, has included speaking on small business management, consulting on strategies for promoting small businesses, and promoting a loan guarantee program for Blacks, Coloreds, and Asians. My trips to South Africa have been funded by Johnson & Johnson.

This Committee might question such activities since they have the same economic impact in South Africa as the activities of American firms doing business there. Both promote the economic well-being of non-White South Africans. NAFCOC, through whom I work, helps Blacks, Coloreds, and Asians develop and maintain viable businesses. NAFCOC is aided by American corporations in South Africa and these firms employ mainly non-White persons. They provide them with jobs at better wages than they could secure otherwise, thereby advancing their well-being through employment. Thus, these victims of apartheid are gaining skills, filling new professional jobs in industry, and gaining a measure of economic power.

The record is quite clear that many American corporations have set a high standard for the employment of Blacks, Coloreds, and Asians by eliminating workplace discrimination and instituting meaningful training

programs. Much of the good being done for the non-White population has come about because of the work of the Rev. Leon Sullivan of Philadelphia. He formulated a set of principles for doing business in South Africa to which many American firms subscribe. Since principles alone may mean little, Rev. Sullivan's organization, the Sullivan Movement, monitors the implementation of these principles, firm by firm. In the last half dozen years, much progress has been made through the Sullivan Movement. If this good work were to cease because no American firms did business in South Africa, there is no question that those the Committee seeks to help would be worse off, now and in the future.

Progress toward the elimination of apartheid requires action on many fronts. For our part, yours and mine, we can help the victims of apartheid improve their economic well-being and gain the economic power they lack. I say this because I believe that apartheid exists in part because South Africa's non-White population has no economic power. They lack the economic resources which can give them political leverage.

I respectfully recommend, therefore, that this Committee modify A-1309. The bill's ultimate goal would remain the same, but its method would be different. In place of outright divestiture, I would substitute divestiture of the securities of corporations which do not attain the highest category of performance in the implementation of the Sullivan Principles. I should note that the Sullivan Movement produces an annual rating for American corporations doing business in South Africa.

By accepting my suggestion, this Committee, and hopefully the Legislature, would be imposing meaningful pressure on business in South Africa to eliminate workplace discrimination and improve the economic well-being of non-White South Africans.

Like you, I am sorrowed by the fact that the majority of the South African population is tightly controlled by a White minority. I believe we can make a contribution to correcting this state of affairs by helping Blacks, Coloreds, and Asians attain economic power as quickly as possible. If I thought divestiture would promote the elimination of apartheid, I would be for it. Unfortunately, divestiture will only work to remove from South Africa those American firms which are contributing to the economic power of those you and I seek to help.

Thank you for the opportunity to present my views.

July 10, 1984

New Jersey State Library

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SONYMA STATE OF NEW YORK MORTGAGE AGENCY

HERMAN BADILLO, Chairman
Board of Directors

WALLACE L. FORD II, President/
Chief Executive Officer

TESTIMONY BY
WALLACE L. FORD II
PRESIDENT/CHIEF EXECUTIVE OFFICER
STATE OF NEW YORK MORTGAGE AGENCY
TO THE HONORABLE JOSEPH CHARLES JR.'S
ASSEMBLY COMMITTEE ON
STATE GOVERNMENT, CIVIL SERVICE
ELECTIONS, PENSIONS & VETERANS
AFFAIRS
ASSEMBLY CHAMBER
STATE HOUSE
TRENTON, NEW JERSEY
JULY 10, 1984

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EQUAL OPPORTUNITY EMPLOYER



SONYMA STATE OF NEW YORK MORTGAGE AGENCY

HERMAN BADILLO, Chairman
Board of Directors

WALLACE L. FORD II, President/
Chief Executive Officer

GOOD AFTERNOON: IT IS INDEED A PLEASURE TO HAVE THE OPPORTUNITY TO SPEAK BEFORE THE NEW JERSEY ASSEMBLY COMMITTEE ON STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS PENSIONS & VETERANS AFFAIRS REGARDING PENDING STATE LEGISLATION CONCERNING PENSION INVESTMENTS, SPECIFICALLY ASSEMBLY BILLS 1308 & 1309.

THE STATE OF NEW YORK MORTGAGE AGENCY WAS CREATED IN 1970 BY THE NEW YORK STATE LEGISLATURE AS A PUBLIC BENEFIT CORPORATION. THE AGENCY IS UNIQUE IN THE SENSE THAT IT EXECUTES ITS OPERATIONS IN A SIMILAR FASHION AS A FINANCIAL INSTITUTION, BUT IT HAS A PUBLIC PURPOSE. THE PUBLIC PURPOSE BEING TO PROVIDE LIQUIDITY TO THE MORTGAGE MARKET AND TO ACT AS A STABILIZING FORCE IN THE MORTGAGE CREDIT MARKET. HENCE, THE PURPOSE OF SONYMA'S AFFORDABLE HOUSING PROGRAM IS TO SUPPLEMENT THE MARKET, NOT TO SERVE AS A SUBSTITUTE.

IN ITS CAPACITY AS A PUBLIC BENEFIT CORPORATION, SONYMA HAS ENDEAVORED TO DEVELOP THE TYPE OF RELATIONSHIP WHICH WOULD BE BOTH PRODUCTIVE AND MEANINGFUL BY ENCOURAGING LENDERS TO TAKE ADVANTAGE OF THE AGENCY'S UNIQUE FINANCING CAPABILITIES. IN 1983, SONYMA'S AFFORDABLE HOUSING PROGRAM HELPED MEET AN INCREASINGLY GROWING NEED IN THE STATE BY PROVIDING MANY FAMILIES IN THE STATE WITH AN OPPORTUNITY TO PURCHASE HOMES WHO OTHERWISE WOULD HAVE BEEN SHUT OUT FROM THE CONVENTIONAL MARKET. THIS WAS ACCOMPLISHED WITH THE PROGRAM'S BELOW MARKET MORTGAGE RATES FOR LOW AND MODERATE INCOME FAMILIES.

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WITH THE PARTICIPATION OF 42 LENDERS IN THE JUNE 1983 BOND ISSUE OF \$170 MILLION AND 53 LENDERS PARTICIPATING IN THE OCTOBER 1983 BOND ISSUE OF \$205.9 MILLION, AT 9.90% AND 9.75% INTEREST RATES, SONYMA WILL BE ABLE TO PROVIDE APPROXIMATELY 7,000 FAMILIES THE OPPORTUNITY TO REALIZE THE AMERICAN DREAM OF HOMEOWNERSHIP. WHILE THE 7,000 MORTGAGES ONLY REPRESENT ABOUT 5% OF THE SINGLE-FAMILY HOMES SITES IN NEW YORK DURING 1983, THEY REFLECT THE SALES THAT WOULD PROBABLY HAVE NOT OCCURRED. MY COUNTERPART IN NEW JERSEY MS. FEATHER O'CONNOR EXECUTIVE DIRECTOR OF THE NEW JERSEY HOUSING FINANCE AGENCY IS ENDEAVORING TO DELIVER HOMEOWNER OPPORTUNITIES TO THE CITIZENS OF NEW JERSEY IN MUCH THE SAME WAY.

ANNUALLY, SONYMA HAS THE CAPACITY TO PROVIDE APPROXIMATELY \$400 MILLION IN MORTGAGE FINANCING. THE AMOUNT OF BONDS IT CAN ISSUE ON A YEARLY BASIS IS LIMITED HOWEVER, BY FEDERAL SAFE HARBOR LIMITS. THIS LIMIT IS BASED ON 9% OF THE AVERAGE AGGREGATE PRINCIPAL AMOUNT OF MORTGAGES EXECUTED DURING THE PRECEDING 3 CALENDAR YEARS FOR OWNER-OCCUPIED SINGLE-FAMILY RESIDENCES IN THE STATE. SONYMA'S CAP FOR 1983 WAS \$376 MILLION, AND WE USED ALL OF OUR AVAILABLE BONDING AUTHORITY. THE CAP FOR 1984 IS EXPECTED TO BE GREATER THAN THE 1983 CAP BUT THE U.S. TREASURY DEPARTMENT HAS NOT RELEASED THE FIGURES TO DATE. THE TWO SUCCESSFUL BOND ISSUES OF 1983 TOTALED \$375.9 MILLION WITH TOTAL LENDABLE PROCEEDS OF \$334.5 MILLION

JUNE 1983 BOND ISSUE & OCTOBER 1983 BOND ISSUE

AMOUNT OF ISSUE:	\$375,900,000
LENDABLE PROCEEDS:	\$334,500,000
MORTGAGE RATE:	9.9% & 9.75%
NUMBER OF LOANS:	7,000
AMT. NEW CONSTRUCTION:	\$115,500,000
CONSTRUCTION JOBS:	2500
AMT. TARGETED AREA FUNDING:	\$73,000,000

AS THE ECONOMY CHANGES AND AS OUR PUBLIC RESOURCES DIMINISH, BOTH THE PUBLIC AND PRIVATE SECTOR MUST BECOME MORE CREATIVE, MORE PRODUCTIVE, AND MORE EFFICIENT. THEY CAN ACCOMPLISH THIS BY COMBINING THEIR EFFORTS AND BY WORKING TOGETHER. SONYMA HAS ATTEMPTED TO ENCOURAGE AND NUTURE PARTNERSHIPS WITH LENDING COMMUNITY IN THE STATE, STILL, SONYMA RECOGNIZES THAT THERE IS GREATER WORK TO BE DONE IN THIS AREA, AND THE INCREASED PARTICIPATION OF THE MORTGAGE BANKING COMMUNITY FOR ONE WILL BE INCREASINGLY IMPORTANT.

IN ORDER TO EFFECTIVELY UTILIZE ALL OUR OUR RESOURCES FOR STIMULATING ECONOMIC DEVELOPMENT AND PROTECTING THE STABILITY OF OUR VARIOUS COMMUNITIES, THERE MUST BE AN INCREASED EMPHASIS ON THE NEED TO DEVELOP COMPREHENSIVE PLANNING STRATEGIES FOR ECONOMIC DEVELOPMENT. THERE IS ALSO A STRONG CONNECTION BETWEEN RESIDENTIAL AND COMMERCIAL DEVELOPMENT. THE LOCATION OF JOBS MUST BE WHERE PEOPLE MAY TAKE THE GREATEST ADVANTAGE OF THEM. SONYMA OFFERS AN IMPORTANT STIMULUS TO THE REVITALIZATION AND STABILITY OF ECONOMICALLY DECLINING AREAS THROUGH ITS UNIQUE FINANCING CAPABILITIES.

IN THE 1978 STATE LEGISLATURE EXPANDED THE AGENCY'S ROLE THROUGH ITS CREATION OF THE MORTGAGES INSURANCE FUND. THE MORTGAGE INSURANCE PROGRAM IS THE INCENTIVE FOR ENCOURAGING LENDERS TO MAKE LOANS IN AREAS THAT ARE BLIGHTED OR BECOMING BLIGHTED, BY OFFERING LENDERS ADDITIONAL SECURITY ON THEIR INVESTMENT, THE PROGRAM IS DESIGNED TO FACILITATE THE CONTINUOUS REDEVELOPMENT AND STABILITY OF AREAS, SHOWING DISINVESTMENT & ECONOMIC DECLINE. UNDER THE MORTGAGE INSURANCE PROGRAM, UP TO 75% OF THE PERMANENT FINANCING ON LOANS MADE TO REHABILITATE SINGLE, MULTI-FAMILY AND COMMERCIAL STRUCTURES CAN BE GURANTEED. UP TO 50% ON LOANS FOR ACQUISITION AND REFINANCING CAN BE GUARANTEED. ADDITIONALLY PERMANENT FINANCING OF LOANS FOR NEW CONSTRUCTION OF SINGLE-FAMILY AND MULTI-FAMILY PROPERTIES CAN BE INSURED. WE ARE ALLOWED TO INSURE UP TO 100% OF PRINCIPAL INDEBTNESS OF LOANS FINANCED WITH THE PROCEEDS OF BONDS ISSUED BY SPECIFIC PUBLIC BENEFIT CORPORATION (e.g. UDC, HFA, HUDC). CURRENTLY, THE AGENCY IS ABLE TO LEVERAGE MORE THAN \$200 MILLION

IN FINANCING FOR REHABILITATION OF SINGLE-FAMILY AND COMMERCIAL STRUCTURES. ELIGIBLE MORTGAGES ENCOMPASS A WIDE RANGE OF INSTITUTIONS INCLUDING BANKS, TRUST COMPANIES, CREDIT UNION, INSURANCE COMPANIES, MORTGAGE BANKERS AS WELL AS PUBLIC BENEFIT CORPORATION SUCH AS THE NEW YORK STATE HOUSING FINANCE AGENCY, NEW YORK STATE URBAN DEVELOPMENT CORPORATION, NEW YORK CITY HOUSING DEVELOPMENT CORPORATION AND GOVERNMENT AGENCIES SUCH AS THE NEW YORK CITY DEPARTMENT OF HOUSING AND PRESERVATION AND DEVELOPMENT.

PERHAPS MORE IMPORTANTLY THAN THE DIRECT BENEFITS TO LOW & MODERATE INCOME FAMILIIES, IS THE TOTAL ECONOMIC IMPACT TO THE STATE FROM THE CREATION OF THE MORTGAGE FUND. CERTAINLY, THE ABILITY OF FIRST-TIME HOMEBUYERS TO REALIZE THE AMERICAN DREAM OF HOMEOWNERSHIP THROUGH THE ISSUANCE OF BELOW MARKET MORTGAGE RATES IS IMPORTANT. HOWEVER, THE TOTAL ECONOMIC IMPACT TO THE STATE ECONOMY IS 6 TIMES THE SIZE OF THE MORTGAGE FUND. THIS MULTIPLIER EFFECT IS REALIZED WHEN YOU CONSIDER THE CREATION OF JOBS IN CONSTRUCTION FIELD AND THE BOOST TO ALL SERVICE AND MATERIAL SUPPLIERS TO THE CONSTRUCTION INDUSTRY. AS LEGISLATORS, IT IS INCUBENT UPON YOU TO CONSIDER THE VALUE OF A DOLLAR PLACED IN THE STATE ECONOMY WHERE IT CAN DO THE MOST GOOD FOR THE STATE ECONOMY AS A WHOLE. THE LEGISLATION PROPOSED SHOWS THAT YOU ARE CONSIDERING JUST THAT FACT.... PRESERVE THE CAPITAL AND REALIZE THE GREATEST POSSIBLE RETURNS ON INVESTMENTS. ASSEMBLY BILL 1308, REQUIRES THE STATE INVESTMENT COUNCIL TO MAKE INVESTMENT WITHIN THE STATE OF NEW JERSEY AS PART OF A NEW INVESTMENT STRATEGY FOR PUBLIC PENSION FUNDS. I SUBMIT TO THIS COMMITTEE, THAT AS THOSE FUNDS ARE PROPERLY INVESTED, THE TOTAL ECONOMIC BENEFIT TO THE STATE AS WHOLE WILL BE FAR GREATER THAN THE RETUN ON THE ORIGINAL INVESTMENT.... BY THE MULTIPLER EFFECT.

I COMMEND THIS COMMITTEE FOR IT'S DESIGN OF ASSEMBLY BILL 1309 WHICH REQUIRES DIVERSTITURE OF ALL INVESTMENTS OF THE STATE'S PUBLIC PENSION & ANNUITY FUNDS WHICH ARE DIRECTLY OR INDIRECTLY LINKED TO THE REPUBLIC OF SOUTH AFRICA. THIS LEGISLATION SHOWS THAT THIS LEGISLATURE IS CONCERNED ABOUT THE DEPRIVATION

OF HUMAN RIGHTS OF ALL PEOPLE AND THAT A PRUDENT INVESTMENT IS THE FIDUCIARY RESPONSIBILITY OF THE STATE INVESTMENT COUNCIL. I WOULD ENCOURAGE THIS COMMITTEE TO MOVE FOR ENACTMENT OF THIS PROPOSED LEGISLATION, TO BRING THOSE PENSION FUND DOLLARS BACK TO NEW JERSEY WHERE THEY CAN DO THE GREATEST GOOD FOR THE CITIZENS OF THIS STATE.

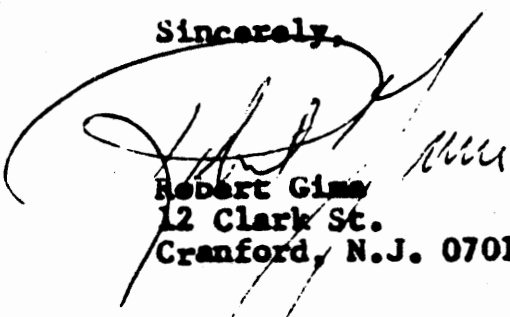
IN CONCLUSION, I WOULD LIKE TO REITERATE THAT UNIQUE PROGRAMS LIKE SONYMA'S ACKNOWLEDGE THE FACT THAT THE PRIVATE SECTOR CANNOT DO IT ALL ALONE, AND THEY ARE EXCELLENT EXAMPLES OF THE CREATIVE WAY TO LEVERAGE PUBLIC AND PRIVATE RESOURCES TO HELP MEET THE ECONOMIC NEEDS OF THE STATE. THE AGENCY BELIEVES THAT IT HAS BEGUN TO DEVELOP THE TYPE OF WORKING RELATIONSHIP WITH THE LENDING COMMUNITY IN NEW YORK STATE THAT WILL BE BOTH EXEMPLARY AND PRODUCTIVE. SONYMA ENDEAVORS TO DEVELOP NEW AND CREATIVE FINANCING AND DEVELOPMENT STRATEGIES TO MEET THE ECONOMIC DEVELOPMENT NEEDS OF THE STATE. AND I TRUST THAT THIS LEGISLATURE WILL ADOPT IT'S PENDING LEGISLATIVE INITIATIVES, NAMELY, ASSEMBLY BILLS 1308 & 1309 FOR THE PRUDENT INVESTMENT OF THIS STATES PENSION FUNDS AND DEVELOPMENT OF A NEW INVESTMENT STRATEGY.

10 June 1984

I submit the enclosed, as an interested resident of New Jersey, in reference to bills A-1308 and A-1309, now being submitted for consideration by your committee.

I request that it be entered to the record of the committee and that copies be given to all members.

Sincerely,



Robert Ginn
12 Clark St.
Cranford, N.J. 07016



Robert Gima
12 Clark St.
Cranford, N.J. 07016

(201) 276-5403

As an American citizen who has actually visited the Republic of South Africa and observed conditions there, I am greatly distressed to witness a continuing effort on the part of certain groups to pressure various governmental and private sector institutions and agencies to divest their financial interests, directly or indirectly, in that country.

I consider such actions ill-advised, ill-considered, ill-conceived and in the final analysis, counter-productive both to those with humanitarian concerns and the vital interests of the United States.

I found, on first-hand observation, South Africa to be a modern, progressive pro-Western country populated with an energetic and responsible citizenry.

However, in this and other countries, South Africa is constantly portrayed, however falsely, as a nation of terrible racial oppression and injustice with a mere handful of privileged whites living off the forced labor of nearly enslaved blacks.

That is not the truth, it is not what I saw and it is not what anyone else with the interest and good sense to actually visit South Africa would observe.

Aside from South Africa's unrivaled natural attractions, its manmade treasures include charming towns and villages dating back over four centuries of Dutch and English settlement, vibrant and exciting modern cities and black tribal areas where both traditions and modern ways are combined. The general feeling of the people of all races seems to be one of cautious optimism, not fear and hatred.

Of course, the question of apartheid, or separate racial development, must be addressed, as this is the principal target of anti-South African sentiment in this country.

Let me state, for the record, that on the personal level that I consider apartheid a negative and counter-productive system that is doomed to fall of its own cumbersome weight, or, more likely, to evolve into something else. But it is not so monstrously evil as we are lead to believe.

(2)

And as well observed so much of the African continent reverting to the horrors and barbarism of tribal warfare, and even genocide, as in Nigeria and Zimbabwe, we must come to recognize that there are, indeed, seemingly impossibly incompatible groups of people living in a state of permanent hostility, frequently with tragic results.

The South African government, whatever the flaws of apartheid, has at least had the sense to recognize the depth of tribal differences and even fierce internal tribal hostilities, as in the case of the Zulu nation, where factional fighting has taken so many lives in recent years.

The preservation of tribal life, rather than its destruction, as in the case of the American Indians, is one of South Africa's little-recognized achievements, because it is one that its critics wish to ignore.

In my opinion, a determination to keep South Africa from wallowing in the blood-soaked mire of tribalism and social decay, as so many new African nations do at this moment, is one of the prime factors behind the better motivations behind apartheid.

Be that as it may, let us return to the question at hand: Should we divest ourselves of involvement in South African business and industry and further its international isolation in order to bring about a change, or perhaps the demise, of apartheid?

My response is, "No!", for two very elemental reasons.

The first is that it wouldn't work and the second is that we would ultimately be harming the people the anti-apartheid forces say they want to help, as well as ourselves.

Let us recognize that the Republic of South Africa is the richest and most powerful nation on the continent. As such, it is a major source of investment from all over the world. Any withdrawal of U.S. investment will create a vacuum that is likely to be readily filled by other nations.

I also believe that the spirit of the South Africans is resolute and defiant. Overt outside pressure will accomplish nothing but making the more reactionary forces more intransigent at a time when they are learning toward modest, but progressive compromise.

Additionally, by withdrawing from investment in South Africa, we would lose whatever voice and persuasive powers we have over the economic trends of that nation. It is better for us to have a voice in a situation some of us would change than for us to have no voice at all.

(3)

We must also recognize a basic economic reality: In times of hardship, it is those at the bottom of the pyramid who suffer first, most and longest. In the case of South Africa, as in the U.S., economic adversity will most adversely and most profoundly affect poor blacks.

It should therefore be obvious that those who would express their opposition to apartheid with economic warfare against South Africa that they are hurting the people they supposedly want to help.

Beyond this, let us consider the strategic interests of the United States and its allies. Can we ignore the fact that the Republic of South Africa and the territory under its administration in South West Africa or Namibia is under periodic attack by proxies of the Soviet Union operating out of Angola and Mozambique? The Cuban and other Communist Bloc troops who direct these attacks against pro-Western South Africa are by no means concerned about the so-called "liberation" of anyone within its borders.

We should be all too familiar with how the Soviets and their proxy forces have "liberated" the enslaved nations of Eastern Europe, and more recently, so-called Third World nations like Afghanistan. Similarly, South Africa, with its vast mineral wealth is a target for Soviet "liberation".

For all these reasons, I believe American investment and involvement in South Africa should be increased, not decreased.

I should greatly like to see social, cultural and travel ties to South Africa greatly expanded, for it is through these contacts that a stable ally of the West is strengthened, Soviet ambitions are thwarted, and realistic progress and change can be made in South Africa's social and economic structure.

I would, lastly, advise that anyone who questions my perspective should go to South Africa itself and see with their own eyes what I was privileged to see. They have nothing to lose but the false notions that have, for so long, been foisted upon them.

In the interests of the United States, its people, and all the people of the Republic of South Africa, I think they can do no less if they are to act in an honest and informed manner.



Robert J. Gima

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Statement Submitted to the
New Jersey Assembly State Government Committee
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by
Janet R. Jakobsen
Network Organizer
The Washington Office on Africa

Mr. Chairman, members of the Committee, I am pleased to testify on Bill A-1309, a bill which would require public pension funds to divest their holdings from corporations and financial institutions which invest in South Africa.

I am Janet Jakobsen, Network Organizer for the Washington Office on Africa. I am responsible to anti-apartheid activists all over the country. I worked with the District of Columbia Divestment Committee. This Committee saw the District of Columbia Divestment Bill successfully through the City Council and through United States Congressional Review, so that it became law on March 8, 1984. My commitment to this issue stems from my moral and theological convictions. The Washington Office on Africa is a church-sponsored organization. I originally came to the Office through the auspices of the Washington Office of the Presbyterian Church in the U.S.A.

My experience has convinced me that all types of pressure must be brought to end white control in South Africa before a bloody conflict ensues. Divestment is one of the best tools that can be employed towards that end. Various sectors of the American population have courageously used divestment to protest South Africa's apartheid policies. Churches, trade unions, universities, cities, and states have all taken stands. The churches we represent have long been concerned about U.S. corporate investment in South Africa. Representatives from the Episcopal, Presbyterian, and Methodist churches are on our Board of Directors, along with the Union of Auto Workers.

The churches' concern for racial justice and equality has generated its intense interest and determination to do something about the situation in South Africa. Just as segregation in the U.S. South was sanctioned by the white churches' interpretation of scripture, South African apartheid is also predicated on biblical scripture as interpreted by the Dutch Reformed Church. This body plays an important role in the shaping of apartheid laws designed to keep Blacks and whites apart. Consequently, U.S. churches feel a special moral and theolo-

gical need to refute attempts to justify this inhuman and immoral system with Christian teachings.

Cries for divestment have increased as repression against the Black South African churches grows. These churches' opposition to apartheid has made them and their leaders special targets of the regime's repressive measures. Bishop Desmond Tutu, the Secretary General of the South African Council of Churches, and an advocate of peaceful change has been harassed by the government. The head of the security police has urged that the South African Council of Churches be barred from receiving any funds from foreign sources. Currently, 96% of its funding comes from such sources. If this recommendation is enacted, one of the moderate voices asking for change would fall silent.

On June 20, 1984 the Reverend Simon Farisani, a South African Lutheran minister, testified before the House Subcommittee on Human Rights. Farisani was arrested in 1981 with a lay preacher Tshifhiwa Muofhe. Muofhe died after 24 hours of detention. Farisani related his experience of being tortured by South African police who put electric shocks to his head, spine, and genitals.

U.S. campus divestiture movements have also led to the withdrawal of large sums from South Africa. Many universities and colleges have partially divested, and some institutions have completely severed their ties with apartheid. Both the University of Wisconsin and Michigan State University have completely divested. Student activism intensified after the 1976 Soweto uprising, when 600 Black school children were shot down in cold blood.

Unions make up the most significant group to move on divestment. In 1978, the Hospital Employees Union divested their pension funds from South Africa. In 1979, the U.A.W. decided to divest from a number of companies in South Africa. Rather than support the apartheid regime, the new contract calls for 10% of new pension investments to go for home mortgages, nursing homes, nursery schools, health centers, and other service facilities in communities where U.A.W. members live. Unions have opposed apartheid on moral grounds, but have

also opposed it for practical reasons. Cheap slave labor in South Africa undercuts wages in the U.S. resulting in lower wages and lay-offs.

Many cities and states are passing legislation prohibiting or limiting the investment of public funds in corporations and banks in South Africa. In this group are Connecticut, Philadelphia, Berkeley, Michigan, Massachusetts, and Nebraska. To date, over 23 municipalities have introduced divestment legislation. As I mentioned in the beginning of this testimony, Washington, D.C. is one of the newest members of this movement.

The anti-apartheid movement has truly become nationwide. The United States Congress is now dealing with this issue. The D.C. Divestment Bill required a Congressional review. Currently, the Congress is deciding on the Export Administration Act. This Act would impose economic sanctions on South Africa. These provisions would end new U.S. investment in South Africa; end new loans to the South African government; stop the importation of Krugerrands; end exports to the South African police and military; and limit the sale of nuclear technology to South Africa.

The Washington Office on Africa supports these actions and we have actively sought to encourage divestment wherever possible. The State of New Jersey now has the opportunity to join with others in the U.S. who are saying NO to apartheid by enacting Bill A-1309. New Jersey already has a good record on anti-apartheid legislation. Last year the State Senate and Atlantic City helped to prevent a South African company from buying into a casino. This new bill gives the Legislature a chance to take a stronger stance. The Assembly's decision to pass this legislation will reflect New Jersey's political courage, its sound financial judgment, and its high moral standards. It will also reflect a state which takes actions which are best for its citizens.

Failure to pass this legislation would mean continued support for apartheid. The horrors of apartheid have been repeatedly laid out, but I want to stress that the immorality and injustice of apartheid results in death for thousands

of Black South Africans. This inhumane system must be totally abolished by attacking the very foundations of its support. U.S. corporations constitute one of its strongest foundations. U.S. investment in South Africa accounts for at least one-fifth of all foreign investment in that country. In 1979, the U.S. replaced Britain as the number one investor in South Africa. Today, over 350 U.S. corporations continue operating in South Africa with over \$2.6 billion invested. U.S. corporate support of South Africa has become imperative for its survival, not because of the amount invested, but for the sectors which attract investment.

- a) Transport - Ford, General Motors, and Chrysler control 33% of that market, supplying vehicles to the military and police.
- b) Energy - Oil is the only natural resource which South Africa does not possess. Oil is so important that it is called a "munition of war." It is a criminal offense to supply data about the country's oil supply. Exxon, Caltex, Mobil, and other U.S. oil companies control 44% of the petroleum products market.
- c) Computers - IBM, Control Data Corporation, and NCR supply computers which monitor and control the movements of the 24 million Blacks. This control is the heart of apartheid and over 4500 U.S. computers are keeping it beating.

On April 16, 1981 Prime Minister P.W. Botha stated, "Through the years we have brought about a situation in which the Republic [of South Africa] is one of the best countries to reside and invest in." Apartheid laws have made South Africa an investor's paradise creating the ideal situation Botha is talking about. Blacks are paid ten times less than whites. Strikes are outlawed and unionization can only take place under the most stringent conditions. Influx control and the threat of being forced back to barren homelands maintain a steady source of labor. Pass laws restrict the movement of Blacks and insure labor is always available when needed.

The time has now come for action. Are New Jersey residents to support a system which denies 24 million Blacks the basic democratic right to vote? Are New Jersey residents to retire on profits procured from this human misery?

Opponents of divestment argue that Blacks would be those most hurt by divestment. However, the facts of U.S. employment in South Africa tell a different story. Out of a population of 24 million Blacks, only 1% are hired by U.S. corporations, and this U.S. hired labor force is not growing. U.S. corporations are capital-intensive and highly technical. Untrained Blacks do not have a bright future in this employment market.

Other opponents state that divestment will have no impact on the South African economy or on apartheid. The May-June 1984 issue of Africa Report reports that divestment will pressure the apartheid regime.

Ted Pavitt, president of the South Africa Foundation, a group that promotes South Africa's image and seeks foreign investment, told a group of South African businessmen and diplomats in March that the country is "not the citadel of self-sufficiency that many think it is." He continued: "We are a trading nation, and there is no longer any place for romantic notions of a courageous people carving their destiny in isolation from a malevolent world."

Black South Africans have spoken out in favor of U.S. divestment. The only African manager at a large corporation declared:

Americans have been hoodwinked about the South African situation. They come here and fall into the system. As far as we are concerned, there has been absolutely no change. Our criteria for change are so different than the gimmicks that have been presented to us.

Another South African insists:

Blacks will not suffer most if corporations withdraw from South Africa. When a ladder falls, the man on the highest rung is hurt most. The people on the bottom escape with only a few bruises.

Bishop Tutu has stated:

Black suffering is part of the economy from which the corporations are benefiting. Migratory labor, the deliberate

starvation of people through forced resettlement - the corporations are involved in all of this. So since when have these companies been such altruists? To be concerned about what will happen to the poor Blacks once they leave.

He also stated that corporations have continually benefited from Black suffering and the repressive policies of the apartheid regime.

In speaking out for divestment, these South Africans have acted very courageously. To advocate divestment in South Africa is treason and the penalty can be death. This law is proof of the importance of U.S. investment to the perpetuation of the apartheid system. Former Prime Minister Vorster stressed the importance of foreign investment: "Each trade agreement, each bank loan, each new investment is another brick in the wall of our continued existence."

Will New Jersey continue to support the wall of apartheid? The Blacks in South Africa are prohibited from opposing this oppressive regime; New Jersey has a choice to oppose the regime. In the words of Steve Biko:

While it is illegal for us to call for trade boycotts, arms embargoes or withdrawal of investments under current South African law, America is quite free to decide what price South Africa must pay for maintaining obnoxious policies.

Certain U.S. corporations are so important to the maintenance of apartheid that in 1980, the government passed the National Key Points Act. This law requires all companies which are designated "Key industries" to cooperate with the South African Defense Force in the event of civil unrest. In addition, a number of subsidiaries of foreign corporations have been asked to form military commando units among their white workers in order to protect the facilities from sabotage and unrest. U.S. corporations are also a source of revenue for South Africa, paying large amounts of corporate taxes. Computer companies alone pay the government over \$22 million and they generate another \$12 million in sales taxes. In addition, U.S. corporations are required to invest in government bonds.

U.S. corporate investment is also used to legitimate South Africa in the

international community. The South African government is greatly concerned about these divestment bills being introduced and is spending thousands of dollars for their defeat. Registered foreign agents for South Africa have been monitoring divestment legislation and most assuredly will be watching the progress of Bill A-1309. If divestment is so ineffective and will be so harmful to Blacks as the government claims, why is South Africa so opposed to it? The answer is clear: divestment is an important first step toward the dismantling of the oppressive apartheid system.

The timing of this bill is critical. Over the last three years, South Africa has been receiving encouraging messages. The Reagan Administration's policy of constructive engagement has increased dangerous U.S. involvement. A new U.S. Ambassador, Herman Nickel former editor of Fortune Magazine, has been sent to South Africa and his appointment has led to increased U.S. investment. Between 1969 and 1974 U.S. investment in South Africa doubled; we must not let this happen again. I respectfully request this state to send a different message to the people of South Africa by passing Bill A-1309. To the minority-ruled government, this action will express New Jersey's opposition to apartheid; To the Blacks, New Jersey will be sending a message of solidarity. And when independence comes to South Africa, New Jersey can stand proud with all others who have helped make majority-rule possible.

