Make It In Massachusetts, Not in South Africa:

How We Won

Divestment Legislation

by Mass Divest

State and municipal legislation passed in 1982 will force the withdrawal of up to $300 million in public funds from companies doing business in South Africa. Connecticut, Massachusetts, Michigan and the cities of Grand Rapids, MI, Philadelphia, PA, and Wilmington, DE, all enacted divestment legislation last year. Similar legislation is now pending in more than 25 other states and cities. This divestment campaign is being felt where it matters—in South Africa. Dr. Ernie van der Merwe, head of South Africa's Reserve Bank cites political pressure on foreign corporations as one of the causes of a marked shift away from direct investment in South Africa.

Because the Massachusetts bill is the strongest state legislation to date, requiring full pension fund divestment, the American Committee on Africa asked Mass Divest to write the story of their campaign. We hope it will serve as a useful guide in the growing number of states and cities around the country that are taking up the issue of their economic links to apartheid.

Victory in Massachusetts

The State of Massachusetts was the site of a dramatic victory for anti-apartheid forces when the Senate and House of Representatives amassed sufficient votes to override a veto by Governor Edward King and enact the strongest statewide pension fund divestment legislation ever passed in the United States. The new law prohibits the investment of state pension funds in banks and corporations that operate in South Africa. In early January 1983 when the bill became law, approximately $90 million of state pension funds were in such banks and corporations and thus will be affected by the legislation. The state treasurer has three years to complete the divestment and alternative investments must be found as much as is reasonably possible in institutions or companies which invest or conduct business operations in Massachusetts.

Under the slogan "Make it in Massachusetts, Not in South Africa," the campaign for divestment was successful in an industrial state that is heavily Catholic with a strong Democratic party that is often thought of as liberal. However, in 1977 Edward King, a conservative Democrat, took office as governor and since then the state has moved to the right,
Building a Coalition

Without consistent leadership and hard work by key elected officials backed by a strong citizen support committee, the bill could never have become law. In late 1980 State Senator Jack Backman, a white liberal Democrat from Brookline and State Representative Mel King, a black Independent from Boston, called a meeting which brought together a number of organizations which had worked independently against apartheid. These groups formed the Massachusetts Coalition for Divestment from South Africa, or Mass Divest, and it was the work of Backman, King and Mass Divest that made the victory possible.

By late 1980 it was obvious to those who had long been at work on the issue of Massachusetts' links to South Africa that it was time to build on earlier efforts and consolidate action in a single organization with a single goal. Action against South Africa had begun at least as early as 1976. That was the year of the uprising in South Africa that began in Soweto and spread throughout the country, with tens of thousands of people protesting the apartheid laws. In response, Mel King, a leading member of the Black Caucus, had held hearings at the State House in Boston on the Massachusetts-South Africa connection. Subsequently the Boston Coalition for the Liberation of Southern Africa (BCLSA) organized a boycott of the First National Bank of Boston because of its policy of loaning money to the South African government. In 1979 Senator Backman and Representative King filed legislation requiring full divestment in response to a state commission report that a higher percentage of public employees pension funds was invested in South Africa than in Massachusetts. Although their comprehensive proposal did not win legislative support an amendment introduced by Representative King was added to the state budget barring any additional investments of pension funds in South Africa.

The victory of the amendment encouraged King and Backman to press for full divestment. In 1980, however, the campaign stalled despite lobbying by a few community groups, a lengthy series on divestment in the Boston Globe, and an address to the state senate by Dumisani Kumalo, projects director of the American Committee on Africa. Backman and King agreed that a broader coalition was necessary for victory.

Those who responded to the call by Backman and King were church, labor and community groups concerned about the effects of the racist regime in South Africa on life in Massachusetts. They included the Black Ecumenical Commission which represents the major black churches of Boston, the Catholic Archdiocese, and the Massachusetts Council of Churches. The original unions active on the bill were Service Employees International Union Locals 509 and 285, American Federation of State, County, and Municipal Employees Local 1489 and the Massachusetts Teachers Association. Among the community groups were Mobilization for Survival, Boston Peoples Organization, a group originating with Mel King's run for mayor of Boston in 1979, and the American Friends Service Committee. A core group from BCLSA, and the TransAfrica Boston Support Group along with several independent activists were most important in the day to day work.

Nothing Short of Total Divestment

Once Mass Divest was formed a crucial political decision was made which stood the coalition in good stead throughout the entire campaign. That was the decision to demand full divestment of Massachusetts pension funds from all banks and corporations operating in South Africa. The purpose of divestment is to pressure companies and banks to withdraw from South Africa. It is based on the understanding that the presence of these banks and companies in South Africa strengthens the white minority government's ability to repress the black majority. It leaves no room for tactics such as the use of stockholders leverage in proxy votes at individual company annual meetings, or for setting up criteria for investment in South Africa. Both these tactics give false impressions. The voting of stock proxies puts no real pressure on the corporations and suggests, wrongly, that they can be moved to withdraw by such means. In more than a decade of stockholders resolutions calling for corporations to withdraw from South Africa, not a single company has responded with such action.

Many attempts have been made to establish criteria which would allow some investment in South Africa. Most often these criteria involve the use of the Sullivan Principles, a code of conduct for U.S. corporations operating in South Africa. The Sullivan Principles shift the discussion away from the fundamental question of how U.S. investment undergirds apartheid. Instead working conditions for the employees of U.S. corporations, who make up less than 4 percent of the South African work force, become the focus of discussion. Instead working conditions for the employees of U.S. corporations, who make up less than 4 percent of the South African work force, become the focus of discussion. Mass Divest and the legislative sponsors of the bill were very clear on their choice from the start: nothing short of total divestment was acceptable. The divestment bill drafted by Mass Divest and filed in 1981 was designed to win maximum political support within the coalition and in the legislature.
The Commonwealth of Massachusetts
In the Year One Thousand Nine Hundred and Eighty-two.

An Act ending the investment of public pension funds in firms doing business in or with South Africa.

(vi) After January 1, 1983, no public pension funds under this subsection shall remain invested in any bank or financial institution which directly or through its subsidiaries has outstanding loans to the Republic of South Africa or its instrumentalities, and no assets shall remain invested in the stocks, securities or other obligations of any company doing business in or with the Republic of South Africa. Any proceeds of sales required under this paragraph shall be invested as much as reasonably possible in institutions or companies which invest or conduct business operations in Massachusetts so long as such use is consistent with sound investment policy.

(vii) Notwithstanding the provisions of the preceding paragraph, if sound investment policy requires the investment committee may vote to spread the sale of such investments over more than three years so that no less than one-third the value of such investments is sold in any one year. So long as any funds remain invested in any bank, financial institution or firm referred to in paragraph (vi), the investment committee shall annually, on or before January thirty-first, file with the clerk of the senate and the clerk of the house of representatives a report listing all South Africa-related investments held by the fund and their book market value as of the preceding December first.

One provision specified reinvesting in Massachusetts "to the extent possible," and appealed to unions. Another provision allowed three years to complete divestment, to counter arguments that a hurried sale could hurt the retiree's fund. (See box for final text of bill.)

The Strategy of Mass Divest

With the formation of Mass Divest and agreement on the fundamental goal of full divestment, organizational work could begin in earnest. A meeting room at the State House, a mailing address at Mobilization for Survival, and a grant for educational purposes from the Haymarket People's Fund of Boston were secured. Resources were prepared by various members of the coalition. BCLSA produced a brochure and slide/tape show which demonstrated conditions in South Africa and the Massachusetts and U.S. connections to the apartheid system. Political polls on representatives and senators were done by Citizens for Participation in Political Action. Work done by TransAfrica members and its leader in Boston, Prof. Willard Johnson was critical in the later stages of the campaign. Because of TransAfrica many black clergy, academics and professionals were aware of and took an active role in lobbying for the bill.

Initial outreach was done to organizations which had previously endorsed southern Africa solidarity actions in the Boston, New Bedford, and Springfield areas. The purpose of the outreach was to gain endorsement of the bill and to mobilize the various organizations to lobby on its behalf. Mass Divest members attended meetings, showed the slide show and explained the bill and lobbying necessary to pass it. Follow ups were made to obtain the formal endorsement. In two years of work, more than 100 groups and organizations gave their formal support to the bill.

The creation over a two year period of a statewide network supporting the bill took hard work and required the overcoming of many problems. Mass Divest itself was a coalition which included groups with a variety of priorities and political persuasions. What held the coalition together was the commitment to a clear goal, that of full divestment.

The role of key legislators such as Mel King and Jack Backman cannot be overemphasized. Their political insights about what works and does not work in the legislature, which legislators were key opinion leaders, who could be counted on in a pinch and who could not, were invaluable. Their leadership smoothed ruffled feathers among Mass Divest members and kept the focus on the main goal which was passing the legislation.

There were two powerful supporters of the bill that were crucial for victory, the Catholic Archdiocese of Boston and the public employees and teachers unions, AFSCME Council 93 and the Massachusetts Teachers Association. Intensive work including personal meetings with key leaders and with their lobby staff was necessary to gain their endorsement and active support. The active participation by the lobbyist of the Archdiocese was very important. Without the support of the unions, whose members' pension money was at stake, many legislators would never have been persuaded to support the bill. To draw in more activists, the coalition presented a slide show and provided speakers at several public educational events, and participated in demonstrations. Mass Divest persistently sought media coverage. The national press was already covering the volatile situation in South Africa. A series of editorials endorsing divestment in the Boston Globe and the cover story in the major weekly the Boston Phoenix, exposing anti-divestment lobbying, brought the issue home.

The Legislative Campaign

The issues that were raised to defeat the bill were, by and large, financial issues. The concept of "fiduciary responsibility" was raised by both the Treasurer and the Governor who argued that divestment would be a violation of their responsibility to invest pension funds prudently, with as much attention to maximizing returns as they would give to their own money. The State Treasurer's Office insisted over a two year period that selling of bonds would involve a loss of $16 million or more. Opponents also argued that the divestment bill would introduce non-financial constraints on the Investment Committee's freedom of action. If they stayed away from companies and banks which were in South Africa, soon there would be other restrictions and investors would be hamstrung.

Mass Divest and the legislative leaders developed persuasive responses to all these objections. A knowledge of South
Africa and the role of U.S. investment there was the first step toward winning the divestment battle. It became necessary as well to be able to respond to the very specific arguments raised by the nature of the state’s investment portfolio.

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In 1981 hearings were held before the Public Service Committee and over 20 groups and individuals presented what the Committee chair called the most impressive testimony he had ever received on any bill. Although an amendment by the Senate Ways and Means Chairman to exclude coverage of the banks was defeated, the senate passed the bill too late in the session for the house to act, so the entire legislative process had to begin again in 1982.

Based on an analysis of weaknesses in the 1981 campaign, lobbying efforts were directed at key legislative leaders in 1982. Pressure came from delegations of influential leaders from churches, unions, and local constituent groups, public events in their districts, and a flood of letters and phone calls at the time of key votes.

By the fall of 1982 it looked as if victory was possible. The Black Caucus was very strong in its support of the bill with virtually every member speaking on its behalf during the legislative debate. The economic resistance began to break down when it could be demonstrated that, because of current economic conditions, the divestment of approximately $90 million remaining in bonds and stocks in South Africa related companies would result in a net profit.

But lobbyists were active against the bill as well. On December 3, a conservative Republican introduced an amendment to the bill. The amendment came from Alice Cantwell, the regional manager for state-government relations of the Ford Motor Company. Ford’s amendment would have exempted any company that adhered to the Sullivan Principles from the divestment action. And Ford was not alone in fighting the bill. South Africa’s opposition was presented by Stephen Riley, of the Washington-based lobbying-and-legal firm Smathers, Symington, and Herlong. The South African Government has retained the firm to represent its interests in the United States, and Riley was at the State House working against the bill.

The Sullivan Principles amendment failed to get enough votes to even be considered for debate and the divestment bill, intact, was sent to Governor King for his signature. But instead of signing or vetoing the bill, the Governor returned it to the legislature with an amendment that would have limited divestment to stocks and exempted industrial and bank bonds. This would have cut the amount to be divested from $90 million to only $35 million and would have let the companies, including Ford, with actual plants and employees in South Africa, off the hook.

This amendment required fast action by Mass Divest and the legislators. In a dramatic meeting the question was debated whether to accept the weaker amended bill that the Governor would sign, or to go for full divestment, risking the necessity of a veto-override or of the legislature adjourning for the year before an override vote. If the votes for the veto-override were not forthcoming, the campaign would have had to be begun all over again in 1983. Mass Divest decided to shoot for full divestment. This decision was communicated forcefully by King and Backman to the leadership of both houses. The bill was returned to Governor King without amendment, and predictably, Governor King vetoed the bill. The legislature acted swiftly to override, and victory was achieved on January 4, 1983. It was the only bill in the 1982 session that was passed over the veto of Governor King.

The Importance of Victory

Massachusetts is one of more than forty states and cities that have introduced some form of divestment legislation. The victory in Massachusetts is a major one not only for the state but for the nation-wide divestment campaign. Already legislators across the country are making contact to see how victory can be achieved. Massachusetts legislators and Mass Divest members have been involved in nationwide organizing, actively participating in a national conference on divestment and staying in close communication with groups like the American Committee on Africa which monitors the nationwide campaign. ACOA has supplied important resources for the campaign, including language for a model bill and arguments for debunking the Sullivan Principles.

Cooperative efforts will remain essential as the forces against divestment can be expected to intensify their opposition. The resources of Ford Motor Company are formidable, their involvement in South Africa substantial. Ford has $213 million invested in South Africa and claims it needs the freedom to invest there. South Africa’s resources are also formidable. They are paying Smathers, Symington and Herlong $300,000 a year to lobby on their behalf in the United States.

The Massachusetts victory has set a powerful precedent. Full divestment from banks and corporations which operate in South Africa is possible. It can be done without financial loss and in the face of sophisticated opponents with vast resources at their disposal. The message of the Massachusetts victory is clear: the forces of special privilege, of racism, repression and greed can be overcome by a carefully planned, efficiently organized and hard working campaign for justice and freedom. Massachusetts has taken a giant step forward, confident in the knowledge that other states and cities are joining the march that will continue until the people of South Africa are free.