

Trustee Board Secretary responds

Trustees' diligent work misunderstood

The extensive coverage given to the recent meeting of the Board of Trustees of the York University Pension Plan in the March 13, 1986 issue of *Excalibur* reflects the intense desire of many members of the York community to undermine the diabolical policies of the South African government. I am encouraged by the dedication and commitment of so many students, faculty and staff in expressing their unequivocal rejection of such a flagrant example of human injustice.

However, I am concerned that a lack of accuracy and the inflammatory language which flowed so freely in the aforementioned issue of *Excalibur* could result in the community being misinformed regarding an important issue. I understand the restiveness of enthusiasts who seek immediate endorsement of their stand and do not challenge their right to maintain pressure on those who must still make responsible decisions. Such commendable attributes should not be accompanied by distortion and innuendo!

In the hope that all groups within the University will band together with the Trustees of the Pension Plan in condemnation of "the massive and sustained racial discrimination" being perpetrated by the South African government and take such action as is within each group's power, I would like to draw attention to a number of important facts which were ignored completely in the above-mentioned articles.

1. Background information given to the Trustees

Prior to the meeting of the Board of Trustees, each member had been given a background statement, which noted the keen interest of the York community in the subject of divestment and the All-University Committee on Pensions' resolution relating thereto, the powers and responsibilities of the Board of Trustees, three legal opinions regarding divestment from a pension fund and two statements regarding the financial implications of divestment. A genuine effort had been made to inform the Trustees on matters which would facilitate serious consideration of a complex subject. They had a substantial amount of information; in their judgement, they didn't have enough.

2. Duties of a Trustee

The Trustee Act of Ontario obliges Trustees to exercise their powers in the best interest of the present and future beneficiaries of the trust. As Trustees managing or directing the investment of pension funds, they remain subject to an overriding duty to act prudently. They are also required to act independently as responsible individ-

uals, not simply as conduits for the transmittal of resolutions initiated by others, even though the resolutions are made by their appointing constituencies.

The primary focus of the Trustees was on the adequacy of information available to make responsible decisions consistent with their obligations under the Trustee Act. They believed additional information was required in order to make judgements with prudence and in good faith.

The Trustees would have exposed themselves to the censure of Pension Plan members and run the risk of lawsuits had they simply treated the discussion of the subject as a "technicality," as suggested by an overzealous critic, and considered their role to be a "formality" in approving the motion of the All-University Committee on Pensions, a committee with important responsibilities, but without any jurisdiction whatsoever in the field of investment of the Pension Fund.

3. Pioneering is difficult

The Trustees are dealing with a highly complicated issue, which, to my knowledge has not been resolved by any university in Canada. Pioneering requires adequate information and seasoned judgements. Frequent references to the approval of divestment by McGill University and other universities are completely misleading, as these institutions have only divested with respect to the endowment or short term funds. No pension funds have been affected. In fact some universities have refused even to discuss the matter as it relates to pension funds.

4. Serious discussion

The Chairman of the Board of Trustees worked diligently to encourage the participation of all members in reaching a sound decision. They responded with frankness and insight.

5. Various proposals considered

The Trustees considered with care and respect the concerns regarding the appropriate course of action placed before them through a YUFA-sponsored resolution and a constructive suggestion made on behalf of President Arthurs.

6. No vote against divestment

There was no motion made and hence no vote against divestment. Trustees wished only to be on firm ground before taking any conclusive vote on such an important issue.

7. No comfort for apartheid

During the lengthy Trustee discus-

sion, there was not a word spoken which would have given an iota of comfort to the perpetrators of apartheid. Not a single Trustee expressed anything but contempt towards the South African government's continuing policy of racial discrimination.

Believing the thorough discussing had provided a valuable opportunity for the Trustees to exchange their views regarding divestment and had demonstrated clearly the need for additional information on a number of points, the Chairman invited the formulation of a motion to reflect the Trustees' convictions, the issues requiring clarification and the means to facilitate responsible action.

The following resolution of the Board of Trustees, passed unanimously, reflects their determination to deal forthrightly with a difficult subject:

1. That the Trustees place on record their abhorrence of the South African Government's racist policy of apartheid, and

2. That each of the Investment Managers be requested to provide expeditiously, in writing, his opinion regarding the impact on his segment of the Pension Fund which would arise from the divestment of holdings in corporations with investments in South Africa, and

3. That, following receipt of each Investment Manager's report, the Trustees secure legal advice regarding their ability to authorize a policy of divestment while fulfilling their duty to act with prudence and in good faith to ensure the best interests of the beneficiaries of the York University Pension Plan.

Unfortunately, the good judgement of the Trustees demonstrated in their handling of the substantive issues of the meeting was not sustained in the transmittal of their conclusions to an expectant group outside. I regret that I did not anticipate the intense feelings of those waiting outside the meeting, their single-minded expectation, their unwillingness to accept any other course of action, or their persistence in interrupting the Chairman as he endeavored to communicate with them. Hence, an ideal opportunity for developing mutual confidence was lost. I trust it will be restored as all members at York work to fulfill their varied responsibilities in challenging and defeating a common enemy.

-W.W. Small

(Secretary of the Board of Trustees)
(York University Pension Plan)



Anti-apartheid protestors at the June 19 York convocation at which South African dissident Walter Sisulu was conferred an honorary degree. They were demonstrating against York's holdings in South Africa.

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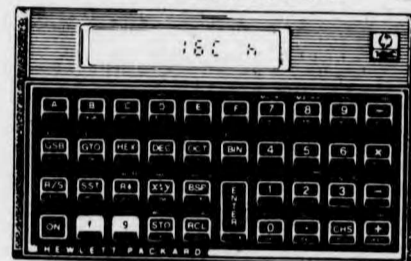
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