

The Philadelphia Inquirer

The Deal of the Art

by Patricia Horn

May 22, 2005

Last month, Pennsylvania's Supreme Court cleared the way for the financially ailing Barnes Foundation to change its rules and move its famed art gallery to Philadelphia.

For one critical year, Lincoln University fought the proposed changes, and then relented.

Through interviews with more than 30 people and reviews of court records and correspondence, The Inquirer has pieced together what went on behind the scenes that year as Philadelphia politics and power clashed with a proud, historically black university in Chester County.

On the morning of Sept. 24, 2002, Lincoln University president Ivory Nelson hung up the phone in his Chester County office, puzzled by what he had just heard - or, more precisely, what he hadn't.

Bernard Watson, the president of the Barnes Foundation, had just told him that the Barnes was filing a petition in court. There would be a news conference at 2 p.m.

About what?

Watson would not say.

Within hours, Lincoln University would feel stabbed in the back by the very board it had nominated, its influence over Albert C. Barnes' renowned collection of Renoirs, Matises and Cezannes suddenly thrown into doubt.

The masterpieces on display at the Barnes gallery in suburban Merion are worth billions. But by Barnes' own decree, they cannot be sold.

With the Barnes going broke, three wealthy Philadelphia foundations had been working secretly with Watson and others to line up the money, the real estate, the legal team and the political muscle to radically change Albert Barnes' strict governing rules. Their plan had been in the works since 2001.

Lincoln knew nothing of it.

At the news conference, Watson announced that the Pew Charitable Trusts and the Lenfest and Annenberg Foundations had promised to help raise \$150 million to save this cultural gem. First, though, the Barnes had to win court approval to move its gallery downtown, where more people could see it, and to expand its board to bring in more money and expertise.

Many Philadelphians cheered the plan. To Lincoln, it was a slap, a breach of the legacy left to the school by Albert Barnes, who had rejected the white art establishment in favor of working-class people and blacks.

Barnes had granted Lincoln the right to nominate four of the five members of his foundation's board. The petition would reduce the university's share to four of an expanded board of at least 15.

Lincoln's lawyer, who was not on the list to be admitted and had no press credentials, couldn't get into the news conference. Not until that evening did the university's lawyers get a copy of the petition from the Montgomery County Courthouse in Norristown.

"We felt violated," said Frank Gihan, then vice chairman and now chairman of Lincoln's board. "We felt insulted. And we felt devalued... . We felt disrespected. We felt so insignificant.

"And we reacted. We are not this little thing... . We weren't going to roll over."

Lincoln decided to fight the Barnes in court.

The idea struck businessman Raymond Perelman on a blustery November night in 1995, as Philadelphia society toasted the reopening of the Barnes gallery after a world tour of 80 of its masterpieces.

Outside the Barnes' iron gates, protesters picketed in the rain. The gala and the tour, they thought, violated Albert Barnes' intentions for his art: It should be used for art education and appreciation, not as a spectacle for rich people. "Spend Your Money Now, A Will Means Nothing," one sign read.

Inside, Perelman contemplated the breadth and depth of the collection, and a much different thought occurred to him:

Why not move this fabulous art downtown, nearer the Art Museum, where more people could see it?

Perelman, then in his 70s, had witnessed the demise of Philadelphia's industrial base. The city cried out for new vitality. The Barnes could bring tourists from all over the world.

Among the 500 others dining that night on lamb chops were many with whom he would share his vision. Some would become key players in the drive to bring the art downtown:

Dorrance Hamilton, the Campbell Soup heiress, would pledge to back the move financially.

Thomas Langfitt was a top executive with the trust that oversaw the Pew Charitable Trusts, which would spearhead the move.

Mike Fisher, as state attorney general, would use his office to support the move.

David L. Cohen, then Mayor Ed Rendell's chief of staff, would join Comcast Corp., which would pledge \$2 million.

Hosting the gala was Barnes president Richard Glanton. He had engineered the tour, which brought in about \$16 million for much-needed renovations. Glanton, who had been nominated to the Barnes by Lincoln, would resign as president in 1998 after embroiling it in a costly and futile legal battle with its Merion neighbors.

Perelman would become chairman of the Philadelphia Art Museum in 1997 and share his vision with Rendell, who loved it. The mayor even picked a site: the Youth Study Center on the Parkway, an easy walk from the Art Museum.

"The seed was planted," Perelman said recently. "And once the seed was planted, it was growing."

In the weeks after the Barnes filed its court petition in the fall of 2002, Donn Scott, a black man who had worked his way up in the white world of banking, was hearing impassioned opinions about the case.

On the streets of Center City, people stopped Scott to give advice, or to vent. The Wachovia executive vice president, who served on Lincoln's board, was well-liked and well-connected.

"I don't think I have ever experienced the amount of emotion on a particular issue like this before," Scott said later.

He talked with blacks, including Robert Bogle of the Philadelphia Tribune and record-industry mogul Kenny Gamble, and whites, including Rendell, Aramark chairman Joseph Neubauer, and Philadelphia Foundation president Andrew Swinney.

"The African American community viewed this totally different," Scott recalled. The Barnes "was a treasure... and Lincoln controlled it and should continue to control it." To them, the proposal to move the Barnes and reduce Lincoln's influence "was an insult."

Whites mostly supported the move or thought that Lincoln should compromise.

Swinney recalls telling Scott that Lincoln "couldn't say, 'Pity me, pity me.'" The university and the Barnes' team were at a stalemate, and Lincoln, he said, "had to break it."

Near the end of 2002, Lincoln University board chair Adrienne Rhone sent an e-mail plea to Julian Bond, the civil rights activist and NAACP chairman.

The Barnes group had filed legal briefs that attacked Lincoln's historic ties to the Barnes.

Albert Barnes and Bond's father - Horace Mann Bond, Lincoln's president from 1945 to 1957 - were "not especially close," the lawyers had written. And Albert Barnes, they said, had intended to sever his relationship with Lincoln - as he had with the University of Pennsylvania, Swarthmore, and Haverford - but died in a 1951 car crash before doing so.

Rhone, in an alumni newsletter, called that argument "preposterous" and "revisionist history."

In addition, Lincoln's efforts to meet directly with the leaders of the three foundations backing the move had gone nowhere, and Barnes board members still had not explained why they had left Lincoln out.

In January, Julian Bond sat down in the office of his Washington home and composed letters to Pew president Rebecca Rimel, cable billionaire Gerry Lenfest, and Annenberg executive director Gail Levin.

A photo of Bond's father hung nearby. On shelves were books about the Barnes and a booklet on the Barnes-Bond connection that Julian Bond had helped write.

Albert Barnes, the white doctor, and Horace Bond, the black educator, had shared a wiseacre sense of humor and an abhorrence of racial prejudice.

"I met Albert Barnes in my family's home on the Lincoln campus," Julian Bond wrote, "and I consider the Barnes-Bond relationship part of my father's legacy. I have a professional interest, as

well, as chairman of the NAACP board, in ensuring this small black college is not forced to surrender control of this invaluable asset."

Bond also spelled out what some had been thinking: "Your actions could easily be viewed as racially hostile, although I do not make such a charge."

Instead of the three foundations replying, Barnes president Watson wrote back. In a 3 1/2-page letter dated Jan. 21, 2003, the former head of the William Penn Foundation and the Convention Center explained why the Barnes needed a larger board. He also said that the Barnes had considered proposing the elimination of Lincoln's role entirely, but rejected that.

Then Watson, himself black, chided Bond for raising race as an issue: "To suggest that these organizations, which have donated millions of dollars to the cause of African American education and advancement, are engaging in actions that could 'be viewed as racially hostile'... does a grave disservice to persons and foundations that have selflessly assisted this foundation in its time of need.

"This is not and should not be characterized as a racial issue."

Watson also pointed out that four of the five Barnes trustees were African American.

Lenfest and Leonore Annenberg, chair of the foundation set up by her husband, Walter, declined to be interviewed for this article. Watson and Rimel also declined, saying through spokesmen they did not wish to discuss the past, only the future.

Rimel responded to Bond's letter in March, Lenfest in April. Lenfest wrote, "My own personal feeling is that the board of the Barnes Foundation should not be controlled by any outside institution, not just Lincoln." Rimel wrote Bond that Watson was the appropriate contact person, "should you have further questions."

Though Attorney General Mike Fisher ran against former Philadelphia Mayor Ed Rendell in the 2002 Pennsylvania governor's race, they were soon in sync on the Barnes issue.

Since Perelman pitched the idea to him, Rendell had seen the logic of moving the Barnes' art to Center City. It would add another jewel to the developing "Museum Mile" along the Parkway and allow thousands more people to see the collection.

At a memorial service for Walter Annenberg in December 2002, Arlin Adams, the distinguished former federal judge who was leading the Barnes' legal team, asked Rendell to help persuade Lincoln to drop its legal fight against the Barnes' petition.

In January, the week before his inauguration, Rendell publicly offered to broker a solution. Fisher, who as the state's attorney general had an obligation to weigh in on charity cases, also offered to help.

Lincoln was not interested. And on Feb. 12, Montgomery County Orphans' Court gave Lincoln the legal right to contest the Barnes' petition.

Still hoping for an out-of-court solution, Fisher brought lawyers for the two sides together two weeks later.

Fisher, whose office had not yet taken a formal stance in the matter, prepared himself by touring the Barnes, the first time he'd been back since the 1995 gala. He studied its location in its neighborhood of mansions. He was struck again by the art, its brilliance, and by what it said about Albert Barnes. The place, he thought, was underused.

The meeting with the lawyers, however, went badly. "The look in their eyes," Fisher, now a federal judge, recalled recently. "Not what they said, but how they said it. This wasn't a case where if we have six more weeks, maybe we can work it out. The positions were, 'This is our position, and we are not going to change.'"

By late spring of 2003, the race issue was threatening to kill the Barnes proposal. In an *Inquirer* article on May 27, Julian Bond asked, "Would this have happened if it had been Swarthmore" instead of Lincoln?

Why, he wondered, were the backers of a Barnes move also insisting on a reduced role for Lincoln? "That invites the question, 'Is race an issue here?'" Bond said.

The story infuriated the Barnes side. "This is not a racial matter," Barnes attorney Carl Solano would say later. "And it wouldn't be right to make it one."

To make that point, Watson, Adams and Solano asked to meet with *The Inquirer's* editorial board.

"White people are afraid of race issues," Watson told the board. "You know that. I do not have to tell you that."

Adams said the race issue was causing some of the financial backers "to consider whether they ought to abandon this project."

Leonore Annenberg, in particular, was upset, Adams said recently. She and her husband had long supported diverse causes, including the United Negro College Fund.

Members of the Barnes board, too, "did not want to get into having to go to war with Lincoln," Solano said. Two had served on Lincoln's board, and one was a Lincoln graduate. A battle with Lincoln "had the potential of being nasty" - of replaying Richard Glanton's controversial time as a Lincoln board member and Barnes president, for instance, Solano said.

On June 16, according to Fisher, Watson and Rimel told him that "unless this got resolved, they wanted me to be aware they were going to pull the plug on this deal."

They would set Labor Day as a deadline.

By the summer of 2003, Attorney General Fisher had given the Barnes' proposal the formal support of his office, leaving Lincoln legally stranded. It had allies, to be sure, but they were art critics, scholars, Barnes art students - no one with legal standing.

One man was particularly disturbed by Fisher's stance: Rob Powelson, who had chaired Fisher's gubernatorial campaign in Chester County the year before.

Powelson had also recently become one of the few white men on Lincoln's board.

In the second week of his July vacation on Long Beach Island, New Jersey, Powelson was walking back from the beach with his wife, Lauren, and their 1-year-old son when his cell phone rang. It was Fisher, calling back to discuss his decision.

The call got loud in a hurry.

"Let's be honest, Mike," Powelson said, his voice rising. "You wouldn't treat Judith Rodin [of Penn] or Father Lannon at St. Joe's or Father Dobbins at Villanova this way.

"Dammit," Powelson continued, "you have to speak to us with respect. At least hear us out."

He waved off Lauren, who grabbed the beach chairs and the bucket and pushed the stroller toward the house they had rented.

"I understand your position," Fisher replied, "but understand where we are." The Barnes was headed for bankruptcy, he said. It had wealthy people ready to bail it out, but they'd walk if the court fight dragged on. Fisher said he had tried to persuade the Barnes to give more seats on the expanded board to Lincoln but failed.

"Look, Rob," Fisher said. "I don't think your position is as strong as you think... . This is a great opportunity for Lincoln to be involved in the new facility. Take it as a positive."

At its June meeting, Lincoln's executive committee had begun changing course. The Barnes case, with its mounting legal bills, was sapping dollars and energy from other priorities - new buildings and an endowment campaign.

"Our resources were being drained and we just could not see an end to it," said Gihan, soon to be Lincoln's chairman.

With the three foundations still refusing to speak with Lincoln, the university's leaders decided to meet instead with the Barnes board. Lincoln was determined to demonstrate "that we are equal partners in this," Gihan said. "We deserve that regard."

Gihan called Watson. "We need to establish a relationship," Gihan later recalled telling him. "This is ridiculous."

As Labor Day neared, the two sides were making modest progress - they agreed to a joint art program that echoed what Albert Barnes and Horace Mann Bond had discussed. But the stalemate over the expanded Barnes board remained.

The art program is "not a trade-off" to get Lincoln to drop its court fight, Powelson says he told Watson. "Just don't think you are going to make us fold like a cheap suit."

Labor Day, deadline day, fell on Sept. 1. It was less than two weeks away.

Gihan was home in Chicago on Saturday, Aug. 23, when his phone rang. No number showed on his caller ID, but there was no mistaking the gravelly voice at the other end. "Hi, this is Gov. Rendell."

Two Barnes backers, Rimel and Lenfest, had asked the governor to intervene.

But before Rendell and Gihan had a chance to meet, Labor Day arrived, and on Sept. 2, lawyers for the Barnes group told the court they were preparing to withdraw their petition.

"We felt it was fruitless to continue if Lincoln was not going to give up their control of the Barnes board," Lenfest said that day. "I am terribly disappointed."

Two days later, Rendell broke away from difficult state budget talks in Harrisburg in an attempt to rescue the disintegrating proposal.

At his office in the Bellevue, Rendell told Lincoln's Gihan, Scott, Powelson and Nelson that ever since Ray Perelman had come up with the idea, he had wanted to see the Barnes in Philadelphia.

Then he listened to why Lincoln wanted 12 seats on the expanded 15-member Barnes board - 80 percent, preserving the oversight role Albert Barnes had given to the university.

What about eight seats instead of 12? "That could be negotiated," Rendell said. "I will talk to Bernie Watson."

Suddenly, compromise was in the air.

Lincoln did not want the Barnes board to be able to routinely reject its nominees. Rendell nodded; he would talk to Rimel. Lincoln wanted funding for the joint art program it had negotiated with the Barnes. Rendell agreed; the program would draw people to Lincoln from all over the country, he said.

Lincoln, a state-supported university, needed new buildings. Rendell pointed out that Pitt, Temple and Penn State had received extra state money for new buildings. In fairness he would consider the same for Lincoln.

And while it was no "quid pro quo," Rendell said he was a pretty good fund-raiser and could help Lincoln with its \$100 million capital campaign. Tapping Philadelphia's wealthiest for money would be easier, he said, if Lincoln would help the Barnes move downtown.

"I looked at what their needs were, what their maintenance costs were, and I was astounded at how we had neglected Lincoln," Rendell said later. "We had made it a stepchild." Regardless of what happened with the Barnes, he said, "I wanted to rectify that."

Negotiations that had languished for nearly a year now raced forward.

On Sept. 8, Powelson and Nelson finally met for the first time with a leader of one of the three foundations, cable pioneer Gerry Lenfest. Powelson had asked his political mentor, State Sen. Bob Thompson, to arrange it.

Out of that meeting came an understanding: Lincoln would not settle for four seats on the Barnes board. The Barnes had to do better.

"Hindsight being 20-20, we should have been talking," Powelson recalls Lenfest saying that day.

On Sept. 9, Rendell, with Fisher at his side, presented specific offers to Lincoln's team: \$50 million for two new academic buildings at Lincoln, \$30 million for 10 other Lincoln projects.

The Barnes group, Rendell and Fisher said, had assured funding for the joint arts program.

And they had agreed to give Lincoln the right to nominate five seats, instead of four - seats that would actually be more like appointments than nominations.

Finally, "we now had everyone's attention," Gihan later said. Finally, there was a recognition of "what Lincoln's contributions had been, what Lincoln's role is and needs are."

Although Gihan wanted at least six seats, he agreed to take the offer to Lincoln's executive committee on Sept. 11.

The Barnes wanted Lincoln's answer by Sept. 12.

Members of Lincoln's executive committee wrestled over their watershed vote.

Some feared that if Lincoln took its chances in court, a victory might well drive the Barnes into bankruptcy and out of Lincoln's control anyway.

"If we just ignore these opportunities, what would happen? Would we then have anything from the Barnes," Gihan asked himself. "We had our integrity - which drove us - and mounting bills on top of that.

"If we win, we lose."

Others on the committee were reluctant to accept the deal and drop Lincoln's court fight. They thought that the matter had been "influenced all along by racial issues... that the white man was taking this and that," Gihan said. "We had to work our way through that."

In the end, the committee voted unanimously to accept five board seats out of 15, along with the governor's funding assurances. (The Barnes board would nominate the rest.)

But the 13 members thought that giving up Albert Barnes' bequest deserved a vote by Lincoln's full 39-member board, which was to meet Sept. 20.

On the morning of Sept. 12, with the Barnes board gathered at its lawyers' offices waiting for a fax of the agreement, Gihan called to ask for more time. He wouldn't sign yet.

"We've got to know today," Gihan remembers Watson saying.

For the three foundations, waiting till Sept. 20 was out of the question. "They thought after a while that they were getting sort of extorted," Rendell said later. "I didn't think that was correct. I thought the Lincoln folks were fighting for the things they believed in."

Alerted that the deal was collapsing, Rendell called Fisher, and the two old rivals concocted a last-ditch plan to persuade Gihan to approve the deal.

Rendell would play good cop - he had the money to offer. Fisher would play bad cop - he could intervene in court.

At 3 p.m., Gihan's cell phone rang. He had to step out of a meeting to take the call.

"I have until 3:30 to talk," Rendell told him. "I have two minutes," Fisher said. "Then I am going."

Make a decision now, Rendell said. There was no more time. Are you a leader? the governor asked. Leaders take risks.

Gihan still wanted six seats, not five. And Lincoln's lawyers wanted some changes in the agreement.

"That's nitpicking," Fisher snapped.

"If you don't do this," Rendell said, "the attorney general may be forced, whether he wants to or not, to go into court and say that these guys cannot financially continue in this vein and ask that, according to the will, it be turned over to an art museum."

If that happens, the governor said, "You have nothing."

Gihan thought hard about what Rendell had said about leadership.

Then he signed.

Epilogue: After Lincoln's exit, a small group of Barnes art students took up the legal fight and lost. In 2004, a judge approved the Barnes' requests to expand its board and move its gallery - rulings upheld last month by the state Supreme Court.

The Barnes and Lincoln have begun nominating members to the expanded Barnes board, and \$100 million has been pledged for the move downtown. The Barnes has not yet released a construction time line for the new gallery.

Lincoln has received some of its promised state funding and is planning two new academic buildings. It is moving forward, with no outside funding, on its art program with Barnes.

Rendell said he intends to keep his promise to help the school increase its endowment. On May 1, Lincoln gave him an honorary degree.

How This Story Was Reported

Inquirer reporter Patricia Horn, who has covered the Barnes Foundation since September 2002, interviewed more than 30 people for this story. Scenes and conversations were confirmed by two or more of those present. In the few instances when the story comes from only one person, that person is specifically cited as the source.

Among those interviewed were Gov. Rendell, former state Attorney General Mike Fisher, Mayor Street, and members of their staffs; Lincoln University president Ivory Nelson, board chairman Frank Gihan, and executive committee members Rob Powelson and Donn Scott; Arlin Adams, Carl Solano and two other lawyers for the Barnes Foundation; and philanthropists Raymond Perelman and Dorrance Hamilton.

People who declined to be interviewed or did not return repeated phone calls were Pew Charitable Trusts president Rebecca Rimel, philanthropists H.F. "Gerry" Lenfest and Leonore Annenberg, Barnes Foundation president Bernard Watson, Barnes director Kimberly Camp, and 2002 foundation board members Stephen Harmelin, Jacqueline Allen and Stephanie Bell-Rose.