

**In Praise of Art and the Museum that Houses It:
A Letter to the Lynchburg Alumnae of Randolph-Macon Woman's College**

On October 1, 2007, four paintings-- *Men of the Docks* by George Bellows, *A Peaceable Kingdom* by Edward Hicks, *Through the Arroyo* by Ernest Hennings, and *Trovador* by Rufino Tamayo-- were wrapped in bubble wrap, removed from the Maier Museum, loaded into a white van, and transported to Christie's in New York to be sold at auction. The removal of the paintings and the Mafia-style tactics used by the perpetrators sent shockwaves through the Lynchburg community and beyond. What follows is a discussion of the value of art, the role of the Maier Museum, the flawed rationale for the sale, and past and future litigation. **We discuss particularly the cogent reasons for the nonsuiting of the art lawsuit and correct erroneous and misleading statements that appear in John Klein's letter of March 8, 2008 and Christa Desrets' story in the *News and Advance* of Sunday, March 7, 2008.** The final section urges continued support of the Art Defense Fund at this critical time in the ongoing efforts to save the Maier Museum collection.

The Value of Art

Last year a former trustee of Randolph-Macon Woman's College, in defending Randolph College's desire to sell paintings that had been purchased with funds from the Louise Jordan Smith Trust, commented:

Students do not need to see the art in the form it exists at the Maier--they could be perfectly content with the excellent digital images now available to be made, hung in the same places, and many will never even want to know the difference. For those who do, they might well have an experience similar to my own, loving art in all forms because of what they learned in college.

It seems insensitive to the value of art for past and present students and for the Lynchburg community that a former trustee of what was a preeminent liberal arts college for women would suggest selling the art and filling the Maier Museum with digital images.

Alas, we inhabit an electronic age marked by an ever-increasing ability to produce fakes that look real. Replicas, simulations, video images, and digital prints have become the norm. Virtual reality has replaced real experience to such an extent that we no longer recognize and value what is genuine. Daniel Yankelovich, public opinion analyst, avers, "What I see in America today is an almost religious zeal for the technological approach to every facet of life. It transcends mere love for new machines. It's a value system, a way of thinking and it can become delusional" (quoted in Richard Luov, *Last Child in the Woods*, 60). In January of this year, Lawrence Bowden, former chaplain of Randolph-Macon Woman's College and currently professor of religion and culture and chair of the department of American culture at Randolph College, gave a talk in the main gallery of the Maier Museum on "Art and the Human Spirit." He observed:

...intuitively at least, we know that the difference between the fake and the genuine matters because some, at least, are willing to pay millions for the real thing. What the real thing has the fake lacks. What's missing in a fake is the presence of the original. Soul, if you will. The fake re-presents the original to you in the way a snapshot of a loved one or friend does. No matter how effectively the image mimics your loved one or awakens your memory of them, the loved one is not present.

I remember a visit to the Metropolitan Museum of Art in New York many years ago. The museum had Leonardo da Vinci's *Mona Lisa* on loan. I had seen many reproductions of the painting, but standing in the presence of that unique and inimitable work was an inspiring and transforming experience.

Recall, too, the enthusiasm with which the North Koreans responded recently to the New York Philharmonic Orchestra. This normally staid and enigmatic people stood up, clapped their hands, and waved wildly for they had just heard a memorable concert. Do you think for one minute that a CD recording would have elicited such a response?

Unlike the performing arts, paintings, sculptures, poems, each one the unique and irreplaceable creation of human genius, endure. They exist over time and thus acquire a history, a biography, if you will, which only adds to our appreciation of them. Susan Vreeland, artist, novelist, and teacher, writes:

That a thing made by hand, the work and thought of a single craftsman, can endure centuries longer than its maker, can survive catastrophe, neglect, even mistreatment, has always filled me with wonder. In museums looking at a humble piece of pottery from ancient Persia or Pompeii, or a medieval illuminated manuscript, or a painting of a person with yearnings like mine, I am moved with awe and tenderness. (“A Penguin Readers Guide to *Girl in Hyacinth Blue*,” 4)

The *News and Advance* recently carried the story of Franz Xavier Winterhalter’s *Girl from the Sabine Mountains*, whose ownership is currently being contested by the heirs of Max Stern, a Jew living in Nazi Germany, and Baroness Maria-Luise Bissonnette, whose stepfather, Dr. Karl Wilharm, was a Nazi sympathizer. In March 1937 Stern was forced to hand over two hundred paintings to an auction house in Cologne. Bissonnette’s stepfather bought *Girl from the Sabine Mountains*. (*News and Advance*, Sunday February 3, 2008, E1,4) Today that painting is more than the portrait of a young woman, more than its estimated value of \$67,000 to \$94,000. The honor of those two families is inextricably bound up with the ownership of it. Do you think either side will be satisfied with a digital print?

The four paintings now at Christie’s also have a history. Just picture ten years from now the docent standing before *Men of the Docks* and recounting its sudden, unexpected departure from the museum, its peregrinations around the country, its dramatic recovery and its journey home. If a digital print is hanging there on the wall, there will be no history to tell because there will be no painting.

The Maier Museum

The paintings that make up the college’s art collection hung for many years in the dormitories and were part of your home-away-from-home. They were warm, friendly presences that enriched your lives outside the classroom. When the Maier Museum received the paintings, Lawrence Bowden tells us, “it became a sanctuary, a place devoted to preserving, protecting, and promoting what we value most as human beings.” The four paintings currently at Christie’s are part of that collection.

In *A Free and Ordered Space: The Real World of the University*, A. Bartlett Giamatti reminds us of the vulnerability of the arts “especially in institutions without professional schools of music or art or drama or architecture [or dance] to act as buffers or lobbyists” (143). Randolph-Macon Woman’s College, however, has always protected, indeed featured, its programs in the arts. The sale of any paintings from the Maier Museum diminishes the value of this unique collection and jeopardizes the art curriculum.

The Maier Museum abides by the American Association of Museums code of ethics. It avoids encumbering any painting with conditions that limit flexibility in managing the collection. While the collection is valued as good investments, only two conditions permit the sale of any painting. The museum may sell a painting in order to buy a different one that fills a gap in the collection or adds balance to it or for direct collection care (conservation). It may not sell paintings in order to enhance the general endowment of the institution. Thus the Virginia Association of Museums, the Association of Art Museum Directors, and the College Art Association have raised their voices in protest of the sale. Such a sale sends a disturbing message to colleges and universities throughout the country that their art collections are at risk and may be sold, thus undermining the integrity of their programs in the arts.

The Flawed Rationale for Selling the Art

Randolph College currently boasts an endowment of \$153 million, up from \$142.8 million in 2006. The endowments of other small, private liberal arts colleges in Virginia for 2006 are as follows:

- Hampden-Sydney College \$125.9 million
- Randolph-Macon College \$112.2 million
- Hollins College \$109.4 million
- Roanoke College \$103.6 million
- Sweet Briar College \$93.6 million
- Emory and Henry College \$79.0 million
- Lynchburg College \$75.6 million
- Bridgewater College \$54.0 million
- Virginia Wesleyan College \$45.8 million
- Shenandoah University \$44.7 million
- Ferrum College \$39.4 million
- Mary Baldwin College \$38.0 million
- Eastern Mennonite University \$21.8 million
- Averett University \$21.5 million (PEC Open Letter to the R-MWC Community, June 6, 2007)

All these institutions, including three women's colleges, have smaller endowments than Randolph College; yet all of them are able to live within their means. In the transitional year 2006-2007 R-MWC/RC grew the endowment by some \$11 million. These figures indicate it does not need to sell the art. In fact, Randolph College's financial position looms in sharp contrast to that of Fisk University whose 19th- and 20th-century art collection donated to the University by Georgia O'Keeffe has been tied up in litigation for the past two years. Initially Fisk hoped to sell the art; then it tried to share the art with the Crystal Bridges Museum in Arkansas for \$30 million. In a ruling handed down on March 6, 2008 by Davidson County Chancellor Ellen Hobbs Lyle, Fisk University learned that it may not sell the art or share it. Rather it must take the art out of storage and display it by October 6, 2008. The ruling continues:

It is not just the interests of Fisk which the Court must consider. In the case of a charitable gift, the law requires the Court to take into account the public interest....By allowing the Collection to remain displayed at an educational institution in this part of the country where it can be viewed by students, residents of the area and visitors, the public interest is served.

Fisk University has been living on the financial edge for years. Its buildings are mortgaged, its endowment depleted, and past efforts to bail it out have failed (Associated Press story in *News and Advance*, Dec. 29, 2007, 1,3). In response to the question "Similar to Randolph?" posed by the newspaper, the answer is "absolutely not."

The Maier Museum collection is valued at approximately \$100 million. Along with Randolph College's investments and real estate holdings, the collection represents a valuable asset, greatly augmenting the wealth of the institution. The collection is not as negotiable as stocks and bonds, and, unlike investments, it does not generate interest; yet like investments it appreciates in value. *Men of the Docks* was purchased for \$2,500 in 1920; its estimated worth today is \$35 million. The collection has also inspired donations like the Sally Oglesby Disharoon Art Fund, the Suzanne Goodman Elson Maier Museum of Art Acquisition Fund, the Anne Moore Gignilliat and Sarah Ruth Gignilliat Gruggs Maier Museum of Art Acquisition Fund, the Hamaker-Hynning Maier Museum of Art Acquisition Fund, the Maier Museum of Art Fund, the Outten Endowed Visiting Artists Program "to assist in promoting the Maier Museum," the Louise Smith Art Fund, and the Ethel Baker Tucker Maier Museum of Art Acquisition Fund. Art lovers will cease to endow such funds for the purchase of art that will be sold for cash and replaced in the museum by digital prints. President Klein has promised that "the College will endow the directorship of the museum from proceeds from the paintings' sale" (Letter dated January

2008, 4). The use of museum acquisitions from the sale of art for salaries would be an unconscionable act and would violate the museum code of ethics. Besides, a museum without paintings or with digital prints hanging on its walls hardly needs a director.

It is inconceivable that the trustees would want to sell an irreplaceable treasure that gives the college distinction in order to grow what is already a more than adequate endowment. The rational mind would want to preserve such a treasure so that it might continue to delight and to educate as it also continued to increase in value. Financial growth is important because a valuable collection attracts admiration, visitors, grants, exhibiting opportunities, and respect and fame for the college as a whole. Similarly, violating museum ethics and indulging in shortsighted unethical sales brings condemnation, unwelcome notoriety, and loss of reputation.

Past Litigation

On October 23, 2007 attorneys representing the students, alumnae, and donors who are involved in the breach of contract and charitable trust cases currently before the Virginia Supreme Court along with the eleven interveners in the Louise Jordan Smith trust case filed a complaint in Lynchburg Circuit Court requesting a temporary and permanent injunction against the sale of the four paintings and other art. At the November 8 hearing on the plaintiffs' request Judge Leyburn Mosby, Jr. denied Randolph College's motion to dismiss the case and granted the temporary injunction subject to the posting of a \$10 million bond by 4:30 PM on Thursday, November 15.

The attorneys for the plaintiffs appealed both the imposition and size of the bond to the Virginia Supreme Court. The Supreme Court left the bond in place but reduced the amount to \$1 million due on Monday, December 3, 2007. The Supreme Court ruling effectively halted the sale of the paintings or their auction at Christie's until December 3, 2007 even without the posting of any funds. Despite the intervening Thanksgiving holiday and the lack of any fund-raising apparatus, Preserve Educational Choice, Inc. received donations ranging from tiny amounts to \$100,000 from current and former students, donors, and supporters of the Maier Museum. PEC deposited a check for \$500,000 with the Lynchburg Circuit Court on December 3 and simultaneously asked the Virginia Supreme Court to accept that as the full amount needed to secure a temporary injunction until the art trial in the Circuit Court. The Supreme Court declined the request and set a deadline of February 15, 2008 for the posting of the full \$1 million. That deadline passed without the completion of the \$1 million bond requirement – meaning that the temporary injunction preventing the sale of the art until the art trial was never enforced.

Although there is no temporary injunction against the sale of the paintings, Randolph College officials stated repeatedly in December that they would not sell the paintings before the art trial. With the removal of the warning from the college's accreditor, the Southern Association of Colleges and Schools (SACS) in mid-December the purported reason for the art sale no longer even exists. More recently, however, in a filing with the Virginia Supreme Court in the week of February 18, Randolph College stated:

...the College plans to sell the Four Paintings at its earliest and most financially advantageous opportunity. Although the College has no immediate plans to sell the paintings until after the current court trial, the College cannot represent that it will not sell if the temporary injunction were dissolved and a willing buyer made an offer acceptable to the College's Board of Trustees...

At the hearing in Lynchburg Circuit Court on February 5, the plaintiffs requested a postponement of the art trial until the two cases before the Virginia Supreme Court are adjudicated. Judge Leyburn Mosby, Jr. declined to postpone the trial but did allow the trial date to be extended by six weeks to allow time for all parties to evaluate the Supreme Court rulings, which were expected at that time in mid-April (that date has subsequently been pushed back by the Supreme Court). At the same hearing, he also narrowed the subject matter of the art trial to the four paintings in the custody of Christie's rather than the full collection and took under advisement the plaintiffs' request for a jury trial.

The Nonsuiting of the Art Lawsuit

On Friday, March 7, 2008 on the advice of counsel, the plaintiffs in the art lawsuit and Preserve Educational Choice, Inc. nonsuited the art lawsuit without prejudice. The art lawsuit had already achieved its main purpose, which was to prevent Christie's from auctioning the paintings at its November 2007 auction of American art. In addition, the Southern Association of Colleges and Schools (SACS) lifted its warning in December 2007, thus making the sale of the art unnecessary for Randolph College's continued accreditation. In his ruling on February 5, 2008, Judge Leyburn Mosby, Jr. narrowed the scope of the lawsuit to the four paintings currently at Christie's, thus leaving the other paintings in the permanent collection unprotected by the proceedings in the art trial. Conversely, the charitable trust appeal, currently before the Virginia Supreme Court "may provide protection for all of the art in the permanent collection by recognizing that Randolph College does not have the right to use the assets of R-MWC for coeducation." (PEC Update, March 7, 2008) The update continues:

Counsel has advised us and the plaintiffs that even if our financial and human resources were unlimited, a nonsuit of the art lawsuit and a focus on the charitable trust appeal is the best way to protect the art.... We refuse to allow the College to squander more of R-MWC's financial resources while wasting our own donors' funds in needless litigation that accomplishes nothing more at this point to protect the permanent collection of art in the Maier Museum.

The Supreme Court is expected to hear the student contract and charitable trust cases during the week of April 14 with a ruling anticipated by June. If the College attempts to sell the art in the meantime, the art lawsuit could be readily re-filed. President Klein's statement that the litigation against Randolph College to halt the sale of the four paintings "was dropped yesterday, Friday, March 7" is thus misleading as is Christa Desrets' statement that the art lawsuit was nonsuited "with prejudice." The art lawsuit was nonsuited without prejudice, which simply means that it can be re-filed if necessary. There is also nothing preventing other parties from bringing additional lawsuits to protect the art.

The Art Defense Fund

Preserve Educational Choice, Inc. created the Art Defense Fund in August 2007 to pay the costs of the art defense litigation. The Art Defense Fund needs your financial support now more than ever as the legal fees to defend the art to date have been steep and clearly more work may be required. Checks should be sent to Preserve Educational Choice, Inc., P.O.Box 29612, Richmond, Virginia 23242. Make the check out to "Preserve Educational Choice, Inc.," and write "Art Defense Fund" on the memo line. All donations to the Art Defense Fund are restricted to preserving the art, not the general restoration of Randolph-Macon Woman's College. Donations may also be made through the PEC website (www.PreserveEducationalChoice.org). All donations are tax deductible to the amount allowed by law.

It is the ultimate irony in this whole bizarre affair that, while Randolph College trustees have at their disposal the endowment of Randolph-Macon Woman's College to fund the litigation whose purpose is to sell a Randolph-Macon Woman's College treasure, opponents of the sale must appeal to alumnae and friends of Randolph-Macon Woman's College to thwart the sale.

In his letter of January 2008 to "Members of the Randolph community," President Klein extends an invitation to you to come to campus to find out why Randolph College wants to sell the art. Don't disappoint him. Tell him you have read his letter but still have some questions. Ask him why women's and coeducational colleges like Sweet Briar, Hampden-Sydney and Mary Baldwin, all with smaller endowments than Randolph College, are able to live within their means but Randolph College cannot.

Explain to him that Randolph College is not your college; your college is Randolph-Macon Woman's College. She has been replaced, and her replacement should not be selling her assets. Contact recent and current trustees living here in Lynchburg. Express outrage at what is happening and remind them of the irreparable harm that will be done to the college and the community if RC attempts to sell the art. Remind them of the professional condemnation and public outrage that have already descended upon Randolph College and the city of Lynchburg because of RC's reckless removal and shipment of the four paintings to Christie's for auction. Here are the trustees' addresses:

Lynn Hume Stuart, 1415 Robinhood Place, Lynchburg, VA 24503
Marc Schewel, 3241 Elk Street, Lynchburg, VA 24503
Frances Giles, 3852 Peakland Place, Lynchburg, VA 24503
Donald M. Giles, 3852 Peakland Place, Lynchburg, VA 24503
Charles W. Pryor, Jr., 1164 Pryor Ridge Terrace, Lynchburg, VA 24503
Lee Sanford "Sandy" Ainslie, Jr., 107 Alydar Place, Lynchburg, VA 24503

Remember, museums, behaving ethically, will not purchase the Maier paintings, so they will end up privately owned. *Men of the Docks* could well be bought by an oil magnate in Dubai, and another piece of Americana would be gone forever. Removing these magnificent works from a public venue may well violate the college's obligation under law to serve the public interest in exchange for its tax-exempt status as a charitable and educational organization. For 87 years, Randolph-Macon Woman's College and its art professionals have promised Lynchburg citizens and all donors of funds and works of art to the museum that the collection is permanent and that Lynchburg citizens will always have free access to view the collection. Lynchburg citizens must rise to demand that these magnificent cultural treasures be protected and these promises honored. Otherwise, Lynchburg will lose these jewels, quite unnecessarily, to generate cash that the college does not need, in violation of both museum ethics and the public trust.

Becky Baltzer, class of 1962, has produced a wonderful new website for R-MWC alumnae at www.rmwc-alumnae.org. The "Timeline of R-MWC: History" provides a background for the current crisis and a listing of the significant events since 2005.

All the best,

Charlotte Stern
Charles A. Dana Professor of Romance Languages, R-MWC, 1961-1962, 1968-1992.

March 18, 2008