

## COMMISSIONING ISIS

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For over 40 years I was general counsel to the Institute of Scrap Iron and Steel, Inc., (ISIS), a national trade association located in Washington, D.C.<sup>1</sup> As counsel, I regularly attended quarterly association board meetings and litigated on its behalf nationwide cases, three of which went to state supreme courts. Over the years many scrap dealers became some of my closest friends. Since most of the companies were family owned, my wife, Marilyn, frequently accompanied me on my quarterly trips.

Some understanding of the metal scrap processing industry is instructive. What is generally not known by the public is that approximately 50% of the new steel manufactured in the United States comes from scrap iron. The other 50% comes from iron ore. It is the job, therefore, of the scrap processor to refine the numerous scrap grades so they can be melted into new steel by steel mills and foundries without further processing or refining.

This paper, however, is less about my legal involvement with ISIS, and more about my life-long participation in and love of contemporary art. The story begins March 16, 1977, when I received a telephone call from Herschel Cutler, the Institute's executive director.<sup>2</sup> "I hope you're seated," he said, because what he was about to say was going to floor me. For a fleeting moment I was worried I was going to be replaced as counsel. Cutler stated that a special committee had been formed to select an appropriate project to commemorate the Institute's 50th anniversary which would occur in 1978. Initially the committee considered a display for a science or industry museum. When that suggestion was rejected, the committee decided to make a gift to the United States of a work of art fabricated from scrap iron. I responded to Cutler that I concurred; it was a great idea.

"But, wait," said Cutler. "You haven't heard it all." Cutler had contacted the Hirshhorn Museum and Sculpture Garden in Washington, D.C. to ascertain if it would be receptive to the gift. As the principal national collection of modern sculpture, the museum responded that not only would it accept the gift, but also would commit to its installation prominently on the plaza for a period of not less than five to ten years.

I was thrilled. "There is more," said Cutler. The Hirshhorn has agreed that the Institute can host a dedication ceremony at the museum in the summer of 1978 to which Washington dignitaries would be invited. Association members will donate scrap metal for the fabrication of the piece and the Institute will produce a documentary film commencing with the artist selecting the material.

"The immediate matter " said Cutler "is selecting the artist " The decision will be made

me. I knew he had been an art major at Indiana University. "No," he answered. "Hunter was discussed and said he wants you."

"I would be honored to do it, but I want the officers to know that I think one of them should be on the panel." "David," said Cutler, "you and I have been friends for a long time. So you will understand when I tell you that it also had been my recommendation that an Institute officer serve on the panel, but they insist that it be you, if you will accept."

"Of course," I said. "What's the next step?" "Get ready to come to Washington to meet at the Hirshhorn." "Actually," I replied, "there is only one logical artist for the job, Mark di Suvero." "Di Suvero," questioned Cutler? "Who's he? That's whom the committee suggested, but I've never heard of him. How did you know?"

"Di Suvero is the leading artist working in scrap metal," I responded.

"They also mentioned a woman as a possibility," said Cutler. "It must be Louise Nevelson," I replied. Cutler said that he did not remember her name.

"How much is the Institute willing to spend," I asked. "\$100,000," replied Cutler, "\$50,000 to the artist and \$50,000 for the dedication party."

Several days later Cutler called again. "Can you be in Washington on March 31 to meet at the Hirshhorn?" "I'll be there," I answered.

On the morning of March 31, I entered the office of Abe Lerner, director of the Hirshhorn. Also present was Stephen Weil, the assistant director, whom previously I had met at the Contemporary Arts Center in Cincinnati while he was still at the Whitney Museum in New York. Weil introduced me to Lerner, whom he called Al, and to Ira Licht of the NEA. I knew Licht because he had been approached by the search committee of the CAC, of which I was chairman, to apply for the then vacant position of director.

Our meeting lasted some two hours. It was our unanimous consensus that di Suvero was our first choice, followed by Tony Smith or Louise Nevelson. Licht, whose job was to commission works of art for public places, cautioned that \$50,000 probably would not be sufficient to obtain a work by the three artists mentioned. He felt that \$100,000 would be more realistic, particularly since di Suvero's pieces were then selling for more than \$200,000.

My reaction was that the higher the price exceeded \$50,000, the less chance there was that the Institute's board would approve the project. I promised to do what I could. First, however, the selection had to be approved by the Hirshhorn's acquisition committee, which was scheduled to meet in May, and then by the Hirshhorn's board meeting in June.

At a dinner meeting in April, the Institute officers met high in the president's suite in the Peachtree Hotel overlooking Atlanta. I apprised the officers of the need for \$100,000 to obtain a top-flight artist. The officers enthusiastically agreed they would support the program.

Two days later I met with the Institute's Special Projects committee and repeated the

A second past president was equally vocal in his opposition. My heart began to sink, as I believed the project was doomed. Although there was some isolated support, most of those who spoke that evening were vehemently opposed. Finally, at 11:30 p.m., after more than an hour of contentious debate as the evening grew late, a motion was made and approved to table the issue until the next day.

When the board meeting resumed in the morning, the motion to approve the project was taken from the table. The first speaker, a director from Chicago, invited the board's attention to an article which just had appeared in the Atlanta Constitution reporting the objection to the newly unveiled Claes Oldenburg *Baseball Bat*, recently installed in Chicago. The newspaper reported that an elderly homeless man complained that the government spent over \$100,000 for the one hundred foot Oldenburg sculpture, but denied him either a food stamp or 25 cents to purchase a cup of coffee.

Other less emotional objections followed, with directors stating that while they might personally be in favor of the project, they could not, in good conscience, vote trade association funds for a work of art.

The debate continued for almost an hour. Then, as discussions neared conclusion, two dramatic events occurred. First, Barry Hunter, rose in support of the plan. Almost teary-eyed, he argued that this was an industry which should be grateful to the United States for giving its founders an opportunity to prosper. He stated that the highest purpose of the trade association would be to give back to the country something to express the deep gratitude of this industry. He looked forward to being present at the dedication ceremony in the summer of 1978 when members of Congress, cabinet members and perhaps even the president of the United States would be present to accept the gift. Hunter asserted that the Institute should be elated that this was the first trade association to conceive of this idea. In answer to the criticism that members would be opposed to the gift, he disagreed. To the contrary, he felt that when members visit Washington with their families, they proudly would be able to walk to the Hirshhorn mall to show their children and grandchildren the gift in which they had participated.

Hunter sat down to rousing applause. He was followed by the chairman of the Institute's Finance committee. He stated that the evening before he had voted against allocating \$150,000 for the project. But, overnight he had given a great deal of reflection to the program and was reversing his vote. He was wholeheartedly in favor of the plan and felt that members of the association would similarly take pride in the gift.

Finally, the time for voting arrived. A roll call vote was requested and approved. In my twenty years of representing the Institute, I could not recall a previous roll call vote. As each member's name was called and their vote recorded, one could sense the tension in the room. When the final result was tabulated the project had passed twenty-nine to thirteen

reproduction rights, location of the piece, the plaque that would be installed on the sculpture, rights of deaccession and other details.

Two months later, in May, I telephoned Weil to ascertain if the Hirshhorn had made any progress with di Suvero. Weil replied that they were inching along. Upon the advice of Licht, Al Lerner had contacted Dick Bellamy, the artist's dealer, rather than di Suvero. Weil stated he had just completed a call to Bellamy and some preliminary terms of the commission had been discussed. Weil told me he had quoted a price of \$85,000 to Bellamy. Bellamy inquired as to whether or not this was the top price. Weil replied that there was some money available for travel, shipping, documentation, installation, etc. He did not indicate the exact amount. Bellamy is to talk to di Suvero today and I am to telephone Bellamy tomorrow to commence negotiating a contract.

July 6, 1977 was a blazing hot day. I caught the early plane to Washington for a meeting with Bellamy and di Suvero. Upon arriving at 10 a.m. at National airport the temperature was already in the high 80s and the remains of my poison ivy were beginning to itch.

From the airport I went to Institute headquarters to meet with Cutler. I cautioned him that Bellamy may be dressed like a homeless street bum. I added that he should not be dismayed by his appearance as Bellamy, a legendary art dealer, had one of the sharpest artistic eyes in the country. As founder of New York's Green Gallery in 1960, Bellamy was the first to exhibit Donald Judd, George Segal, Claes Oldenburg, James Rosenquist, Lucas Samaras, Richard Serra and, of course, di Suvero.

At noon the receptionist announced Bellamy and di Suvero's arrival. Bellamy was just as I had described him. Wearing a cream colored cotton suit with narrow, perhaps one and one half inch wide lapels, it must have been 30 or 40 years old. Its pockets, lapels and seams were frayed and appeared to have been torn and resewn hundreds of times. He was wearing a khaki colored shirt with no tie, and a pair of Tretorn tennis shoes spattered with paint. Over his shoulder, in lieu of a suitcase, was slung a fishnet sack through which one could observe a change of underwear, socks and clothing.

Bellamy, although slight, was tall, with fragile features, very much like a china doll. His hair was flecked with gray and he was wearing licorice colored bent glasses. It seemed inconceivable that this person, born and raised in Wyoming, Ohio, the son of a Chinese mother and Kentucky father, was the renowned art dealer who had discovered many of the decade's great Pop artists.

Accompanying Bellamy was Mark di Suvero, wearing blue jeans, a short-sleeved copper colored yellow striped shirt with a twelve inch rip under his left arm pit and black high topped basketball sneakers. He walked with the use of a metal cane to stabilize his legs, badly crushed in 1960 as a result of riding on the top of an elevator which crashed into the ceiling of the

I had heard from others that di Suvero was a difficult person. In protest to the Vietnam war he had become an expatriate living in France, and only returned to the United States after the war's end. At lunch, however, he could not have been more charming. He laughed easily and most graciously and willingly talked about himself and his art. There was nothing aloof, pretentious, elite or removed about him. He explained that he was totally captivated and excited about the project.

He felt that it was a "gas" for the scrap processing industry to request a piece of sculpture from him. As a young artist he had rummaged through junk yards and scrap yards finding pieces of material with which to make art. When he did not have enough money to make purchases from junk yards, he used found objects for his sculpture. Now, here was the scrap industry commissioning him for a work of art for installation at the Hirshhorn. Di Suvero agreed that the piece be named *Isis*, the acronym for the Institute of Scrap Iron and Steel, but also the name of the great Egyptian goddess, the patron of magic and the Ritual of Life.

Di Suvero was captivated by the Hirshhorn. He commented that the photographs of the museum showed it to be more formidable than it really was. He was delighted by its openness and the random display of sculpture on the mall.

Di Suvero looked forward to meeting members of the scrap processing industry to learn about its flavor and background. He readily agreed to cooperate in making a documentary of the project, both in film and photography, although he did not like photographers in his studio while he was working. This was the result of the installation of his sculpture in the Tuileries gardens in Paris when numerous hours were consumed on photography.

Following lunch, di Suvero, Bellamy and Lerner returned to the museum. We were delighted by the meeting and congratulated ourselves on what appeared to be a certain successful project.

In September, Weil telephoned and briefly we discussed di Suvero. He told me the museum was tremendously excited about di Suvero's plans. Apparently di Suvero was talking about a piece that would weigh approximately 50 tons and could be as high as 70 or 80 feet.

Weil cautioned this could present a problem for the Hirshhorn because the plaza was constructed over fill and swamp. The Calder on the plaza weighed only 10 tons. Weil also had discussed with Bellamy the height of the piece, pointing out that if it exceeded the 80 feet height of the museum, people might think that it was the work of a megalomaniac. Bellamy agreed, and promised to speak with di Suvero about holding down its size.

It was now June of 1978 and the time was fast approaching for the dedication ceremony scheduled for July. Bellamy advised me by telephone that in di Suvero's Petaluma, California studio, the piece was being disassembled and loaded onto trucks for shipping. According to Bellamy the sculpture measured 42 1/2 feet high, 65 feet long and 33 feet wide. The piece

Cutler, Hunter and other ISIS officers were at the Hirshhorn attempting to persuade di Suvero to remove the tepee and promise not to involve himself in what could become a demonstration at the dedication ceremony scheduled for Wednesday. By noon, the crisis was over, the tepee removed and di Suvero proceeded with completion of the piece.

Later that afternoon I went over to the Hirshhorn. The beams of the sculpture were in place at the back of the museum. The locomotive cab and the hull of the ship were resting on the ground. I spoke briefly with di Suvero and Bellamy and then spent the next two hours watching the construction of the piece. The dedication ceremony was in less than two days.

At noon on Tuesday, during a break in the ISIS committee meetings, I was back at the Hirshhorn. The hull of the ship was still on the ground. There were rumors that the locomotive cab would not be used. Di Suvero simply did not have enough time to incorporate it into the piece, and there were feelings that the sculpture would be cluttered with its addition.

After dinner that evening I returned to the Hirshhorn. The dedication was scheduled for the next morning. It was now 11 :30 p.m. and they were still working on the piece. Eight attempts were unsuccessful in suspending the hull. Mark had been unable to properly balance it. Finally, at 12:15 a.m. a final effort was made successfully and the cables from the crane were removed. The locomotive cab was hauled away and the workers celebrated with a bottle of wine. It was a happy and joyous moment for those who had worked for some ten days to complete the sculpture.

Upon awakening Wednesday morning I immediately turned on NBC's Today Show. The announcer stated that the next item to be shown was the erection of the giant sculpture being installed at the Hirshhorn in Washington. At 8: 15 a.m. the Today Show ran an uninterrupted five minute film. It was a time sequence filmed over ten days of constant photography by the NBC newsmen, starting with the arrival of three flat bed trucks at the Hirshhorn, the unloading of the scrap I-beams by the giant crane, the erection of the piece, and finally, a shot of the finished sculpture taken at 6 a.m. that morning. The most dramatic part was di Suvero signaling the crane operator with a wave of his hand, his fist clenched, celebrating the completion of the piece.

The Wednesday morning edition of the Washington Post ran an editorial discussing the sculpture, stating it was not "art".

At noon we boarded buses to the Hirshhorn. It was close to 90 degrees, but a beautiful day with some cloud cover and not too humid. We were admitted to a special outdoor section on the Mall and immediately took our seats. A graphic artist from the Institute's public relations firm brought a specially prepared deed of gift which I had drafted. Signature lines were drawn for the Institute's president, secretary and executive director and three witnesses. I signed the deed as the first witness

At 1:30, the Institute's officers and I boarded cabs to the White House. We assembled in the Roosevelt room where President Jimmy Carter's liaison's officer presented us with a letter from the president accepting the gift on behalf of the country and thanking the Institute. Chip Carter, the president's son, appeared and greeted us warmly. He conducted a brief tour of the White House, ending in the Rose Garden where our photographs were taken.

Upon leaving the White House we found Pennsylvania Avenue blocked by the Indians marching in peaceful protest for their rights.

That evening, a reception was held on the Hirshhorn plaza. Stephen Weil offered congratulations, stating, "We finally did it."

The next day major full page articles appeared in both the Washington Post and Washington Star. The headline in the Post proclaimed that the piece was art, taking sharp issue with the previous day's editorial. The photograph of the dedication ceremony in the Washington Star showed an aerial view, and I could clearly see my wife and me sitting in the fourth row.

That afternoon I went back to the Hirshhorn and talked with di Suvero just before he was leaving. As we shook hands one could sense the feeling of satisfaction and triumph in his eyes, although I knew he was not fully satisfied. He said to his friends he never again would work with a trade association because none would possess the deep understanding of his work as did the Institute. Furthermore, he disliked the deadline under which he was required to produce. However, as Al Lerner commented, "All artists have deadlines, and when do artists ever fully complete their work?"

Steve Weil stopped by and said that no one yet realized the magnitude of the gift. Its importance will be felt for years to come.

Lerner asked di Suvero whether or not he wanted the piece painted. Mark answered that he supposed it should, otherwise it would stain the plaza with rust and would slowly deteriorate. He was thinking that the hull should be painted white, the inside of the hull black, and the supporting beams blue. He also intended to retain the steel cables holding the hull, rather than replacing them with anchor cable. He wanted the hull to feel free to sway rather than be bound.

Later, as memories of the dedication faded, Hunter, observed, "This man is a gift from heaven. His determination, spirit, cheerfulness, love of humanity, ever present smile and dancing eyes, all transcend the piece."

For me personally, perhaps the highest complement came from a review of the commission in the January, 1978 issue of Art News magazine which stated, "An informal advisory committee was formed which consisted of (Abram) Lerner, Cincinnati attorney David Reichert (of Gould, Reichert and Strauss, general counsel for the institute) and Ira Licht, coordinator of Works of Art in Public Places for the National Endowment for the Arts, who was called in as an outside consultant because of his expertise on the subject of outside sculpture

owner to the Port of San Diego for one year commencing July 2004, as part of its Public Art Program. According to Martignoni, the loan has been extended for a second year.

In 1981, Millard Rogers, director of the Cincinnati Art Museum, requested that, together, we approach di Suvero about acquiring out-door sculpture for the museum's grounds. Our joint effort resulted in the purchase and installation in the fall of 1985 of di Suvero's *Atman*, which is currently at the museum. But, that is another story for another time.

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1987 the Institute of Scrap Iron and Steel, Inc. merged with the National Association of Recycling Industries, Inc. The merged entities were initially known as ISIS/NARI, Inc., and in 1988 changed its name to the Institute of Scrap Recycling Industries, (ISRI).

References herein are based on actual quotes made contemporaneously with the occurrence.