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HEARING

BEFORE THE

COMMITTEE ON

LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

RALPH E. KENNEDY, OF CALIFORNIA, TO BE A MEMBER
OF THE NATIONAL LABOR RELATIONS BOARD

NOVEMBER 20, 1970

Printed for the use of the Committee on Labor and Public Welfare



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1970

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(II)

NOMINATION

FRIDAY, NOVEMBER 20, 1970

U. S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The committee convened at 10:30 a.m., pursuant to recess, in room 4232, New Senate Office Building, Senator Ralph W. Yarborough (chairman of the committee) presiding.

Present: Senators Yarborough (presiding), Randolph, Nelson, and Dominick.

Committee staff present: Robert O. Harris, staff director; Gene E. Godley, general counsel; Roy H. Millenson, minority staff director; and Eugene Mittelman, minority counsel.

The CHAIRMAN. The Committee on Senate Labor and Public Welfare will come to order.

The first order of business this morning is the hearing on Ralph E. Kennedy of California to be a member of the National Labor Relations Board.

Mr. Kennedy, we have your biographical statement which will be placed in the record, certain recommendations on your behalf and reports of the region's performance, a favorable report on your performance in California and your certificate which has been awarded for your outstanding performance in 1963, your performance at different levels of service to the NLRB.

You come to this appointment with great experience. I order all of these documents printed at this point in the record.

(The documents referred to follow:)

(1)

Ralph E. Kennedy
 849 South Broadway
 Los Angeles, California 90014
 213-688-5204 (Office)
 XXXXXXXXXXXX (Home)

Born November 20, 1919, Springfield, Missouri
 Height 5 ft. 7 in.
 Weight 155 lbs.
 Health Excellent - physical checkup May 1970
 Married - four children

Education: Public schools, Springfield, Missouri, 1926-1938.
 Southwest Missouri State College, 1938-1942.
 Washington University School of Law, 1942-1944,
 LL.B. (J.D.). (Tuition free scholarship throughout
 law school awarded on basis of undergraduate college
 academic record and forensic accomplishments.)

Admitted to Practice: Missouri State Courts and U. S. District Court at
 St. Louis, Missouri, 1944; U. S. Court of Appeals
 for the Eighth Judicial Circuit, 1946.

1958 to Date: Regional Director, Region 21, National Labor Relations
 Board, Los Angeles, California.

Kennedy's appointment to the Board was strongly supported
 by attorneys representing both labor and management. For
 example, see the attached letter of Albert Brundage, who
 has offices in Los Angeles, San Francisco, and San Diego.
 Similar letters were submitted by other labor attorneys
 handling at least 80 per cent of the cases in the Los Angeles
 area.

Region 21's performance under Kennedy's direction has been
 praised and commended repeatedly as a highly efficient opera-
 tion by General Counsels Arnold Ordman and Stuart Rothman.
 See the following additional attachments: Memoranda of
 Assistant General Counsel John Fenton, dated June 24, 1970,
 October 31, 1969, August 20, 1969, and July 28, 1969, re
 Region's performance; Letter of Associate General Counsel
 Gordon, dated June 9, 1969, commenting on the outstanding
 job done by Region; Letter of General Counsel Ordman, dated
 August 23, 1967, transmitting Certificate of Commendation
 and granting within-grade salary increase; Certificates of
 Commendation, dated May 10, 1963, March 1960, and November 1,
 1957.

- 1955-1958: Regional Director, Region 14, National Labor Relations Board, at St. Louis, Missouri. In 1957, the St. Louis office, under the direction of Mr. Kennedy, was awarded a certificate of commendation for sustained achievement in production and quality of work. This was the first time that such commendation had been made of an entire Regional operation.
- 1948-1955: Field Attorney, National Labor Relations Board, assigned to St. Louis office for 5 years and to Buffalo, New York, office for 2 years. Also detailed to Regional Offices in Fort Worth and Atlanta as well as the General Counsel's Office in Washington, D. C.
- 1944-1948: Private practice of law with Lewis, Rice, Tucker, Allen and Chubb, Railway Exchange Building, St. Louis, Missouri. Work concentrated in labor field but also handled probate, corporate, real estate, and tax matters.

BRUNDAGE, NEYHART, MILLER, ROSS & REICH

ATTORNEYS AT LAW
1621 WEST NINTH STREET
LOS ANGELES, CALIF. 90015 — (213) 808-3071

ALBERT BRUNDAGE
STANLEY H. NEYHART
EDWARD MILLER
MARGARET ROSS
JULIUS REICH
DANIEL REICH
L. B. MATTHEWS, JR.
ROBERT FROMMELT
GEORGE A. PAPPY

PAUL CHASE
BRYAN ROSEMAN
ANTHONY J. BUCHHEIT
FREDERICK T. PICKARD
HERMAN FEUERSTEIN
MAX MATYER
THOMAS L. SKIDMAN
ROBERT CROFOOT

HARRY POLLARD
ECONOMIST

BRUNDAGE, NEYHART, GRODIN & DEERON
100 BIRCH STREET
SAN FRANCISCO 94104
(415) 858-4050

August 28, 1970

STEVEN ROSEMAN
OF COUNSEL FOR
WORKMEN'S COMPENSATION MATTERS

BRUNDAGE, WILLIAMS & ZELLMANN
3700 BIRTH AVENUE
SAN DIEGO 92101
(714) 254-4088

The Honorable James D. Hodgson
Secretary of Labor
Main Labor Building
Washington, D. C. 20210

Dear Mr. Secretary:

I understand that among the persons being considered for the position of Member of the National Labor Relations Board, is Ralph E. Kennedy, Regional Director of Region 21 of the National Labor Relations Board.

My office represents a majority of the labor organizations in the Los Angeles, California area, among which are the Teamsters, Electrical Workers, Plumbers, Plasterers; Operating Engineers, and numerous others. In our dealings with Mr. Kennedy he has always been fair and honorable, and we have known him to be impartial, learned and just.

Although we do not consider Mr. Kennedy to be pro-labor, in our view neither is he anti-labor. For these reasons, we commend to you and to the President, the nomination of Ralph E. Kennedy.

Very truly yours,

ALBERT BRUNDAGE

AB:ebw

5010-107 (Rev. 1-27-60)

UNITED STATES GOVERNMENT

Memorandum

TO : Ralph E. Kennedy
Director, Region 21

FROM : John H. Fenton
Assistant General Counsel

SUBJECT: Performance - May 1970

DATE: JUN 24 1970

Attached are your performance factors for the month of May 1970. The ball charts attached reflect your position relative to other Regions.

J. F.
J. H. F.

Attachments

P.S. It gets old telling you so regularly that your performance is excellent. But please let the staff know that we are most appreciative and they should be proud of this kind of performance.

J. F.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Ralph E. Kennedy
Director, Region 21

FROM : John H. Fenton
Assistant General Counsel

SUBJECT: Performance - September 1969

DATE: OCT 31 1969

Attached are the statistical materials reflecting the Region's performance for the period ending September 30, 1969.

It really merits no comment except praise for the staff. For the first quarter of the fiscal year your performance has been excellent in every respect. The settlement rate of 90 - 95 - 97 for those months is spectacular. Productivity has ranged from 16 to 17. RD Decisions were issued in median times of 37 and 38 days, and the median for Reports on Challenges/Objections has varied between 25 and 35 days. Median age of cases under investigation has gone from 7 to 18 days, and complaints have issued in medians of 35 and 46 days.

This was accomplished while the office was seriously understaffed and while you were saddled with several enormous compliance problems. We can only express our gratitude to all for such a fine record.

JH
J. H. F.

Attachments

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Ralph E. Kennedy
Director, Region 21

FROM : John H. Fenton
Assistant General Counsel

SUBJECT: Performance - July 1969

DATE: AUG 20 1969

Attached are your performance charts for the period ending July 31, 1969.

As the figures reveal, Region 21 again excels in all areas of measured performance. I know that you and your staff worked hard to obtain the outstanding performance record you achieved in fiscal year 1969. The July figures show that the Region plans to continue its high level performance and to maintain its standing as one of the best performing Regions in the country.

Many thanks for your efforts.

J. H. F.
J. H. F.

Attachments

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Ralph E. Kennedy, Director, Region 21

DATE: JUL 28 1969

FROM : John Fenton, Assistant General Counsel

SUBJECT: Performance Factors

Attached are your performance figures for the period ending June 30, 1969.

Again, you and your staff are to be congratulated for the fine record of performance you have maintained during the past fiscal year.

Keep up the good work and we do appreciate the efforts you have made to achieve the position of one of the best performing regions in the country.

J. H. F.

H. Stephen Gordon
Assistant General Counsel



NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

JUN 9 1969

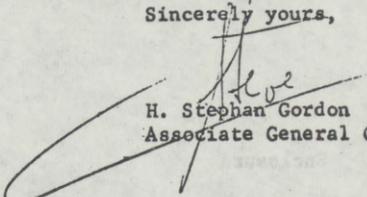
Mr. Ralph E. Kennedy
Regional Director
NLRB, Region 21
Los Angeles, California.

Dear Ralph:

As you know Charly Prael sent me a copy of his June 2, 1969, letter to you expressing his appreciation for the thorough and expeditious handling of the above case by Leonard Cohen and the Region. I am enclosing a copy of my reply to Charly. Needless to say, such letters are a source of considerable gratification.

Too many times we take for granted the high caliber work done by Region 21. As Charly says in his letter, the Bar expects this type of performance from Region 21 and since it is consistent, Washington has come to expect it also. We do appreciate it and perhaps we should tell you so more often. In any event, I could not let the opportunity pass to join with Charly Prael in thanking you and your staff for the outstanding job you are doing.

Sincerely yours,


H. Stephan Gordon
Associate General Counsel

Enclosure



NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

August 23, 1967

Ralph E. Kennedy, Director
National Labor Relations Board
Region 21
Los Angeles, California

Dear Ralph:

It gives me genuine pleasure to send you a Certificate of Commendation, tangible evidence that the high level of effectiveness which has come to be characteristic of your performance has been officially recognized.

In addition to the Certificate, you have also been granted a within-grade salary increase, effective July 16, 1967, which has already been reflected in your check.

Please be assured that I appreciate very much your past efforts, and that I wish you continuing success in the days ahead. Your cooperation and record of achievement have been of great assistance in carrying out the Agency's mission.

Congratulations and best wishes.

Sincerely yours,

Arnold Ordman
Arnold Ordman
General Counsel

Enclosure



NATIONAL LABOR RELATIONS BOARD
CASEHANDLING PERFORMANCE AWARD

Presented to

Regional Director Kennedy and the Staff of the 21st Region

in Official Recognition and Appreciation of their
Excellent Casehandling Performance
during the first quarter of Calendar Year 1963.

May 10, 1963

W. J. Brennan
General Counsel

NATIONAL LABOR RELATIONS BOARD



Certificate of Award

The Staff of the Los Angeles Office

*I hereby awarded this certificate in recognition of its
outstanding contribution to case handling improvement
during the period September 1959-February 1960.*

Washington, D.C., March 1960

Howard H. Brown
General Counsel



NATIONAL LABOR RELATIONS BOARD

Certificate of Commendation

Presented to THE STAFF OF THE ST. LOUIS REGIONAL OFFICE

in Official Recognition and Appreciation of SUPERIOR TEAM WORK WHICH

HAS RESULTED IN SUSTAINED ACHIEVEMENT OVER THE PAST FIFTEEN MONTHS.

November 1, 1957

Arvonne P. [Signature]
General Counsel

The CHAIRMAN. We will also place in the record at this time the statute creating the National Labor Relations Board and setting out certain duties of it. Do you have a statement you care to make, Mr. Kennedy?

(The document referred to follows:)

[Excerpt From Public Law 101, 80th Congress, as Amended]

NATIONAL LABOR RELATIONS BOARD

SEC. 3. (a) The National Labor Relations Board (hereinafter called the "Board") created by this Act prior to its amendment by the Labor Management Relations Act, 1947, is hereby continued as an agency of the United States, except that the Board shall consist of five instead of three members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of two years. Their successors, and the successors of the other members, shall be appointed for terms of five years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but no other cause.

(b) The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. The Board is also authorized to delegate to its regional directors its powers under section 9 to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof, except that upon the filing of a request therefor with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such a review shall not, unless specifically ordered by the Board, operate as a stay of any action taken by the regional director. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

(c) The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed.

(d) There shall be a General Counsel of the Board who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Board shall exercise general supervision over all attorneys employed by the Board (other than trial examiners and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law. In case of a vacancy in the office of the General Counsel the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person or persons so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment *sine die* of the session of the Senate in which such nomination was submitted.

* * * * *

The CHAIRMAN. First we will recognize Senator Murphy who has a statement on behalf of the nominee, being a constituent of his, from the great State of California we welcome you here as a member of the

committee. We should have had you up here at the table since you are a member of the committee.

I want to compliment you as chairman of this committee on your attendance at the committee hearings over the years we have been here together. Your attendance has been above the average level.

You have been diligent in the pursuit of the duties of this committee. As you know when we have an executive session we must have nine out of 17, when we needed a quorum and I remember the times you came to help us make a quorum.

STATEMENT OF HON. GEORGE MURPHY, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator MURPHY. At one time I enjoyed the unquestionable honor of being a member of the labor union and the only Member of the Senate who was a member of a labor union.

The CHAIRMAN. However, we had Senator Pat McNamara on this committee before you were elected to the Senate.

Senator MURPHY. I am delighted to have the opportunity to introduce to the Committee on Labor and Public Welfare my good friend, Ralph E. Kennedy, who has been nominated by the President to be a member of the National Labor Relations Board.

Mr. Kennedy is a "pro" in the field of labor relations, having worked in the area since 1944. He began in private practice in St. Louis, Mo., then was a field attorney for the National Labor Relations Board in several cities, next he was the regional director of region 14 in St. Louis, and most recently, he has distinguished himself as the regional director of region 21 in Los Angeles, Calif.

Mr. Kennedy's appointment to the Board is strongly supported by attorneys representing both labor and management. Letters in support of his nomination have been submitted by those attorneys in the labor field handling at least 80 percent of the cases in the Los Angeles area.

In addition, his region's performance during the time he was regional director has been praised repeatedly as a highly efficient operation by the NLRB General Counsels Arnold Ordman, Stuart Rothman, and Jerome Fenton.

I take great pleasure in introducing Mr. Kennedy to the committee.

I have had some experience dealing directly with Mr. Kennedy in the motion picture industry in years gone by. He enjoys the confidence of both sides of the movie industry and enjoys the friendship of highly regarded members of the industry.

So, Mr. Chairman, I consider it a great honor and pleasure to introduce to this committee Mr. Ralph E. Kennedy.

The CHAIRMAN. Thank you, Senator Murphy.

Mr. Kennedy, do you have any statement you care to make?

STATEMENT OF RALPH E. KENNEDY, MEMBER-DESIGNATE OF THE NATIONAL LABOR RELATIONS BOARD

Mr. KENNEDY. The only statement I would care to make is to thank the committee for scheduling this committee on my nomination so soon after the Congress reconvened. I would also like to thank the members of the committee and their staffs for the courtesies they have extended to me as I have called upon them.

I knew the Senators were very busy. I did not really appreciate the demands made on their time when I started making the calls on my nomination. Again, I do appreciate the kindnesses that have been extended to me by all of the members of this committee.

The CHAIRMAN. As chairman of this committee, when it comes to an appointment to the NLRB, people are more concerned what a person's attitude is toward capital and labor than whether he belongs to a political party.

I commend you on the many commendations you have received, letters written to me and oral statements that you were not considered pro and/or antilabor or management but that you were a fine man.

In the years you have worked for the NLRB you have this enviable record of being fair to both management and labor so you come here without one breath of opposition that I know of from anywhere after many years of hearing cases on both sides.

Having served as a trial judge myself for 5 years I know how difficult that is because often the losers do not like the judgment. I have studied your financial statement and there is absolutely no conflict of interest of any kind in that and there is no impediment whatsoever.

Senator Dominick.

Senator DOMINICK. Mr. Chairman, I have no questions to ask Mr. Kennedy. You come from Texas and me coming from Colorado, it would be nice to have someone coming from one of our States. Senator Murphy has introduced a fine man and I am glad to see Mr. Kennedy appearing before us.

The CHAIRMAN. Thank you very much, Mr. Kennedy, and thank you, Senator Murphy.

This matter will be considered at the first executive session this committee holds.

(The following information was submitted for the record:)

U.S. SENATE,
Washington, D.C., September 29, 1970.

HON. RALPH YARBOROUGH,
Chairman, Labor and Public Welfare Committee,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have received the enclosed September 24 letter from Frank R. Kennedy regarding the nomination of Ralph E. Kennedy to be a member of the National Labor Relations Board.

I would deeply appreciate your Committee's consideration of Frank Kennedy's letter during its deliberations on this most important nomination.

With kind regards, I am
Sincerely,

QUENTIN N. BURDICK.

Enclosure.

UNIVERSITY OF MICHIGAN LAW SCHOOL,
Ann Arbor, Mich., September 24, 1970.

Senator QUENTIN BURDICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BURDICK: * * * If you will indulge me, I shall take the opportunity in this letter to tell you of my brother, Ralph E. Kennedy, who was nominated last week by President Nixon to membership on the National Labor Relations Board. Ralph is the fourth of a family of five brothers. We grew up in Springfield, Missouri, where our father was a rural mail carrier. All of us completed professional training, and Ralph, like his brothers, worked his way through college and law school. After practicing law for four years in St. Louis, he joined the staff of the St. Louis Regional Office of the National Labor Relations Board as an attorney in 1948. For the 22 years since he has served continu-

uously and exclusively with the Board. Originally appointed as Regional Director of the St. Louis Office in 1955, he remained in that office until 1958, when he was appointed Regional Director of the Los Angeles office. (He has thus served in a directorial capacity during the administration of Presidents Eisenhower, Kennedy, and Johnson, as well as the present administration.)

Ralph's record as an attorney and as an administrator with the Board has been one of extraordinary effectiveness and dedication. During so long a career with the Board he has had ample opportunity to demonstrate his ability, his expertise, his integrity, and his objectivity to both employers and labor unions, and to the counsel who represent them.

Ralph has been commended by every General Counsel of the Board for whom he has worked since 1957. The present General Counsel, Arnold Ordman, has repeatedly praised his office as one of the best performing Regions in the country.

Ralph's appointment to the Board has been urged by lawyers representing both labor organizations and employers in the Los Angeles area. I take the liberty of suggesting as possible references the following lawyers who represent most of the labor organizations: Albert Brundage, Charles K. Hackler, Lionel Richman, and Kenneth Schwartz. I also suggest as possible references the following lawyers who represent management: Charles G. Bakaly, Jr., Leonard Janofsky, William F. Spalding, Sharp Whitmore, and Charles Prael. Their addresses and telephone numbers are listed on the attached sheet.

My bias is patent, but I am sure that inquiry of those who have an objective perspective will disclose that Ralph is a remarkable person with exceptional qualifications to fill the position for which the President now seeks the advice and consent of the Senate. I shall deeply appreciate your interest in this nomination.

Sincerely yours,

FRANK R. KENNEDY.

Enclosure.

1. Albert Brundage, Esq., Brundage, Neyhart, Miller, Ross & Reich, 1621 West Ninth Street, Los Angeles, California, 90015 (213) 385-3071.

Represents Los Angeles County Building Trades Council, Ventura County Building Trades Council, Orange County Building Trades Council, California State Building Trades Council, Western Conference of Teamsters, and most Teamster Locals in Southern California, Electrical Workers, Plumbers, Plasterers, and Operating Engineers.

2. Charles K. Hackler, Esq., 1411 West Olympic Boulevard, Suite 301, Los Angeles, California 90015, (213) 386-3860.

Former partner of Albert Brundage. In addition to those named above, Mr. Hackler has represented AFL-CIO Laundry workers, Upholsterers, Glass Bottle Blowers, Newspaper Guild, and Stovemounters.

3. Lionel Richman, Esq., 1336 Wilshire Boulevard, Los Angeles, California 90017, (213) HU 3-7400.

Represents San Bernardino-Riverside County Building Trades Council and many craft unions in those counties, Laborers in Southern California, and some Teamster Locals.

4. Kenneth M. Schwartz, Esq., Arnold, Smith & Schwartz, 6404 Wilshire Boulevard, Suite 950, Los Angeles, California 90048, (213) 653-6510.

Represents UAW, Steelworkers, and Retail Clerks.

1. Charles G. Bakaly, Jr., Esq. (Labor Partner), O'Melveny & Myers, 611 West Sixth Street, Los Angeles, California 90017, (213) 620-1120.

2. Leonard Janofsky, Esq., 510 South Spring Street, Los Angeles, California 90013, (213) 628-3301.

3. William F. Spalding, Esq., Gibson, Dunn & Crutcher, 634 South Spring Street, Los Angeles, California 90014, (213) 620-9300.

4. Sharp Whitmore, Esq., Gibson, Dunn & Crutcher, 634 South Spring Street, Los Angeles, California 90014, (213) 620-9300.

5. Charles F. Prael, Esq. (Labor Partner), Pillsbury, Madison & Sutro, Standard Oil Building, 225 Bush Street, San Francisco, California 94104, (415) 421-6133.

6. Daniel J. Sullivan, Esq., Lewis, Rice, Tucker, Allen & Chubb, 1555 Railway Exchange Building, 611 Olive Street, St. Louis, Missouri 63101, (314) MA. 1-1731.

7. Theophil, Kammholz, Esq., Vedder, Price, Kaufman & Kammholz, 39 South LaSalle Street, Chicago, Illinois, (312) FI. 6-5544.

8. Francis F. Sulley, Esq., Vedder, Price, Kaufman & Kammholz, 39 South LaSalle Street, Chicago, Illinois, (312) FI. 6-5544.

(Whereupon, at 10:40 a.m., the committee proceeded to the consideration of further business.)



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[Faint, mostly illegible text, possibly bleed-through from the reverse side of the page.]