

February 2, 1943

MEMORANDUM FOR JUDGE STEPHENS

No. 7948. American Gas & Electric Co. v. S. E. C.

Dear Harold:

I intended before this to acknowledge receipt of the copy of your dissenting opinion, which has now come down with the decision handed down yesterday.

I found your dissent extremely interesting and also the additional information which you secured from the respective attorneys concerning the legislative history. However, it is superfluous for me to say that neither was sufficient to change my judgment that the evidence was sufficient to sustain the Commission's findings. I think our basic difference lies in the fact that, as I see it, you treat each of the factors shown to sustain controlling influence as separate and distinct from the others, whereas in my view it is not sufficient to consider each of them separately but rather account must be taken of the sum total of the effect of all of the factors added together. The case has been interesting.

W. R.