

A Peppery Judge in

Washington

In his six years on the bench, controversy has been routine for Judge Gerhard A. Gesell of the U.S. District Court in Washington.

Gesell, 63, is now hearing pretrial motions in the case of the break-in at the office of Daniel Ellsberg's psychiatrist — and making headlines for his stinging rebukes to James D. St. Clair, President Nixon's lawyer.

Yesterday, he startled those following court actions growing out of the Watergate scandals when he separated the case of John D. Ehrlichman, the President's former adviser on domestic affairs, from that of the others accused in the break-in.

But the white-haired jurist is well-known for his willingness to tackle controversial issues and make potentially far-reaching decisions, as well as for his tart commentaries.

In November, 1969, Gesell, in his first widely noted decision, overturned the District of Columbia's abortion law as unconstitutional.

In 1970, Gesell took on one of the more cherished Capitol Hill prerogatives in ruling that a congressional committee report — the report in question was issued by the House Select Committee on Assassinations and its 56d "radical revolutionary" campus speakers — could not be printed and distributed at public expense.

The report, he said in his opinion, had "no relationship to any existing or future legislative purpose and was issued solely for . . . exposure of intimidation." Later that year, however, the House adopted a resolution that overruled the judge, and the report was printed.

Early in 1971, Gesell ruled that it was unconstitutional for members of Congress to hold military-reserve commissions during their terms of office. The same year, he ruled that the FBI must restrict its distribution of ra-



AP Wirephoto

U.S. District Judge Gerhard A. Gesell as he walked to work yesterday

rest records outside the federal government.

In June, 1971, the judge re-

fused a request by the government for an injunction halting publication by the

Washington Post of a series of articles based on a Pentagon study of United States

Washington

involvement in Vietnam.

"Our democracy," he wrote in his ruling, "depends for its future on the informed will of the majority, and it is the purpose and effect of the First Amendment to expose to the public the maximum amount of information on which sound judgment can be made by the electorate."

But he has been highly critical of pretrial publicity at times, telling special Watergate prosecutor Leon Jaworski in February, "It seems to me your good sense should keep you off (television) talk shows" during the pretrial hearings in the case of Dwight L. Chapin, who was convicted in April of lying to a grand jury."

Gesell, a Democrat who was appointed by former President Lyndon B. Johnson in 1967, has the reputation of being one of the most liberal, and civil libertarian, of judges on the federal bench here.

In the courtroom, he is always attentive, capable of withering scorn alternating with a sudden, disarmingly warm smile of deferential courtesy or slashing rebuke.

Gerhard Alden Gesell was born in Los Angeles on June 16, 1910.

His father, Arnold L. Gesell, was a noted pediatrician whose counsel was the basis of a generation of child-rearing. He graduated from Phillips Andover Academy in 1928, from Yale College in 1932, and from Yale Law School in 1935.

The next year, 1936, he married his wife, Peggy, and moved to Washington, where he was an attorney with the Securities and Exchange Commission until 1940.

In 1941, he joined the prestigious Washington law firm of Covington & Burling, of which he was a partner when appointed to the bench in 1967.

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