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Wiretaps to Kissinger or Haig

A Tackler of Controversial Issues

Gerhard Alden Gesell

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WASHINGTON, June 11 —

In his six years on the bench, controversy has been routine for United States District Court Judge Gerhard A. Gesell. The 63-year-old judge is

**Man
in the
News**

now hearing pre-trial motions in the case of the break-in at the office of Daniel Ellsberg's psychi-

atrist—and making headlines for his stinging rebukes to James D. St. Clair, President Nixon's lawyer.

Today, he startled those following court actions growing out of the Watergate scandals when he separated the case of John D. Ehrlichman 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, Judge Gesell (pronounce as in gazelle), in his first widely noted decision, overturned the District of Columbia's abortion law as unconstitutional.

Challenging the Traditional

The next year, Judge Gesell took on one of the more cherished Capitol Hill prerogatives, ruling that a Congressional committee report—one that was issued by the House Internal Security Committee and that listed some 65 "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, the House adopted a resolution that overruled him, and the report was printed.)

Early in 1971, the judge 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 F.B.I. must restrict its distribution of arrest records outside the Federal Government.

In June, 1971, Judge Gesell refused a Goovernment request for an injunction halting publication by The Washington Post of a series of articles based on a Pentagon study of United States 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."

Critic of Pre-Trial Publicity

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

Judge Gesell, a Democrat who was appointed by 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 deference.

Gerhard Aldens Gesell was born in Los Angeles on June 16, 1910. His father, Arnold L. Gesell, was a noted pediatrician whose advice was the basis of a generation of child-rearing. The son graduated from Phillips Andover Academy in 1928, from Yale College in 1932, and from Yale Law School in 1935.

Start With the S.E.C.

In 1936, he married and moved to Washington, with his wife, Peggy. There 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.

The Gesells, who have a house in Georgetown, have a son, Peter, 35, who is assistant superintendent of the Fernald School for the Retarded in Massachusetts, and a daughter, Patricia, 32, who teaches at the Bank Street Cdllege of Education, in New York City.

The Gesells generally spend their summers on an island in Penobscot Bay, in Maine; weekends are often spent at their small cattle farm near Leesburg, Va.

The judge, a very moderate social drinker who smokes a pipe in chambers, but rarely at home, is described by one friend as a "joyful, serious man." He enjoys presiding over a New Year's Day open house in a red waistcoat that, with his white hair, pink-apple cheeks and sparkling blue eyes, make him a model of Mr. Pickwick or, as one friend sees him, of a clean-shaven Santa Claus. But he is also, friends say, deeply concerned with social problems and with the ethical and moral issues facing the country and his own profession.