

# Kissinger Loses Appeal To Keep Records Private

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The U.S. Court of Appeals for the District of Columbia yesterday ruled that voluminous records of Henry Kissinger's thousands of telephone conversations as secretary of state belong to the public, not to Kissinger.

The decision by a three-judge panel upholds that of U.S. District Court Judge John Lewis Smith who ruled last December that Kissinger's telephone records at the State Department are public documents, subject to public access under the Freedom of Information Act.

While Kissinger's lawyers have not yet announced whether they will appeal the decision, it is widely assumed that the Supreme Court will be asked

to consider the issues. The case poses precedents which may someday affect any Cabinet officer seeking to retain control over "private papers" after he or she leaves office.

Kissinger, who served as secretary of state from December 1973 to 1977 under President Nixon and Ford, had a government secretary make verbatim memoranda of all his telephone conversations. At the end of his tenure, Kissinger declared that these were his personal papers, not official documents, and he sought to retain control over them.

The Reporters' Committee for Freedom of the Press, joined by the American Historical Association and the American Political Science Association, sued under the Freedom of Information Act, asking the federal courts to declare that all 33,000 pages of the telephone transcripts should remain in public archives.

Judge Smith ruled that Kissinger's telephone notes during his five years as White House adviser to President Nixon were not subject to public access, because of his status as confidential presidential assistant, a position not covered by the freedom of information rules. But Smith ruled against Kissinger on his papers from his State Department tenure, and the Court of Appeals agreed on both points.