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Federal Judge Is to Rule On Kissinger Phone Records

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Former Secretary of State Henry A. Kissinger was accused in federal court yesterday of unlawfully removing transcripts of eight years of telephone conversations from government files and donating them to the Library of Congress under an agreement to lock them away for 25 years.

U.S. District Court Judge John Lewis Smith said after a hearing that he would rule later on a motion by journalists and historians to force the State Department to repossess the secretarial transcripts so they can be made public under the Freedom of Information Act.

A suit to gain access to the transcripts was filed in February by the Reporters Committee for a Free Press, the American Historical Association, the American Political Science Association and eight individuals.

Since then, a public interest group, the Military Audit Project, has joined in the suit.

Robert Sussman, attorney for the Reporters Committee, argued in a preliminary hearing that the transcripts are public records under the Federal Records Act and "it was unlawful" for Kissinger to treat them as personal papers and remove them from State Department files.

David Ginsburg, Kissinger's attorney, said highest State Department legal officials approved the donation to the Library of Congress in keeping with a standing policy that "working papers" of an official do not belong in the official records.

Ginsburg said the transcripts, used by Kissinger's staff to update his appointment schedule and to follow up on his oral commitments, were unedited and contained inaccuracies as well as confidential information that should not be made public.