

LEGIS.

Private Briefings Given by Kissinger Made Public by U.S.

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Special to The New York Times

WASHINGTON, March 6—The State Department, responding to a request under the Freedom of Information Act, formally made public today transcripts of background briefings given to reporters by Secretary of State Kissinger.

Some Administration officials said the release of the information could threaten the practice in which Government officials provide private guidance to newsmen. Discontinuance of such briefings would be contrary to the intention of the Freedom of Information Act, which was designed to give the public greater access to secret information.

The information released today, which concerned the recent nuclear arms negotiations in Vladivostok, had previously been disclosed in substance, but not attributed to Mr. Kissinger.

The transcripts deal with briefings of newsmen on Nov.

Continued on Page 6, Column 1

KISSINGER LINKED TO NEWS BRIEFING

Continued From Page 1, Col. 8

25 and Dec. 3, in which Mr. Kissinger explained how the agreement on ceilings for nuclear arms was reached and what it meant.

Pros and Cons of Practice

Background briefings have been regarded by journalists and officials as a vehicle for providing information that officials would not make available if they were to be identified.

Some have criticized the practice on the ground that it exposed reporters to manipulation and left officials publicly unaccountable for his words.

The State Department deleted on grounds of national security about three of the 60 pages of transcripts.

Mark B. Feldman, a State Department lawyer, said it had been determined that attribution to Mr. Kissinger could damage national security.

Mr. Feldman said this was consistent with the executive order of 1972 implementing the law that provides for secrecy when "unauthorized disclosure could be reasonably expected to cause damage to the national security."

The Freedom of Information act of 1966 has gradually expanded by amendments extending the range of agencies covered. Under the act, interested citizens are entitled to access to all but the most sensitive records. On Feb. 19 the act was extended to cover the Central Intelligence Agency, the Federal Bureau of Investigation, the Pentagon and the State Department.

Morton H. Halperin, who requested the information on the Kissinger briefings on behalf of the American Civil Liberties Union, disputed Mr. Feldman's view.

He contended that, in addition to making a judgment on the substantive merits of secrecy, the government agency must impose secrecy in accordance with regular procedures. He said no regular procedure was followed in this case.

To Sue on Deletions

Mr. Halperin said he planned to file a legal suit to obtain the deleted information. He is a former member of the staff of the National Security Council, headed by Mr. Kissinger.

The New York Times made efforts to see the transcripts without deletions, which are normally available to newsmen in the State Department press office.

Robert L. Funseth, the director of this office, said the two transcripts were no longer available in his office. Asked when they had been removed, he answered, "On or about Feb. 22." Asked under whose direction they had been removed, he responded, "I'm not sure."

Asked whether any Kissinger transcripts were still available, he said, "We don't have any." Asked whether Kissinger background transcripts would be returned to the press office, he replied, "I'll ask that question of others."

Background briefings are regularly given to newsmen individually or in a group, in person or on the telephone. In most cases, no transcripts are kept. Usually only in a formal setting where a high official is briefing many newsmen are remarks transcribed.

Mr. Halperin said he would request all past and future background transcripts.

Mr. Feldman said that nothing in the act requires us to either hold a background briefing or maintain a record.

Asked whether the State Department's release of the two transcripts today created a legal presumption about the release of other such documents, he said, "It does not, and each request will be reviewed on its own merits."