

WNCC 384.1 - UNCONDITIONAL SURRENDER TERMS,
MISCELLANEOUS LEGAL ASPECTS OF

DECLASSIFIED
E.O. 11652, Sec. 3(E) and 5(D) BY
M. J. D. M. J. D. M. J. D. M. J. D.
DATE 1/16/75
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LIST OF PAPERS

FILE UNDER NO. SWNCC 384.1 - UNCONDITIONAL SURRENDER TERMS,
~~LEGAL ASPECTS OF~~

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2	Mr. McCloy	5/29/45	SWNCC	Memo nominating candidates for <u>ad hoc</u> legal subcommittee on legal implications of unconditional surrender.
3		6/2/45		Memo for members of sub-committee on Legal Implications of Unconditional Surrender
3		6/5/45		Memo re Appointment of SWNC <u>Ad Hoc</u> Committee on Legal Implications of Unconditional Surrender.
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5 June 1945

COPY NO. 40

STATE-WAR-NAVY COORDINATING COMMITTEE

MEMORANDUM FOR: Mr. Green H. Hackworth, State Department,
Steering Member (S-542)
Colonel William C. Chanler, War Department,
WDGS-CAD (W-2945)
Colonel R. Ammi Cutter, War Department,
OASW (W-4964)
Captain C.J. Whiting, USN, Navy Department,
(N-3129)

Subject: Appointment of SWNC Ad Hoc Committee on
Legal Implications of Unconditional Surrender.

1. At its 10th meeting on 16 February 1945, the State-War-Navy Coordinating Committee agreed to appoint an ad hoc committee to study and report on the legal implications of unconditional surrender. The individuals listed above have been designated by their respective departments to serve on this ad hoc committee.

2. SWNCC 21, SWNCC 21/1 and SWNCC 21/2, concerning the unconditional surrender of Japan and proclamations for issuance in the absence of an unconditional surrender are, by agreement of the Committee, referred to the above-named ad hoc committee for consideration of the legal aspects of the draft documents contained therein and report thereon. The ad hoc committee is requested to give particular attention to the problems raised by the Joint Chiefs of Staff in the next to last paragraph of the enclosure to SWNCC 21/2.

3. Copies of SWNCC 21, SWNCC 21/1 and SWNCC 21/2 are attached as enclosures.* Also attached* for background information are excerpts from the minutes of the tenth and twelfth meetings of the Committee at which the formation of this ad hoc committee was first discussed.

CHARLES W. McCARTHY

ALVIN F. RICHARDSON

RAYMOND E. COX

Secretariat

* Furnished to ad hoc
committee members only.

Copies furnished Mr. Nash, Room 278 State

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DRAFT--1 June 45--1 cy

MEMORANDUM FOR:

Subject: Appointment of SWNC Ad Hoc Committee on
Legal Aspects of Unconditional Surrender.

its
Article 10th meeting on 16 July 45
1. On ~~31 May 1945~~, the State-War-Navy Coordinating Com-
mittee ~~appointed~~ *agreed to appoint* an ad hoc Committee *to study and report on*
of Unconditional Surrender, ~~and~~ *on the Legal Implications* the individuals listed
above have been designated by their respective departments
to serve on the ad hoc committee.

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2. ~~By agreement of the Committee~~ SWNCC 21, SWNCC 21/1
and SWNCC 21/2 concerning the unconditional surrender of
Japan and proclamations for issuance in the absence of an
unconditional surrender are ~~hereby~~ *by agreement of the Committee* referred to the ad hoc
committee for consideration of the legal aspects of the *document*
draft documents contained therein and report thereon. The
ad hoc committee is requested to give particular attention
to the problems raised by the Joint Chiefs of Staff in the *next to*
last paragraph (~~of the~~) of the enclosure to SWNCC 21/2.

3. Copies of SWNCC 21, SWNCC 21/1 and SWNCC 21/2 are
attached as enclosures.* Also attached* for background
information are excerpts from the minutes of the tenth and
twelfth meetings of the Committee at which the formation of
this ad hoc committee was first discussed.

For the State-War-Navy Coordinating Committee:

* Furnished to ad hoc committee
members only.

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THE ASSISTANT SECRETARY OF THE NAVY FOR AIR
WASHINGTON

June 5, 1945

Memorandum for: THE SECRETARIAT
State-War-Navy Coordinating Committee

I have appointed Captain C. J. Whiting,
Chief of the Law Division, JAG, as Navy member of
the Ad Hoc Committee on legal aspects of unconditional
surrender in the place of Lieutenant Commander R. J.
Dangerfield who was appointed to this Committee some
time ago.

A. L. Gates

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[Handwritten scribbles]

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WAR DEPARTMENT
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D. C.

Col. Cutter 4964

29 May 1945

MEMORANDUM FOR THE SWNCC SECRETARIAT:

Re: SWNCC 21/1 and 21/2.

I recommend that these papers, which raise important legal questions, be referred to the ad hoc legal subcommittee authorized at the 10th meeting of SWNCC on 16 February 1945 for consideration and report.

I nominate as War Department members of this subcommittee

Colonel William C. Chanler
(WDSS - CAD - War Ext. 2945)

Colonel R. Ammi Cutter
(OASW - War Ext. 4964)

[Handwritten signature]
John J. McCloy

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Legal Co. TOP SECRET

29 May 1945

MEMORANDUM FOR THE SWNCC SECRETARIAT:

Re: SWNCC 21/1 and 21/2.

I recommend that these papers, which raise important legal questions, be referred to the ad hoc legal subcommittee authorized at the 10th meeting of SWNCC on 16 February 1945 for consideration and report.

I nominate as War Department members of this subcommittee

Colonel William C. Chanler
(WDSS - CAD - War Ext. 294E)

Colonel R. Ammi Cutter
(OASW - War Ext. 4964)

(signed) JOHN J. McCLOY

John J. McCloy

21/1
21/2
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9. Legal Aspects of Unconditional Surrender

Mr. McCLOY suggested that an ad hoc committee be formed to consider and prepare a report on the legal implications of unconditional surrender.

THE COMMITTEE: Agreed that an ad hoc committee be appointed to consider this subject. Mr. DUNN designated Mr. Green H. Hackworth as the State Department representative on the ad hoc committee. War and Navy Department representatives will be named.

*10th Meeting
March 11, 1945*

8. Legal Aspects of Unconditional Surrender

Mr. McCLOY stated that much work had been done on this subject within the War Department but that the matter had not yet been considered by the Committee proposed for the purpose at the tenth meeting. He stated that the problem of the status of the occupying governments after unconditional surrender is not adequately covered by international law and urged the necessity for a unilateral announcement by the Governments of the occupying powers at the time they enter into occupation. Mr. DUNN suggested that the desirability of raising this problem at the forthcoming United Nations Conference should be explored.

THE COMMITTEE agreed that the War and Navy Departments would coordinate their views promptly and that, upon Mr. Hackworth's return to Washington, the Ad Hoc Committee on this subject would be convened.

*12th Meeting
March 3, 1945*

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February 17, 1945

Le-Mr. Hackworth,

At the February 16th meeting of the State-War-Navy Coordinating Committee Mr. McCloy said that the War Department was in need of advice on the legal implications of unconditional surrender.

It was decided that representatives of the three Departments should get together and consider this matter at an early date. It was agreed that an ad hoc committee should be established to work on this problem and prepare a report for the Coordinating Committee. I said that I would designate you as the State Department representative on this ad hoc committee.

The Secretariat of the Coordinating Committee will notify you later of the terms of reference of the committee as well as the names of the War and Navy Departments' representatives.

J.C.D.

SWNC:HWM:DJP

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