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On the Whittington United Nations Archive

Gail Partin

Penn State Dickinson Law, gap6@psu.edu

William Butler

Penn State Dickinson Law, web15@psu.edu

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Gail A Partin, *Penn State Dickinson Law*

William E Butler, *Penn State Dickinson Law*



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ON THE WHITTINGTON UNITED NATIONS ARCHIVE

WILLIAM E. BUTLER* AND GAIL A. PARTIN**



On 14 October 1986 Mrs. Louise L. Whittington, the widow of William Vallie Whittington (1904–1986), wrote to inform the Dickinson School of Law that her husband recently had passed away and that she wished to give to the Library of the Law School a leather bound facsimile copy of the United Nations Charter and certain documents related to the surrender of Germany in the Second World War and the creation of the United Nations.

Arrangements were completed in Spring 1987 for the transfer of the materials. These remain a significant treasure and important legacy for the development of international law and international organization without rival in any other private institution. Included in the gift was a “Historical Outline” prepared in 1967 by William Whittington to explain how he came to acquire the materials and how they were prepared and produced. His Outline constitutes a worthy contribution to the history of treaties. It had never been published and may not have circulated in any form. So far as we can determine, it appears here for the first time, a laconic account of what must at the time have been a frantic and challenging task to prepare for signature the single most important treaty the world has ever known. Some words about the author.

William Vallie Whittington, career diplomat and international jurist, was born on 10 December 1904 in Benton, Illinois, the son of Matilda Elizabeth Little (18?–1905) and Francis Delmar Whittington (1876–1961). Completing his secondary education in Benton, he relocated to Washington D. C. in 1923. He found employment with the Department of State of the United States and attended evening classes at Georgetown Law School. Upon

graduation he became a member of the District of Columbia Bar.¹ On 1 May 1944 Whittington was appointed Assistant Chief of the Treaty Section, Division of Research and Publications. At the time, the Research and Publications Division was not part of the Office of the Legal Adviser,² but under the Assistant Secretary for Public and Cultural Relations in the Department of State (the first Assistant Secretary to hold this position was Archibald MacLeish (1892–1982), the noted lawyer, poet, playwright, and Librarian of Congress). In 1945 he was designated the technical adviser on treaties for the United Nations Conference on International Organization, convened in San Francisco.

In all Whittington served in the Department of State for forty-nine years, mostly as a lawyer in the Office of Treaty Affairs or of the Legal Adviser.³ He prepared the texts of treaties on a variety of matters, including taxation, waterway disputes, telecommunications, and offshore fishing and mineral rights. He attended numerous international conferences in the course of his career. Of these, by far the most significant was the San Francisco Conference to create the United Nations in Spring 1945.

Whittington, known to his close friends as “Val”, married M. Vashti Burr (28.12.1898–30.05.1963) in 1935.⁴ Born at Ebensburg,

* Of the Editorial Board

** Director and Law Librarian, H. Laddie Montague, Jr. Law Library, Dickinson School of Law, Pennsylvania State University.

¹ See Louise L. Whittington, Correspondence with Dickinson School of Law, 22 April 1987, Whittington Archive.

² The Office of Legal Adviser was created by an Act of Congress of 23 February 1931 (46 Stat 1214) with effect from 1 July 1931. Prior to its establishment, legal advice was provided to the Secretary of State by an officer of the Department of Justice assigned as Solicitor of the Department of State. Among others, James Brown Scott served in this position. The post of Solicitor was abolished by the 1931 legislation. We are obliged to the Office of The Historian, Department of State, for details on Whittington.

³ For his account of the role of the Office of the Legal Adviser in treaty matters as of 1938, see W. V. Whittington, *The Making of Treaties and International Agreements and the Work of the Treaty Division of the Department of State: Address before the Conference of Teachers of International Law, Washington D. C., April 29, 1938* (Washington D. C., 1938). [2], 33 p. (Department of State Publication 1174). This was first issued by the Department of State in a mimeographed press release for publication on 29 April 1938. A week or so earlier Whittington addressed the Federal Bar Association on the subject of “Compilation of Analytical Treaty Index”, *Press Releases*, XVIII (23 April 1938), No. 447, pp. 496–501 (Department of State Publication 1162).

⁴ This date is given in documents reposing in the Whittington Archive. Her obituary in the *Pottstown Mercury*, 1 June 1963, says she married Whittington in 1938. Among her publications were the following: M. Vashti Burr, *Real Estate –*

Pennsylvania, Burr was a graduate of the Indiana State College (Pennsylvania) before pursuing her legal studies. An alumna of the Dickinson School of Law, Class of 1924,⁵ she impressed her classmates by her “eager search for knowledge”. In her first year of legal studies she was awarded a set of *Corpus Juris* for the quality of her academic performance. She became the first woman to serve as Assistant Attorney General of the Commonwealth of Pennsylvania, from 1926 to 1931, and acted as Deputy Attorney General from 1943 to 1955. Her work for the Commonwealth was based principally in Washington D. C. where she was engaged in interstate and federal-state matters. In her time she was regarded as “one of the most widely known women attorneys in the country”. Her active alumna role accounts for the Dickinson Law connection that led to the Whittington Archive being presented to the Dickinson School of Law.

In 1968 Whittington married Louise Gunlock Weathers, who served as a secretary on the staff of the National Security Council of the White House. Both marriages were without issue. A Republican and a Baptist, Whittington retained a relationship with the First Baptist Church in Benton, Illinois, throughout his life. Whittington died on 30 September 1986.

Assessment and Method of Taxation (Harrisburg, [1936]); Burr, “Coordination of Federal, State, and Local Tax Systems”, *Pennsylvania Bar Association Quarterly*, XX (1948-1949), pp. 59–72; Burr, “Arguments for and against Federal Aid to Education”, *State Government*, XX (December 1947), pp. 307–308; “Federal-State Fiscal Relations”, *ibid.*, XXI (1949–1950), pp. 160–168; Burr, “United States Participation in United Nations Postwar Planning”, *ibid.*, XVI (1944–1945), pp. 266–278; Burr, *Crusade Constitution: A Guide for Study of Proposals for a Revised Constitution for Pennsylvania Presented to the 1963 Session of the Legislative by the Pennsylvania Bar Association* (1963).

⁵ See Burton R. Laub, *The Dickinson School of Law: Proud and Independent* (1976), pp. 84, 178 (Sesquicentennial ed.; 1984), pp. 49, 105. By 1922 there were enough women enrolled in the Dickinson School of Law to justify the creation of a women’s law club, a venture undertaken in autumn 1922. Burr played a major role in this. A few months later, on 8 May 1923, the Women’s Law Club became the Omicron Chapter of Phi Delta Delta, a women’s fraternity founded in 1911 on the campus of the University of California. In 1974 the Omicron Chapter was renamed the M. Vashti Burr Chapter in her honor of what had become Phi Alpha Delta. When it was decided in the late 1950s to reorganize the alumni society of Dickinson School of Law, M. Vashti Burr was apparently the only woman to be a Charter Member, and subsequently secretary, of a corporation entitled: Dickinson School of Law, General Alumni Association, perfected in May 1958. See Mark W. Podvia, “They Called Them ‘Angels of the Law School’: A Brief History of Female Students at The Dickinson School of Law”, *The Dickinson Lawyer* (Winter, 1999), p. 14. She retained her maiden name throughout her professional career, but her gravestone at Lloyd Cemetery, Ebensburg, Pennsylvania, reads “M. Vashti Burr Whittington”.

THE CHARTER OF THE UNITED NATIONS: A NOTE ON PUBLICATION OF THE TREATY

WILLIAM VALLIE WHITTINGTON*

This copy⁶ of the Charter of the United Nations is a valuable historical memento and a potential collector's item. (It is understood that, sometime in the early 1960's, an individual who had managed somehow to obtain possession of one of the copies with only heavy-paper covers (as explained hereinafter) sold it to a collector for about \$500.00.)

A little history concerning the Charter and the certified and uncertified copies thereof should be outlined. I am in a position to speak with firsthand knowledge on this subject because I was the Technical Adviser on Treaties with the International Secretariat of the United Nations Conference on International Organization (the Secretary-General of which, incidentally, was Alger Hiss),⁷ held in San Francisco, April–June 1945, at which the Charter was drawn up and signed.

I worked closely with those who were involved in the formulation of the text, the preparation of the various language versions, the setting up of the document for printing, and the distribution of copies. As Treaty Adviser, I occupied an office in the Veterans Building⁸ near the Opera House⁹ where the plenary meetings of the Conference were held. As the Conference neared its close, I made numerous trips from that office to the University of California at Berkeley in connection with the handling of details for printing. It is by reason of my special position in this matter that I was considered to be entitled to have this particular certified copy of

* William V. Whittington (1904–1986) was, *inter alia*, at the relevant time Assistant Chief, Treaty Section, Office of Research and Publications, Department of State.

⁶ The author refers to his personal copies presented to the Dickinson School of Law by his widow, Mrs. Louise Whittington, in 1987.

⁷ Alger Hiss (1904–1996) was convicted of perjury in 1950 in connection with accusations that he had been a spy for the former Soviet Union.

⁸ The War Memorial Veterans Building was formally dedicated on 11 November 1932 and designed by Arthur Brown Jr., the architect of City Hall in San Francisco.

⁹ The War Memorial Opera House opened in 1932 and is part of the San Francisco War Memorial and Performing Arts Center, located on Van Ness Street behind City Hall. The Charter was actually signed in the Herbst Theatre, next door.

the Charter bound in leather — relatively rare — as well as one of the cardboard-bound copies. Pertinent facts are outlined below.

The original of the Charter of the United Nations, with Statute of the International Court of Justice annexed thereto, was printed on the presses of the University of California at Berkeley.¹⁰ The Charter and Statute were formulated at the Conference in five languages: English, French, Chinese, Russian, and Spanish. The English, French, and Spanish versions were printed in 14-point type; the Chinese and Russian versions were printed in the nearest corresponding type available. (Printing establishments in San Francisco and New York having available Chinese and Russian type cooperated in loaning such type to the University.)

Together with the pages at the end on which the signatures were to be affixed, the original Charter and Statute were printed on finest-quality paper in size 9 $\frac{3}{4}$ inches by 13 $\frac{1}{4}$ inches.

The original of the Charter and Statute was bound in a leather binder specially made for the purpose, with the seal (hereinafter explained more fully) imprinted in gold on the top cover. It was signed by the plenipotentiaries of the respective governments represented at the Conference. In addition to the original, a limited but large number of copies were printed on the University presses *from the same plates as the original*. After the signatures had been affixed, facsimile reproductions of the signature pages were prepared and incorporated in copies, together with the certification form at the end.

The Charter is dated June 26, 1945. The certification, as printed, bore the date “this twenty-seventh day of June 1945”. The certification was executed in the name of the then Secretary of State, E. R. Stettinius, Jr.,¹¹ by M. L. Kenestruck, Assistant Chief of the Division of Central Services of the Department of State, duly authorized to authenticate copies in the name of the Secretary. The certification was actually executed as of June 26, 1945, because Secretary Stettinius resigned on June 27. On each of the certified

¹⁰ The Charter later inspired other printers, both by reason of its importance and the challenge of printing the text in multiple languages with challenging fonts. See, for example, the text commissioned by the Pierpont Morgan Library in New York and set by Hermann Zapf (1918–2015) in 1984. He managed four languages, omitting Chinese, in parallel texts. Illustrated by John Bidwell, in George Ong (comp. & ed.), *The Grolier Club Collects II* (2015), p. 131, from H. Zapf, *Ein Arbeitsbericht* (Hamburg, 1984).

¹¹ Edward Reilly Stettinius Jr. (1900–1949) served as the United States Secretary of State from 1944 to 1945 and then as United States Ambassador to the United Nations from 1945 to 1946.

copies the date on the certificate was changed to “twenty-sixth” by striking out “seventh” and inserting by pen the word “sixth”. The red seal of the Department of State was then affixed to each certification.

Pursuant to Article 111 of the Charter,¹² certified copies of the Charter and Statute, with facsimile reproductions of the signature pages, were transmitted by the United States Government, as depositary, to all signatory governments. Since the entry into force of the Charter and Statute on October 24, 1945,¹³ the United States Government has transmitted certified copies to each additional government which has become a party.

It is not possible to give a precise breakdown of figures showing the distribution and location of all certified copies of the Charter and Statute.

A limited number of certified copies were placed in *leather binders*, bearing on the top cover the emblem designed for and used at the Conference and, since then, used by the United Nations as its official seal. So far as those leather-bound copies are concerned: one was presented through their respective diplomatic missions in Washington to each of the 51 governments in behalf of which the Charter was signed; one was presented to President Harry S. Truman;¹⁴ one was presented to Mr. Edward R. Stettinius, Jr., who, as Secretary of State, was chairman of the United States delegation at the San Francisco Conference; one each was presented to Secretary of State James F. Byrnes¹⁵ (who succeeded Mr. Stettinius), former Secretary of State Cordell Hull¹⁶ (who was a member of the delegation at the Conference), the Franklin D. Roosevelt Memorial Library, the San Francisco Opera House, and

¹² Article 111 provides: “The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states”.

¹³ Whether in fact the Charter duly entered into force on 24 October 1945 has been challenged by recent scholarship, which suggests that the ratification procedures of the Belorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic were legally defective for failure to comply with constitutional due process in those countries. For details, see P. P. Kremnev, “On Ukrainian and Belorussian Membership in the United Nations and Entry of the United Nations Charter into Force”, *Sudebnik*, IX (2004), pp. 456–492.

¹⁴ Harry S. Truman (1884–1972) was the 33rd President of the United States.

¹⁵ James Francis Byrnes (1882–1972) served as United States Secretary of State from 3 July 1945 to 21 January 1947.

¹⁶ Cordell Hull (1871–1955) served as United States Secretary of State from 1933 to 1944.

the Government of the Philippines for deposit in the Philippines National Library created to replace the libraries destroyed by the Japanese in World War II. This makes a total of 58. The copy which accompanies this outline makes 59. There may have been another leather-bound copy, but, if so, its distribution and location are not known. The copies presented to President Truman, Mr. Stettinius, and the Roosevelt Memorial Library were specially bound as closely identical as possible to the original.

In addition to the leather-bound certified copies, a larger number of certified copies were bound with *heavy white cardboard bindings*, bearing on the top cover the above-mentioned emblem in gold. Except for the binding, those copies were in all respects identical to the leather-bound certified copies. So far as such cardboard-bound certified copies are concerned: one each was presented in the first instance to each of the signatory governments and to each government subsequently become a member of the United Nations so long as such copies remained available. An additional such copy was presented, usually upon special request, to each of approximately 30 of those governments. The known total thus distributed is something over 150, but no exact record has been found of the total number of copies prepared in this way.

Also, there were presented to each of the signature governments two *uncertified* cardboard-bound copies and, to most of them, generally according to their apparent needs for working purposes, various numbers (from 5 to 20) uncertified paper-covered copies (see below), to a total of well over 300.

In addition to the certified copies mentioned above, there were prepared a large number of certified copies (no record of the exact number has been found) identical except that they were bound with *heavy white-paper covers (not cardboard)*, with the above-mentioned emblem imprinted on the top cover in gold and with facsimiles of the signature pages. These copies were used to satisfy requests from interested governments for additional copies and to meet certain other needs for authentic copies.

In addition, what may be referred to as working copies of the texts (reproduced from the original plates) were prepared with similar paper covers, but without the reproduction of the signature pages and not suitable for certification. There is no exact record of the number of such copies made.

The only copy that can be referred to properly as "the United States Government's copy" is the certified copy incorporated in the President's proclamation of October 31, 1945, which must be retained in the permanent treaty archives of the United States

Government. This Government is, of course, the depositary or custodian for the signed original of the Charter and must take all necessary measures for its safekeeping. It is technically within the custody of the Department of State, but the Department has loaned it on some occasions to the United Nations and to the National Archives in Washington for exhibit purposes. At the close of the San Francisco conference, the signed original was transported to Washington under armed guard in a specially-constructed portable, fireproof safe. That same safe was used in transporting the original to San Francisco, under loan to the United Nations, for exhibit at the commemorative meetings in June 1955, and again for transportation to San Francisco, under loan to the United Nations, for exhibit at twentieth-anniversary meetings in June 1965. In October 1962 the original was transported to New York under Marine guard for loan to the United Nations for exhibit at United Nations Day ceremonies (this being the first display at United Nations Headquarters). In September 1965 the original was loaned to the National Archives for exhibit during the Washington World Conference on World Peace Through Law.¹⁷ The National Archives was permitted to retain the original in safekeeping, subject to call by the Department of State.

The texts of the Charter and Statute, including signatures and certification, were printed by the Department of State in its Treaty Series 993¹⁸ — a reduced-size photographic reproduction from the original. That series print contains also the text of the President's proclamation.

With the certified copy of the Charter and Statute accompanying this outline, there is a facsimile copy of the "Protocol of Deposit of Ratifications of the Charter of the United Nations" signed by Secretary of State James F. Byrnes on October 24, 1945, attesting to the entry into force of the Charter.

Also accompanying these documents is a certified copy of the Interim Arrangements establishing the Preparatory Commission of the United Nations. The original of that document was printed on the University of California presses in the same way as the Charter and was signed at the San Francisco Conference on June 26, 1945.

¹⁷ The Conference was held from 12 to 18 September 1965.

¹⁸ Charter of the United Nations and Statute of the International Court of Justice, June 26, 1945, 59 Stat. 1031, T. S. No. 993.

The text of this document was printed by the Department of State in its Executive Agreement Series 461.¹⁹

Also accompanying these documents is a facsimile copy of the “Record of the Meeting of the Committee of Jurists for the Preparation of a Draft of a Statute for the International Court of Justice to be Submitted to the United Nations Conference on International Organization” (the so-called Dumbarton Oaks Proposals) as signed at Washington on April 20, 1945.

This outline, itself, may eventually be a valuable document. I do not know of any other such explanation regarding the printing and distribution of the Charter and Statute.

[signed: William V. Whittington]

Washington, D. C.
June 26, 1967

¹⁹ Interim Arrangements Concluded by the Governments Represented at the United Nations Conference on International Organization, June 26, 1945, 59 Stat. 1411, E. A. S. No. 461.

INVENTORY OF THE WILLIAM VALLIE WHITTINGTON MANUSCRIPT COLLECTION

*Dickinson School of Law
Pennsylvania State University*

Prepared by
MARGOT B. WEST
Archivist

- Item 1: William Vallie Whittington, 1904–1986
(Photograph)
Served as the Technical Advisor on treaties with the International Secretariat of the United Nations Conference on International Organization.
- Item 2: Agreement for United Nations Relief and Rehabilitation Administration
Signed by delegates from 44 nations on November 9, 1943, this agreement set up an administration to plan, coordinate, administer or arrange for the relief and rehabilitation of victims of war in any area under the control of any of the United Nations.
- Item 3: Record of the meeting of the Committee of Jurists for the preparation of a draft of a statute for the International Court of Justice to be submitted to the United Nations Conference on International Organization, Washington, D. C., April 29, 1945.
Signature page
- Item 4: Signed by President Harry S. Truman and Secretary of State E. R. Stettinius, Jr., on April 25, 1945, this document invested the Delegates of the United States of America to the United Nations Conference on International Organization to meet, confer, negotiate, conclude, and sign any treaty, convention or other act agreed on at the Conference.

- Item 5: Act of Military German Surrender
Signed at Rheims, France on May 7, 1945, this Act called for the Germans to cease active operations at 2301 hours Central European time on May 8, 1945.
- Item 6: Charter of the United Nations and Statute of the International Court of Justice
Written in English, French, Chinese, Russian, and Spanish, the United Nations Charter, a treaty founded on the basis of general international law, established the law of the United Nations. Signed on June 26, 1945, the signatories pledged to work together in the search for peace, justice, and progress. The International Court of Justice was established by the Charter of the United Nations as the principal judicial organ of the United Nations.
- Item 7: Interim arrangements concluded by the governments represented at the United Nations Conference on International Organization, San Francisco, 1945
Signed on June 26, 1945, this document established the Preparatory Commission of the United Nations.
- Item 8: Protocol of Deposit of Ratifications of the Charter of the United Nations
The official record of the nations that signed, ratified, and deposited the Charter of the United Nations.
- Item 9: Signed by President Harry S. Truman and Secretary of State James F. Byrnes on August 8, 1945, this document ratified and confirmed the Charter of the United Nations with the Statute of the International Court of Justice annexed thereto.
- Item 10: Department of State Press Release
Press release pertaining to the October 1962 exhibition of the United Nations Charter at the

United States Mission to the United Nations and
the United Nations Headquarters in New York.

Item 11: Department of State Newsletter
Newsletter pertaining to the October 1962
exhibition of the United Nations Charter at the
United States Mission to the United Nations and
the United Nations Headquarters in New York.

Item 12: Historical outline