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Lunar Reflections — On the Jessup Cup

by M. Elizabeth Culbreth*

A hit from some years ago -- "The moon belongs to everyone" -- came to have special significance for a group of Vanderbilt Law students during the spring of 1967. For the members of the Vanderbilt International Moot Court Team under the guidance of their faculty advisor, Professor Harold Maier, researching, understanding and articulating the international legal arguments on both sides of that musical thesis became the sport of the day. Happily, their endeavors were rewarded on April 29, when Vanderbilt won the National Championship by defeating the team from Harvard Law School in the final round of the fifth annual Jessup International Moot Tribunal Competition.

The major question posed involved a claim of territorial sovereignty over a portion of the lunar surface. In the hypothetical fact situation, France had achieved a successful lunar landing in a spaceship supplied them by the Soviet Union. Immediately after landing on the moon the French claimed sovereignty over a designated area of the surface. Some months later while a second French expedition was on the moon, the United States achieved its first successful landing. Several of the American astronauts ventured onto the area claimed by France, but were forced by French spacetravelers to leave a short time later. They withdrew as asked, but carried with them some mineral samples taken from the "French" territory. On the return flight to earth the United States spacecraft malfunctioned and was forced to land in the Indian Ocean where the Americans were rescued by--you guessed it!--a French warship. French customs authorities subsequently seized the mineral samples carried by the Americans. All of these events transpired after both the United States and France had signed, and the United States had ratified, an Outer Space Treaty which guaranteed freedom of movement and exploration in outer

*Federal Trade Commission, Washington, D.C.; LL.B. Vanderbilt, 1967. Member of the 1967 Jessup Team.

space and prohibited national claims of territorial sovereignty in space. So, the United States brought a claim against France before the International Court of Justice to get back the mineral samples. A most interesting "case" and perhaps not so unlikely when considered in light of recent successful launchings by the United States and Russia, the ratification by the United States Senate of the Outer Space Treaty, and the determinedly independent stance of France in international affairs.

In addition to probing the validity of the French claim to the moon which raised questions of treaty interpretation, the legal force of United Nations General Assembly Resolutions, and the efficacy of international legal custom, the problem also raised questions concerning the international law of distress, the proper characterization of a spacecraft "floating" or perhaps sinking, in the ocean and the applicability of the doctrine of self-help.

As required by the rules of the Jessup Competition the teams consisted of five students aided by an "Energizing Force"--the coach. Each team entering the competition submitted a written memorial for each side of the controversy and the oralists argued both sides of the case. The arguments were conducted before three-judge panels, and those judging Vanderbilt's presentations in 1967 were thoroughly familiar with the case and knowledgeable in International Law. In fact, all three of the judges for the final round in Washington were men who had been involved in drafting and negotiating the Outer Space Treaty.

For the five seniors on the Vanderbilt team,* participation in the Jessup Competition brought many benefits to compensate for the time stolen from classes, dissertations, wives and girlfriends. For one thing, there was no problem of combating the

*John Hossenlopp works for the law firm of Sherman and Sterling in New York City. Chuck Pitman and Al Adams are with the State Department in the Foreign Service. Chuck left recently for his first two-year assignment at the U.S. Consulate in Izmir, Turkey. Dan McAllen is an F.B.I. agent in Mobile, Alabama. The author was the team's fifth member.

legendary "third year bore"--who had time? And here was a unique opportunity to work closely with a demanding, but understanding professor for an in-depth exploration of some exciting and vital international legal questions. But perhaps the most meaningful aspect of the entire venture was an awareness of wholehearted support by and timely encouragement from the faculty and student body. There was a genuine feeling among the team that the "Moon" as represented by the victories over Ohio State, Miami, Virginia and Harvard, did indeed "belong to everyone."

As winner of the National Championship Vanderbilt was presented a sterling silver loving cup, the Memorial for France submitted by Vanderbilt was recognized as the best memorial, and Dan McAllen split the award for the best individual oral argument with a Harvard team member. The loving cup is designated as a traveling trophy, but it is on display in the Administrative Suite at the Law School and members of Vanderbilt's 1968 team will do their best to see that the only traveling it does will be to Washington...and back to Nashville!