

SEPARATE OPINION OF JUDGE FORSTER

[*Translation*]

I voted in favour of the Judgment of 20 December 1974 whereby the International Court of Justice has brought to an end the proceedings instituted against France by Australia on account of the French nuclear tests carried out at Mururoa, a French possession in the Pacific.

The Court finds in this Judgment that the Australian claim "no longer has any object and that" it "is therefore not called upon to give a decision thereon".

Thus end the proceedings.

I wish, however, to make the following clear:

That the Australian claim was without object was apparent to me from the very first, and not merely subsequent to the recent French statements: in my view it lacked object *ab initio*, and radically.

The recent French statements adduced in the reasoning of the Judgment do no more than supplement (to useful purpose, I admit) what I conceived to be the legal arguments for removal of the case from the Court's list. But there would be no point in rehearsing these arguments now that the proceedings are over.

I wish, finally, to state in terms that I personally have noted nothing in the French statements which could be interpreted as an admission of any breach of positive international law; neither have I observed in them anything whatever bearing any resemblance to a concession wrested from France by means of the judicial proceedings and implying the least abandonment of that absolute sovereignty which France, like any other State, possesses in the domain of its national defence.

As for the transition from atmospheric to underground tests, I see it simply as a technical step forward which was due to occur; that, and no more.

(Signed) I. FORSTER.
