

DISSENTING OPINION OF JUDGE FORSTER

[*Translation*]

The Order made today in the case between New Zealand and France is related to the one made also today in the case of *Australia v. France*.

The two Orders are as alike as twins. They indicate the same measures of protection; the only difference lies in the mention of *different territories* in the case of each Applicant.

There exists, moreover, such a close connection between the questions of law raised respectively by the Australian and the New Zealand claims that a joinder of the two cases would have been perfectly justified from the very first day of the proceedings.

For the same reasons as are set forth in my preceding dissenting opinion (*Australia v. France*), I must decline to side with the majority in the present case (*New Zealand v. France*).

I remain convinced that in these exceptional cases the International Court of Justice should have forsaken the beaten paths traditionally followed in proceedings on interim measures. The Court should above all have *satisfied itself* that it really had jurisdiction, and not have contented itself with a *mere probability*.

It is not a question of approving or condemning the French nuclear tests in the Pacific; the real problem is to find out whether we have jurisdiction to say or do anything whatever in this case.

It was that problem of jurisdiction which it was necessary for us to solve as a matter of absolute priority, before pronouncing upon the interim measures.

Since that was not done, I express, here too, my dissenting opinion.

(*Signed*) I. FORSTER.