

One man's voice against nuclear arms

Mr Harold Evans' cry from the wilderness was heard yesterday. More than 18 months after he set off on his own path to save the world from itself, the former Christchurch magistrate has won his first official victory in a campaign to have nuclear weapons declared illegal under international law.

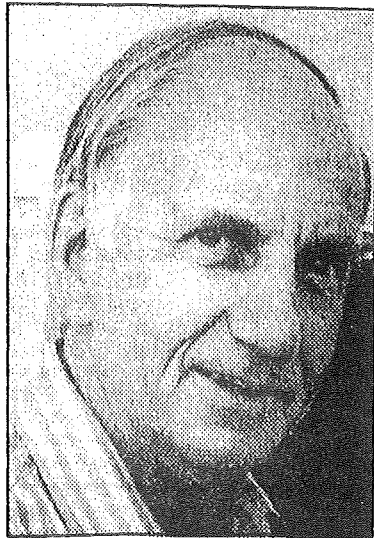
The public advisory committee on disarmament and arms control, after hearing Mr Evans' case, recommended the Government ask the United Nations General Assembly to seek a ruling from the International Court of Justice on the legality of nuclear weaponry.

Recommending is one thing, however; persuading the Government to have its representative stand up and urge the court hearing is another. Foreign Affairs officials were reported to be unenthusiastic about the prospect and for good cause from their point of view. Life is already difficult enough after ANZUS, without releasing a new juggernaut against American and other nuclear forces.

There seems little doubt that if the proposal was put to the vote in the vast chamber of the General Assembly, it would pass. The assembly has already in effect decided for itself that nuclear weapons are illegal. In 1963, and again in 1978 and 1980, it decided that any state using them "is to be considered as violating the Charter of the UN, as acting contrary to the law of humanity, and as committing a crime against mankind and humanity."

This, of course, is not a judicial decision and there would be little

Newsday by Greg Ansley



Mr Evans — 'bombs illegal'

point in recalling it after the bombs fell. Survivors would have more pressing problems in the devastation and biting cold of a nuclear winter than legal condemnation of the leaders responsible.

Nor is there any guarantee the International Court will rule against the bomb even if the case is heard, despite significant legal opinion supporting Mr Evans and fellow campaigners. If the court did rule them illegal, it is inconceivable that the major powers would begin dismantling their arsenals.

But it would be a moral victory and a further embarrassment to the nuclear powers, particularly the Americans, who tend to attract the brunt of anti-nuclear anger.

The only real certainty at this stage is that the bid to have a legal test will not die easily. Mr Evans is a campaigner of great determination and stamina, whose efforts during the past have been tireless (tiresome, if you happen to be on the other side).

As a magistrate he publicly protested what he considered a light sentence handed to the son of a judge and was rapped by the Legal Association, the Law Society and the Solicitor-General. He is a prolific producer of pamphlets, arguing anything from political appointments to the governor-generalship to parliamentary procedures.

He has taken full-page newspaper advertisements to publicise anti-war speeches and his latest preoccupation. Open letters have flooded embassies, Cabinet offices and church leaders. Three versions of his open letter on nuclear legality — the first a bound, 100-page production — went to the representatives of 71 countries.

In 1981 Mr Evans chided the Queen for making speeches agreeing with armed confrontation as a way to peace and for her conflicting positions as head of the British Government and the Church of England.

Simply, Mr Evans sees war as the greatest crime anyone can perpetrate and nuclear war the most obscene of all. He fought in World War 2 and hardened his attitudes as an associate to Sir Erima Northcroft, the New Zealand judge at the Tokyo War crimes trials. In a submission to the Defence Committee of Inquiry he argued the theme of foreign policy should be "Christian love and compassion."

Assembling his case against nuclear weaponry, Mr Evans obtained legal opinions from six distinguished jurists, two of whom — Sydney barrister Edward St John and former Ombudsman Sir Guy Powles — were at yesterday's disarmament committee hearing.

The arguments all six put forward maintain the manufacture, possession and use of nuclear weaponry is illegal under international law. Professor Richard Falk, professor of international law and practice at Princeton University, wrote: "There is strong reason to believe that threats or uses of nuclear weapons violate the UN Charter, rules of international law and constitute crimes against humanity."

International law, in effect a statement of codes of conduct rather than a binding force, argues against nuclear weapons in a number of areas — indiscriminate harm to combatants and non-combatants, aggravation of pain and suffering, and violation of the laws of

humanity among them.

Two additional protocols to the Geneva Conventions of 1977 formally updated these principles to cover modern weapons. And the only judicial ruling sought on nuclear warfare, when survivors of Nagasaki and Hiroshima sued the Japanese Government, found that their use was illegal.

Mr Evans argues this evidence is sufficient to seek a ruling from the International Court, the main judicial arm of the UN and the body to which New Zealand and Australia took France in 1973 over atmospheric nuclear testing in the Pacific. He is supported by the Australian and New Zealand sections of the International Commission of Jurists, and of the International Physicians for the Prevention of Nuclear War.

An approach to the Australian Prime Minister, Mr Bob Hawke, bore little fruit, however. It was dismissed — though politely — on the broad grounds that an International Court hearing would be pointless. Further, the Australians argued, if the court did decide against nuclear weaponry and no one listened, the dignity of the court would be undermined.

New Zealand's response has not been as fervent as its apparent anti-nuclear sentiment would suggest, either. Government leaders have done little but mumble earnestly and drop the issue into the cumbersome machinery of bureaucracy. Now, with a firm recommendation on the table, the Government will have to make a stand.