

COMMENCEMENT. PRUNED

1. Honourable Justice_____. I appear before you unrepresented by counsel. This is my appeal against the Decision of the Provincial Court of New Brunswick, which refused my claim, under the Canada's Charter of Rights and Freedoms.
2. Before I commence my submissions, there are two preliminary matters, which I wish to raise.
3. The first is this : I am not an experienced advocate, and I am concerned that if I am interrupted with many questions during my submission, I am likely to lose my train of thought. Therefore in humility, I should be grateful if some latitude could be given, and where possible, any questions could be left to the end, when I have finished. If this request could be graciously acceded, it may assist me to complete all that I have to say more efficiently.
4. The second point I wish to raise is this: My appeal concerns matters of law, religion and conscience, particularly how they interconnect with my appeal and if my appeal is to be properly understood, I need to deal clearly with these matters. I will, however, be relating all my submissions to the Law and case Authorities.
5. In the case authority of Syndicat Northcrest v. Amselem [2004] to which reference has already been made in this case, there is reference to the religious belief, which Mr. Amselem held. That case related to the holding of a religious Succah, and some background explanation was necessary so

that Mr. Amselem's position was understood. In the case of *Multani v. Commission Scoliere Marguerite-Bourgeoys* [2006], to which reference will also be made today, the appellant's religious practice of wearing a Kirpan had to be explained, so that his position was understood.

6. In my case, I need to explain certain aspects of my own religion, my own beliefs and practices. None of this will be new or fresh evidence. All that I intend to say, will have been addressed at the earlier trial, with one exception. I also intend to relate my religious explanations to the legal principles set out in *Amselem* and *Multani* and other cases, and to the trial judge's decision, where, for example, I believe the trial judge misinterpreted or did not give due weight to what I said in evidence. So I hope the court will give me some latitude and not assume too early that I am making irrelevant statements. If I am given that latitude, you will discover that each of my submissions will be linked to the law.

7. It is not my intention to make independent moral or religious statements.

8. Instead, when I make reference to a religious point, by way of background, I will be linking it to either a point in one of the Case Authorities, or to the Law. I hope this assists.

9. Your Honour, I do not intend to use this hearing as a platform for a moral or religious dissertation. I can tell you that I have no intention whatever in that regard.

10. Before I commence my submissions may I add just one further point. If

you think I am straying into the area of moral theology or theory, for its own sake, please bear with me, and give me some latitude. If you do, then I can assure you that it will link up with a legal facet of one of the Authorities or the Law.

Now I shall begin with the Respondents submissions.

11. The facts of this matter are summarised by the Respondent submissions of 23rd June, 2008, PART 1 on pages 1 to 4. Pages 1, 2 & 3 are admitted. I take issue with only one word on page 4, which is to be found in paragraph 7. That word is ‘bald’, in the sentence, “other than the bald assertion that”... If the word ‘bald’ were omitted, I would be able to agree with all the facts outlined in these pages. In so far as paragraph 7 on page 4 is concerned, I reserve the right to comment on a conclusion drawn there, about which I will be commenting later. In paragraphs 4 and 5, the Respondent says that I hold a belief that abortion is morally unjustifiable, and that I am concerned with the moral consequences of filing a tax return. I confirm these comments to be correct, save that it is my case that abortion is both morally and religiously unjustifiable, and I am concerned with both the moral and religious consequences of filing a return.

12. In so far as the three Issues on Appeal are concerned, which are set out on page 5 of the Respondent’s submissions, the first issue mentioned in paragraph 11. (i), which refers to a defence of ‘due diligence’; this is a defence, which in my submission should no longer remain an issue. In so far as I am concerned, I withdraw that defence of due diligence, and submit that the matter has been well argued by the Respondent in the subsequent

paragraphs 13 to 23. However, as the Respondent states in paragraph 15, “all offences are subject to constitutional challenge”, and I would like to make it known, at this stage, that while section 238 of the Income Tax Act 1985 is an offence of strict liability, for which I am not offering the defence of Due Diligence, I shall be making a constitutional challenge, for which there is direct judicial authority, the reasons of which will become clear. For the moment, may I briefly say that my defence to this offence of strict liability, will be based on the principles of fundamental justice.

Meanwhile, I confirm the other two issues remain, and I will be addressing them.

13. That being said, I now turn to the statutory requirement of section 231 of the Income Tax Act, which requires me to file returns. This is the second of the three issues mentioned. In this respect, I am claiming that the statutory requirement interferes with my freedom to practice my religion.

14. The Respondent, in paragraphs 24 and 25 of its submissions (Page 11) describe two tests, which have to be satisfied, in order for a Claimant to establish a breach of Section 2(a) of the Charter. In paragraph 25 the Respondent says that I have already satisfied the first of the two-part test. I am grateful for that. However, while this is admitted, I intend, nonetheless, to address you on both tests, and the reason for this is that the trial Judge made findings that while he accepted the sincerity of my beliefs, and held that I had asserted a valid claim under the Charter, he also held that I had not triggered a claim. In my respectful submission, that was an incorrect conclusion on the facts, which he said he accepted, and if I am to make

proper submissions, by which I hope to persuade you that a valid claim was triggered, I need to address you on both the first and second tests.

15. The scope of section 2 (a) as described by the Respondent, in paragraphs 25 & 26 of their submissions of August 2007, is that :

16. The Charter guarantees that everyone has the fundamental freedoms of conscience and religion.

17. To attract protection, conscience and religion need to go hand in hand. Conscience, on its own cannot be protected. Conscience must relate to religious belief or religious practice.

18. In the same submissions, the Respondent referred to the Supreme Court Judgment in *Syndicat Northcrest v. Amselem* [2004] which, they said, laid down the approach for determining whether section 2(a) had been infringed, and confirmed that the decision in *Amselem* had been followed in the Supreme Court ruling of *Multani v. Commission Scoliere Marguerite-Bourgeoys* [2006].

19. In my submission, the Respondent was right, and during the course of this hearing, I will be referring to these two Supreme Court authorities, and other cases in support of my appeal.

20. In *Amselem*, the court described the matters to be taken into account when assessing a claim to freedom under the Charter, and gave guidance, on how the courts should approach and determine the question of ‘belief.’

21. The particular freedom, with which Amselem was concerned, consisted of the freedom to harbour beliefs and undertake practices, having a nexus with religion, in which an individual demonstrates that he or she sincerely believes, or is sincerely undertaking some act, in order to connect with the divine. In my own case, the position is no different. I harbour beliefs and undertake practices, having a nexus with religion, and all my actions, as they relate to this matter, are undertaken in order to endear me and draw me ever nearer to the Will of the Divine. This has been my position from the beginning, and my submissions will be based on the guidance provided in Amselem.

22. Like the claimants in Amselem and Multani, my own beliefs are sincere. They have a nexus with religion and translate themselves into practices, which also have a nexus with religion. In Amselem the religion was Judaism. In Multani it was the religion of Sikhism. In my case, it is Roman Catholicism.

23. Amselem sets out the matters to be considered. Each is crucial to my Appeal. And I will be addressing the court on each of them.

24. The first matter I wish to address relates to the nature of religious observance or belief, which attracts protection.

25. In many ways, this, in my submission, is the most fundamental legal and procedural aspect of my appeal. It is the legal bedrock upon which all other legal matters depend. It therefore merits a close examination.

Amselem emphasizes that it is the religious or spiritual essence of an action that attracts protection. The Judgment says that freedom of religion should be understood as being personal and subjective. Amselem and Multani emphasise that a claimant is entitled to practice his religion with more rigour than another. A meticulous or exacting attention to ones faith is all part of a claimant's right under the Charter. **In Amselem this can be found in the respondents's Book of Authorities, Tab 8, pg. 4, par. 4, & pg. 5 par. 1 in the Preamble, and pp. 32-33 par. 39, 40 & 41 and pp. 34-35, par. 42, 43, 44, & pg. 37 par. 49. In Multani it is Tab 6, pg. 30, par. 32, & pg. 31, par. 35**

26. The majority of the Judges in Amselem said that the State is in no position to become the arbiter of religious dogma, and is not qualified to judicially determine the content of a subjective understanding of a religious requirement. Such matters are within the province of the individual, and the most a court can do, is to assess the sincerity of that belief. **(found in the respondents's Book of Authorities, Tab 8, pg. 34 & 35, par. 42, 43, 44**

27. These are important aspects of this appeal. At my trial, my sincerity was never in question or doubt. The Crown and the trial Judge both accepted that my beliefs were sincere. This is confirmed in the Respondent's submissions of 23rd June 2008, paragraph 25, and also paragraph 12 of the trial Judges Decision. In my submission, the nature of my beliefs, are not only sincere, and have a nexus with religion, which translate into religious practices, but are material, going to the root of my religious faith. They are subjective and personal. They are also of great importance to me. They are not trivial.

(This is not fresh evidence. be prepared to say, if questioned, that this is way in which your evidence should have been interpreted at the trial.)

28. In the preamble to the Judgment in Amselem, found in the RESPONDANT'S BOOK OF AUTHORITIES at Tab 8, pgs, 4 beginning with Par.4 & cont. on pg. 5 - the reporter states, "Freedom of religion under the Quebec *Charter of Human Rights and Freedoms* (and the *Canadian Charter of Rights and Freedoms*) consists of the freedom to undertake practices and harbour beliefs, having a nexus with religion, in which an individual demonstrates he or she sincerely believes or is sincerely undertaking, in order to connect with the divine or as a function of his or her spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials."

29. In my own case, I am a Roman Catholic and my beliefs and practices coincide with the teachings of the Roman Catholic Faith. I use my best endeavors to follow closely its teachings, which means that, in so far as it is humanly possible, my life is conducted in harmony with the Catholic Church, in which I try to be an obedient and faithful servant.

30. This is helpful, inasmuch as the teachings of the Catholic Church are, in most instances, clear, and can be proved by reference to its official documents such as The Catechism of the Catholic Church, the documents of Vatican Council II, Encyclical Letters of the Popes and formal teaching

documents of various curial dicasteries of the Holy See, approved for publication by the Popes themselves. Each of these documents are in the public domain and judicial notice can be taken of them. Many references to these authoritative documents were entered into exhibit at the trial and can be found in the exhibit of which number I am uncertain, and is a Letter to the Minister of National Revenue, Ms. Elinor Caplan and is dated November 26, 2003.

31. If my beliefs and practices are in tune with Catholicism, this helps the Court, inasmuch as it will not have to distinguish my own beliefs from official dogma. But in so far as some personal belief may arise, where the Church is silent on the issue, or as yet has not made a formal decision or ruling, the Court need not concern itself with the fact that my belief may be unsupported by official teaching. It must still regard my own personal beliefs as relevant, attracting the protection of the Charter, irrespective of whether my beliefs are corroborated by or are in conformity with Catholic teaching. If such personal religious beliefs are judged to be sincere, then they are entitled to the protection of the Charter. And if my religious beliefs translate themselves into religious practices or a certain conduct, it is the religious or spiritual essence of that conduct that attracts protection. That is what the Judges in *Amselem* said. (*Amselem*, Tab. 8, pg. 37, par. 49 & 50, & pg. 38, par. 51) In my submission, such conduct might involve the refusal to participate in something, which would otherwise impugn the religious essence of a certain belief. This might be the refusal to file a tax return. The religious or spiritual essence of that conduct, would call for protection. For example I am demanded by the ITA to file a signed return to the government of Canada while believing in conscience that it is a fact that some portion of

my therein submitted taxes may be used to pay for direct induced abortion, which my religion and faith defines as an extreme violation of the fifth Commandment, as Matthew 19:18 quotes Christ, “And Jesus said, "You shall not kill (...”).

32. And as taught to all Catholics, **The Catechism of the Catholic Church**, (The Second Edition English Translation of the Catechism of the Catholic Church includes the corrections promulgated by Pope John Paul II on 8 September 1997. These corrections to the English text of the Catechism of the Catholic Church were made to harmonize it with the official Latin text promulgated by Pope John Paul II on the same date.) and said catechism abbreviated as CCC, and referred to extensively in the aforementioned exhibit at my trial, “Letter to the Minister of National Revenue” of 11/26/03. The Catechism of the Catholic Church is a public document, and is defined within its text:

Par.18 “This catechism is conceived as an organic presentation of the Catholic faith in its entirety. It should be seen therefore as a unified whole.”

33. Abortion is clearly condemned in the Catechism in Par. 2271 **“Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable. Direct abortion, that is to say, abortion willed either as an end or a means, is gravely contrary to the moral law.”**

34. For me to sign a document, any document, agreeing to allow the recipient to exercise a discretion to use any portion of the money transferred

by said document to pay for murder of an innocent human being is tautologous to accessory to murder. If I formally sign my name to any document, tax return or otherwise while believing in conscience that some portion of my money, however small in amount, is being used to kill innocent human beings, then I do grave harm to my conscience and to my religious faith. I have spent four decades working and praying for our government to respect all human life from conception till natural death. I have been a hypocrite. I have prayed for life and paid for death. No more will I do so. As “The Pilgrim’s Progress” author John Bunyan wrote sometime around the year 1660, “I would rather spend the rest of my days in jail, then do butchery to my conscience.”

35. Amselem (in the preamble and in the majority decision) also makes the point, that where a person holds a religious belief, or carries out a religious practice, which is not required by one’s religion, or does not conform to its dogmas, or its official teaching, such beliefs and practices are still protected – provided they are sincere and, of course, ultimately meet the other test requirements, to which I will be making reference shortly.

36. Not all legal problems are covered by judicial precedent. An employer may have an Employers Manuel to which reference can be made in the event of dispute, but this may not contain the answer to every point of difficulty. Similarly reference books on legal Professional Conduct for lawyers and Etiquette may cover a lot of ground, but the answer to every problem may not be found in these books; helpful though they may be. And this is also true of the Church, and its teachings. Something new can surface at any time, just as it can in the Law, and the Church should not therefore be

criticized, if some aspect still awaits an official statement or clarification. Here again, where the position is not clear, a person, such as myself, may have to make up his own mind as to what he should do. In such circumstances, he may turn to the Church to guide his conscience, enabling him to make a decision. In that event, Amselem confirms that such personal beliefs, having a nexus with religion, attract protection, even though they may not be covered by official dogma.

37. For example, Roman Catholicism does not accept abortion. Neither do I. In that respect, the two positions are identical, and both myself, and the Church, must refuse to participate in or contribute to abortions. Abortion is described clearly in the Catechism and elsewhere in official documents, as grave evil, even an abominable crime, and one cannot practice abortion and remain a practicing Catholic.

38. The teaching of the Church concerning abortion is formal and written down and can therefore be proved from its publications:

The Catechism states in Paragraph 2270:

“Human Life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person – among which is the inviolable right of every innocent being to life”.

39. I might say at this point that the Law in Canada, which permits and funds direct induced abortions, is in direct conflict with the law of my Church; the

difference being that the Law of the State recognizes the child as having the rights of a person only from birth, whereas the Law of the Holy Roman Catholic Church, recognizes the rights of the person from conception. According to the Gospel of Luke, the angel, who appeared to Mary, told her,

“The Holy Spirit will come upon you, and the power of the Most High will overshadow you”. (Lk.1.35)

And the angel was of course speaking about the way in which Mary would conceive and bear a Son, whose name would be Jesus. It was from the moment of His conception that He was to be honoured and worshipped, as the Son of God, and as God made man. Being made in God’s image, we too are honoured from the moment of conception.

40. In the Catechism Par. 2271, there is a reference to the Old Testament, from which Christianity has its roots. This is a reference to passages taken from the books of Jeremiah, Job and the Psalms. (I note that all quotes from Scripture are taken from the Revised Standard Version, known as the “Common Bible” used by expert scholars and exegetes, Catholic and Protestant throughout the world and published in English by Collins in 1973)

In Jeremiah 1, 5, God speaks and tells Jeremiah, “ Before I formed you in the womb, I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations.”

(Consecrated means set apart for a high purpose. Its Antonym is desecrated.)

In Job 10, 11-12. Job speaks to God saying, “ Thou didst clothe me with skin and flesh, and knit me together with bones and sinews. Thou hast granted me life...”

In Psalm 139: 13, the Psalmist prays to God, saying, “For thou didst form my inward parts, thou didst knit me together in my mother's womb.”

41. As to the Laws of the Church, may I clarify this: For me and for all Roman Catholics, the Church actually does not make Laws. What it does is affirm the existing laws of God, which it is entitled to do according to the directive given by Jesus to Simon Peter, to whom he gave the keys to the Kingdom of Heaven, with the power to bind or loose. (Matt.16) So when I speak of the laws of the Church, I am really referring to God’s laws. These refer to formal and infallible doctrine. Infallibility is amply defined in my letter of November 26, 2003 to then Minister of National Revenue, Ms. Elinor Caplan and is an integral part of this appeal. **This letter and included appendices is already on the Court file as part of the evidence at the trial.** Infallibility simply means that whenever the Pope speaks formally in matters of faith and morals as the Supreme Pastor of the Catholic Church, he has the protection of the Third Person of the Blessed Trinity, God the Holy Spirit, promised by Christ (in Matt. 16,15-19) in fullest assurance that such formal teaching is inerrant. Indeed infallibility means more than exemption from actual error; it means exemption from the possibility of error. And, may I also add that many of these affirmed Divine laws are embodied and exemplified in the Catechism of the Catholic Church.

42. The Catholic Church, teaches that Man is made in the image and likeness of God (Gen. 1.26) and that God breathed life into Man and he became a living soul. (Gen. 2.7) And it teaches that human life begins at the moment of conception. In these respects, my beliefs and the teachings of the Church are identical. If another religion were to teach a different creed, such as that life begins not at conception but at birth, this is not a relevant consideration to my right to the protection of the Charter. The Court is not entitled to define dogma. It is not entitled to judge whether it is fanciful or reasonable. Indeed many believe there is no God and that the very concept of God is a fantasy. The most the court can do is determine whether the belief expressed is sincere. Where the claimant puts his belief into practice, the most the court can do is to determine whether the spiritual essence of his conduct is sincere. The point I wish to make here is that the Catholic Church and I believe life begins and should be safeguarded from conception, and I believe that to practice my religion faithfully, I should not file tax returns, if my contributions could fund abortions. I believe what the Catechism says, namely once more, “Human Life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person – among which is the inviolable right of every innocent being to life”. (Par. 2271)

43. And Par.1903 addressing political authority states: “Authority is exercised legitimately only when it seeks the common good of the group concerned and if it employs morally licit means to attain it. **If rulers were to enact unjust laws or take measures contrary to the moral order, such arrangements would not be binding in conscience.**”

44. Catholic beliefs, which I hold, are made known in its formal teachings, most of which though not classified as infallible, are clear, written and available to all, and are grounded in Divine Revelation, natural law, reason, theology, philosophy, the sciences and Tradition dating back more than 2000 years..

45. In his decision, the trial Judge held that my beliefs were sincere, and I submit that this Court cannot go behind that finding, at least, not without difficulty.

46. I also wish to make the point that I believe that filing tax returns, which will lead to the payment of taxes, which may be used to fund abortions under the Canada Health Act, is in conflict with the Laws of the Church, or the spirit of those Laws. It is also in conflict with my personal religious beliefs, which are consistent with my religion, that filing a return, in the circumstances, is a grave sin. If that is my belief, and if it has a nexus with religion, then, if it is judged to be sincere, it merits the status of an implicated right under the Charter. No one, not even a Court can condemn my belief. The most a Court can do is judge its sincerity. (Amselem Tab 8, pg. 38, par. 51, 52 It matters not to me how remote the possibility may be that *my personal taxes* may or may not find their way into the accounts of the abortuary room in Canadian Hospitals or the Morgentaler abortuaries. As long as there is a risk that my contributions may be used for such a purpose, my personal belief is that I must not co operate with it, because my faith tells me that it is both morally and religiously wrong to deliberately acquiesce with such a risk. If faced with a *decision*, whether to file a return, where there is a presentiment or foreboding that any consequential tax may be used

for abortions, my objective must be to prevent it. This is where that *decision* may cause me to take some step, or make some refusal, in order to comply with my religion. The possibility of my making a contribution towards abortion, however remote, or small, is against my conscience, and my religion. That is the nature of my belief. It is personal and subjective. It translates itself into conduct, where I have refused to file tax returns. The religious or spiritual essence of my conduct is my humble obedience to my religion, and submission to my conscience.

47. Catholic doctrine also teaches that conscience plays a huge part of Catholic teaching. Conscience is defined in two paragraphs of the Catechism, #1796 states: **“Conscience is a judgment of reason by which the human person recognizes the moral quality of a concrete act.”**

FOOTNOTES:

48. And Par. 1778 of the Catechism states: **“Conscience is a judgment of reason whereby the human person recognizes the moral quality of a concrete act that he is going to perform, is in the process of performing, or has already completed. In all he says and does, man is obliged to follow faithfully what he knows to be just and right. It is by the judgment of his conscience that man perceives and recognizes the prescriptions of the divine law:”**

49. As well, The Catechism in #1782 states: “Man has the right to act in conscience and in freedom so as personally to make moral decisions. He must not be forced according to his conscience, especially in religious matters.” Finally and to the point, the official Catechism in Par.# 1800 states: “A human being must always obey the certain judgment of his conscience.”

50. Again, returning to Amselem, the decision emphasizes, it is the religious or spiritual essence of the action that attracts protection. It is my sincere belief that I should not be signing and filing returns to a government, which funds abortions, as abortions terminate life, which should be protected from the moment of conception, and my contributions, however small, cause such lives to be endangered and not safeguarded. It is my religious belief that I should not permit so much as the possibility of my tax contributions funding abortions. The remoteness of risk, I shall address shortly. For the moment, my point is that such is my belief, and the most the Court can do is assess the sincerity of it. According to Amselem, it cannot judge its nature or character. My objections, to filing returns, therefore, emanate from my conscience, which is formed from the teachings of my Catholic religion. The two are closely related. And if I form a sincere belief that filing returns is wrong, given the use to which my taxes may be put, which I consider to be evil, the most the Court can do is to judge whether my belief and practice is sincere.

51. In confirming my conscience formation, may I further cite the Catechism’s paragraph 2273:

“The inalienable right to life of every innocent human individual is a constitutive element of a civil society and its legislation:

(and it’s relevant footnotes)

*“The inalienable rights of the person must be recognized and respected by civil society and the political authority. These human rights depend neither on single individuals nor on parents; nor do they represent a concession made by society and the state; they belong to human nature and are inherent in the person by virtue of the creative act from which the person took his origin. Among such fundamental rights one should mention in this regard every human being's right to life and physical integrity from the moment of conception until death.”*⁸⁰

*“The moment a positive law deprives a category of human beings of the protection which civil legislation ought to accord them, the state is denying the equality of all before the law. When the state does not place its power at the service of the rights of each citizen, and in particular of the more vulnerable, the very foundations of a state based on law are undermined As a consequence of the respect and protection which must be ensured for the unborn child from the moment of conception, the law must provide appropriate penal sanctions for every deliberate violation of the child's rights.”*⁸¹

^{80, 81} Form “Donum Vitae”, (Latin for ‘Respect for Human Life’ Vatican, Feb. 1987, Congregation for the Doctrine of the Faith (see [Letter to Minister of National Revenue, Appendix IV- Trial Exhibit](#)))

52. I mention these matters in order to demonstrate again what the tenets of the Catholic Church are, and that they are founded on ancient scripture. I also mention them to demonstrate the connection between my personal beliefs and Catholicism.

Under the Pope's supreme authority, the decisions of an Ecumenical Council are binding on the entire Catholic Church, making a council the church's highest teaching authority. Between 2000 and 2500 Bishops from every country in the world attended every session of Vatican II over three years beginning in 1962. In 1965 at the end of the Second Vatican Council, a statement was promulgated called "Gaudium et Spes" identified in English as "The Pastoral Constitution of The Church in the Modern World", which was one of the great formal Constitutions of the Council.

In Sec. 51, Par. 3 of this profoundly important document, we find this, and I quote:

"God, the Lord of life, has entrusted to men the noble mission of safeguarding life, and men must carry it out in a manner worthy of themselves. Life must be protected with the utmost care from the moment of conception: Abortion and infanticide are abominable crimes."

This formal teaching affirming all ancient Catholic Tradition and Scripture was for me, at the age of 21 years old in 1965, a profoundly maturing step in the formation of my conscience. Abortion was now declared and re-confirmed formally and absolutely by all the world's bishops in union with the Pope, the Vicar of Christ on earth in strict terms: **that abortion is not only the killing of the innocent, but "an "abominable crime."**

How can I, the appellant, in good conscience pray for life and pay for death? A death which is an *abominable crime?* How can I co-operate with anyone or any government who permits, commits or pays for something which I believe is such a gross, monstrous, and grave evil? (Like Thomas More, I cannot. It is too important. No one today applauds what the Government of its day did to Thomas More, who acted in accordance with his informed conscience.)

53. The trial Judge, in his Decision of November 9, 2007, said in Par. 8 that he took judicial notice of the fact that health services, including “therapeutic” abortions, are funded by the state, under the Canada Health Act. He also said he was satisfied that if I filed returns I would pay taxes. Taxes fund the operation of the Health Act. Ergo my taxes would fund abortions. In paragraph 7 of the Respondents submissions of 23rd June 2008, they said I had “presented no evidence demonstrating that my tax dollars would be used to fund abortion services.” However, I submit it is axiomatic that my tax contributions could have this result, or put another way, the proposition is self evident, and therefore its existence as truth should be accepted. This is not hyperbole. I do not see how it is possible to take what Judge Jackson said and draw a conclusion that my taxes could not contribute towards abortions. If taxes fund abortions, then if I pay taxes, no one can say that my contributions could never fund abortions. The modal auxiliary verb ‘Could’ indicates possibility and therefore carries with it risk, and while there is a risk of murder, I cannot co-operate. To me the risk is unacceptable, because of the gravity of the offence. Let me give you an example, which may appeal to your understanding. If someone brings home a video, and

before the younger children watch it, and I learn or perceive from its cover that it may contain scenes of promiscuous sex and violence. What do I do? Do I take a chance and let the little ones watch it? Or do I refuse? Some would allow their children to watch it. As for me, because of the portent of the film, I would not want to take that chance, knowing that my little ones could be exposed. For me the matter is sufficiently serious not to take a chance. If I have a terrier, and my son and daughter-in-law bring their newborn baby to my home, I do not permit the terrier to be in the same room alone with the baby. The dog may be docile, but I would not take the risk, because the consequences could be so terrible. In the same way, I am not able to take the risk of my taxes potentially funding abortions, as the consequences are so dreadful. The responsibility for me is not worth the risk. Whatever you may consider the risk to be – great or small – this is my perception of it, as it impinges on my religious faith. This is not because God is an Ogre; it is because of the love between us. He is my Father and I desire to do His will and His will is expressed by the Catholic Church.

54. It is my sincere personal religious belief, based on what the Church teaches, that my Father in heaven does not want me to sign and file returns unless and until the law is overturned prohibiting tax-funded abortion.

This is my sincere belief, which others may not understand. Forcing me to file returns, knowing my taxes could be used to assist abortions that kill innocent human life, rather than safeguard it, does not just attack the way in which I want to conduct my religion; it coerces me into disobedience with long established religious precepts, precepts which I whole heartedly hold

and embrace as infallibly true and which the Charter was designed to protect.

55. I can demonstrate that I believe abortion to be an abominable crime, and that this belief is firmly based on Catholicism. I can also demonstrate that my conscience goes hand in hand with my religion, where these matters are sufficiently well defined. I am also in a position to say that I hold beliefs, which require me to safeguard life, and not endanger it, and if the Government funds abortions under the Canada Health Act from tax contributions, then, if my objective is to do God's will, as I understand it, then I must not file these returns, because accelerating the end result is not the safeguarding of life from conception to birth, but the risk of its destruction, which is against God's Laws, as I believe them to be. Moreover, it is against my conscience, in good faith, to take such a risk with my relationship with God, such is the quality and fiduciary nature of my bond with Him, as my Father. These are my subjective personal beliefs, which are manifested in the way I practice them. My beliefs and practices, as they concern taxation, and the completion of returns, are therefore based upon both my conscience and religion. As I will prove to you later, this is what I said under Oath at my trial. The Respondent therefore places me in a terrible dilemma by trying to force me to file returns, against my conscience and religion and it is the Charter, which should be protecting the religious or spiritual essence of my conduct, which is tied to my religious beliefs and practices. Judge Jackson said in his Decision that he could not see clearly how the requirement to file returns interfered in a non-trivial way with the freedom to practice my religion (Para 12), and I hope the connection

between my religious beliefs and my refusal to file is now understood. I shall be dealing with the non-trivial nature of the interference a bit later.

56. It is important to note that the Church teaches that abortion is so gravely evil that it reserves its severest canonical penalty for those who directly procure an abortion. Paragraph 2272 of the Catechism states,

“Formal co-operation in an abortion constitutes a grave offence. The Church attaches the canonical penalty of excommunication to this crime against human life. A person who procures a completed abortion, incurs excommunication, *latae sententiae*” - which means automatically. Filing returns or paying income taxes to a government that funds abortion is for me a very serious contradiction in terms. How can I pray for the innocent human lives in the womb and pay for their killing? Moral theology teaches that there are degrees of co-operation in evil. A hierarchy of gravity of wrongdoing if you will. I have believed for decades in deeply sincere conscience that I ought not, should not pay for the killing of these innocent brothers and sisters of mine, children of God. I testified in court to the battle of countless letters to prime ministers, MPs, objections to the use of my taxes, withholdings of small portions of my taxes over many years, every civil protest conceivable. In 2001 after a long and tired moral anquish, I went to receive the Sacrament of Confession in St. Peters Basilica in Rome. I was blessed to choose a confessional wherein a wise elderly priest patiently guided me through principles of Catholic teaching and morality. I was there an hour. One thing struck me. He said no matter if you withhold some portion which you discern as your mathematical share of abortion funding, all income taxes go into a central pool and whatever amount large or small,

you send, some of your money, morally speaking, will be used for abortion.” After hearing his counsel, I said: “Then I have no choice. I must never file again until the law is changed prohibiting the funding of abortion with my taxes.” He said, “Good for you!, now I will give you absolution!” I said, “What about my penance?” “Your penance will come soon enough,” he chuckled, “and then more serious he said, “but don’t be afraid, for God will be with you.” I had not filed in April for the Jubilee Year on purpose. This is my gift to the Lord of Life on His 2000th birthday I thought! He will be happy. I prayed in the Chapel of Adoration for a long time filled with incredible relief, thanksgiving and peace. I was merry when I left.

At a dinner in Rome later that week I announced before nine people, including a Cardinal and his priest assistant, that I had resolved never to file or pay taxes again in Canada until our government ended tax- funded abortion. In front of all guests, the Cardinal applauded. I was not looking for approval, but discussion. There was none. People are afraid of governments and revenue agencies. I learned a long time ago, the only thing to be afraid of is sin. Pray of life and pay for death! What a horror! Never again.

For me, Catholicism provides me with what I consider to be true doctrine. It assists me to form my conscience. In the knowledge of what my taxes could potentially do, any willing co-operation by me to that end would be gravely contrary to moral law, as I perceive it, and would (and has in the past) resulted in the commission of sin by me. If I have confessed these sins to a priest, and I have, and my repentance is truly sincere and in accord with my conscience, then ***I must never again contribute voluntarily a single penny to pay for this murder, ever, ever again.*** Or my confession and guilt is compounded by a sacrilege, which is a grave violation or misuse of what is

regarded as sacred, as the Sacrament of Confession or Reconciliation is called.

57. At my trial, the trial judge held in Par.12 of his decision that, quote,

“The Defendant clearly holds a sincere belief that abortion is wrong which view is rooted in his Roman Catholic Faith.”

In the Respondent’s submissions my sincerity is not called into question. Thus far, I submit the position is clear, namely that my beliefs that abortion is wrong, were accepted by the Court as being sincere, and are accepted by the Respondent. However, while that is important, the real issue here is the filing of returns and the relationship between that event and funding abortions. I hope that aspect is now understood.

58. In Amselem, the majority of the Judges ruled, that it was personal beliefs, which attract the Charter’s protection. “This freedom encompasses objective as well as personal notions” “Consequently, both obligatory as well as voluntary expressions of faith should be protected under the Charter”. (Par. 47) They also said this: “regardless of the position taken by religious officials and in religious texts, provided that an individual demonstrates that he or she sincerely believes that a certain practice or belief is experientially religious in nature in that it is either objectively required by the religion, or that he or she subjectively believes that it is required by the religion, or that he or she sincerely believes that the practice engenders a personal subjective connection to the divine or to be the subject or object of his or her spiritual faith, and as long as that practice has a nexus with

religion, it should trigger the protection of...section 2(a) of the Canadian Charter”. (This from Para 69 of that judgment.)

59. In my own case, I sincerely believe that tax contributions can end up funding abortions. This was endorsed by the trial judge, who said he took judicial notice of the fact that, “health services, including therapeutic abortions, are funded by the state, under the Canada Health Act”. I am therefore of the belief, which seems to be very well founded, that my tax contributions may end up being utilized to fund abortions. To me, however small the contribution may be, it is something which I am unable to condone. For me, however small the risk may be of my contributions actually funding abortions, it is a risk I am unable to accept. Just as I will not take a small risk with my own child, so I will not take a risk with the will of my creator. Such is the rigour with which I am entitled to conduct my faith. My conscience, which is united to my faith, tells me that I must not allow a situation to arise where I could fund such activities. Hopefully, what was not clear to Judge Jackson at my trial is now clear, namely this is “how the requirement to file an income tax return interferes, in a non-trivial or non important way, with the freedom to practice religion”. To me contributing to abortions in this way makes me complicit in ‘murder’, and it interferes with my freedom to practice my faith and is something, which deeply affects me, because any co-operation by me, which supports the abortion activities under the Canada Health Act, adversely affects my relationship with the divine. I believe I am under a duty to act in the situation. I cannot acquiesce, as others may. If the statement in *Gaudium et Spes*, I have referred to, says that abortion is an abominable crime, and the court takes judicial notice of the fact that taxes fund abortions under the Canada Health Act, I am quite

unable to acquiesce by filing returns, as I become, not the Good Samaritan in the parable of (Lk.10:30-37), but I become one of those men who passed by on the other side and ignored the victim whose life had been endangered. The parable of the Good Samaritan instructs me to have compassion for others, who include children *en ventre sa mere*. In theological terms, I would be acting against God's laws by looking the other way and pretending that what the Government does with my taxes had nothing to do with me!

60. The Trial Judge, in paragraph 13 of his Decision, says, "in my view, the Defendant has failed to establish in the evidence presented any connection or religious requirement between filing or refusing to file a tax return and his religious Catholic Faith, which is the basis of his claim to religious freedom."

With respect, that is not correct. I say this, not on the sole basis of my submissions, but on the evidence, which was before him, and which I presented at my trial, and to which, I respectfully submit, he has not given due weight.

61. At my trial, on 8th March 2007, I gave evidence, which was recorded in the official transcript. On pages 21, 26 and 27 of my official copy, the questions can be seen clearly to focus on the filing of tax returns, and my replies focus on my objections to filing them. The reasons I give for objecting are that to do so is against my conscience and faith. Here is evidence, in my submission, which shows that there was, according to my personal beliefs, a connection between my refusing to file returns and my religious Catholic beliefs. Here are the pertinent questions and answers:-

Q: Okay. And when did you first start objecting by either not paying income tax or not filing ?

A. In the early 70's.

Q. What did you do?

A. Just fill out the form and paid my taxes, but I sent a letter of objection.

Q. Did that have any effect?

A. Not, nothing whatsoever.

Q. Did you do anything other than that, subsequently?

A. Each year –

Q. This is stop a minute. The first step, you filled out your forms, you paid your taxes and wrote a letter of objection. Is that correct?

A. Yup.

Q. The next step was what?

A. As the years went by I continued to – through the years, object with letters, phone calls to MP's trying to get them to understand that this is terribly evil, against my conscience and my faith....

62. Here is the evidence, in which I was saying that co-operating with the tax authority, by filing a return was against my conscience and my faith, because it was terribly evil. The trial Judge, in my respectful submission, has not given due weight to the meaning I intended to convey. My clear objection was to filing returns, because it was against my conscience and my Roman Catholic faith.

The effect of my evidence was that “there is a connection or religious requirement between filing or refusing to file a tax return and my religious beliefs and the Catholic Faith, which is the basis of my claim to religious freedom”.

63. Then on page 26, line 11, I said “It settled in my soul that I just didn’t want to deal with them anymore. There’s a certain loathsomeness that I have to co-operate with a murderous regime.”

The means of co-operation, I was referring to, was the filing of returns.

Then on the same page 26, line 20, I say, “I’m not going to file anymore. I’m not going to write you any letters anymore, I’m just going to pray for your conversion because it’s evil.” The “you” referred to here is the CRA or any government official.

[Definition of ‘evil’: New Oxford Dictionary, “profoundly immoral and malevolent, used to describe words, deeds or thoughts which are contrary to religious truth.” When I use the word ‘evil’ in my evidence, it is used in a religious context not a secular context.]

My specific reference to “file” was, of course, a reference to filing returns, which was the agency of the great evil I wanted to prevent. In my submission, one cannot separate the act of filing from co-operating, and one cannot separate the act of filing and co-operating from the consequential evil. Here there is cause and effect.

Then on page 27 line 4, I say, “So I just stopped filing.”

My refusal to file tax returns was based upon my religious belief, which is the basis of my claim to religious freedom. From my religious perspective, there is a causal connection between my filing a return and the consequential facilitation of abortion, which I do not regard as remote, because, at the time the tax return is filed, both the Tax Authority and the Tax-payer have within their contemplation the prospect that the resultant tax support abortions. And I submit that it is not possible to ignore the evidence that makes the connection between filing or not filing and my religion or my religious beliefs.

64. Put into context, the object of my spiritual faith is that I must not formally, immediately or mediately, co-operate with abortion, as this is directly against both my conscience and the teaching of the Roman Catholic Church, and filing a return is a very dangerous step, which could lead to me contributing to the administrators of the Canada Health Act, through which abortions are funded. I cannot both do that and live joyously with my conscience. The spiritual essence of my once good relationship with the Divine, will have been tainted, by my mute and cowardly acquiescence, for which I shall repeatedly need to seek forgiveness each time I file. To place

me in such a position, would be to frustrate my religious beliefs and practices. Psalm 63, 5 calls me to “praise (God) with Joyful lips”, and in vs. 7, “for thou hast been my help, and in the shadow of thy wings I sing for joy.” There is no joy whatever in doing butchery to one’s conscience.

65. The judges in Amselem said that the Court is not qualified to judicially interpret and determine the content of a subjective understanding of a religious requirement. All it can do is assess the sincerity of the belief. Sincerity implies honesty and good faith. Its antonym is artifice. You may say that my belief is incredulous. Or you may find it reasonable. Either way, these are not matters, which determine whether a particular belief is to be protected. As long as my belief is sincere, it matters not, at this stage, what your own personal opinion of it may be.

According to the guidance laid down in Amselem, freedom of religion is triggered when a claimant demonstrates that he or she sincerely believes in a practice or belief that has a nexus with religion. My hope is that this court will find that my beliefs, in both respects, are sincere. (That both abortion and filing returns which can facilitate abortion is evil) You may disagree with my reasons. You may say that I am wrong in my beliefs. But to make an adverse finding on this basis is to miss the point made in Amselem. According to that authority, the courts role is not to assess the rights or wrongs of the belief, but only to determine whether the beliefs are sincere and have a nexus with religion. If the answer is affirmative, then I will have triggered the right to “Freedom of Religion” under the Charter. Then I shall be entitled to go on to deal with the other matters, which Amselem lays down, and which the Respondent refers to in paragraph 24 of its submissions

of 23rd June 2008. These are that “the impugned conduct of a third party interferes in a manner that is non-trivial or not insubstantial, with his or her ability to act in accordance with that practice or belief.”

66. Before I move further to the matter of non-trivial interference, there are two other points, I wish to make :-

Catholicism instructs Catholics to submit themselves to the governing authorities, but not just any governing authorities. I will address that in a moment. This teaching has its origin in St. Paul’s letter to the Romans (13:1-7). St. Paul’s letter is part of Scripture, and the Canon of the Christian Bible. It is useful here to quote the text:

Rom.13

[1] Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. [2] Therefore he who resists the authorities resists what God has appointed, and those who resist will incur judgment. [3] For rulers are not a terror to good conduct, but to bad. Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, [4] for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer. [5] Therefore one must be subject, not only to avoid God's wrath but also for the sake of conscience. [6] For the same reason you also pay taxes, for the authorities are ministers of God, attending to this very thing. [7] Pay all of them their dues, taxes to whom taxes are due, revenue to whom revenue is due, respect to whom respect is due, honor to whom honor

is due.

67. Romans 13:1 says that when anyone claiming authority or power that is not observant of the Law of God, then that one is, in fact, not a lawful power or authority. This is VERY explicit, in that it says “Let EVERY person be subject to the governing authorities.” This does not mean that citizens must be subject to God’s Law, and the politicians and judges may do as they wish, and still claim God’s seal of approval on their right to rule and judge. Unless those in secular authority are in reality, subject to God, then those in secular authority are not legitimately ruling over us. The Charter preamble says “Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law”. For millions of Christians in this country, this statement, despite any opinions to the contrary, sets the tone, measure and means by which to discern how the following sections of the Charter are to be interpreted. And since our civil and common law is rooted deeply in the Judaeo Christian heritage, then if the persons in authority are not themselves obedient to God’s laws, then they are not in fact lawful governing authorities. “EVERY PERSON” means just that. God is perfect by definition. He cannot contradict Himself.

68. Faced with this, one must obey God’s law and not man’s law, as confirmed in the Book of Acts Ch,5 vs.29 “We must obey God rather than men.” Here is the context to Acts 5, which readily allows it to speak for itself:

[12] Now many signs and wonders were done among the people by the hands of the apostles. And they were all together in Solomon's Portico.

(incidentally, this Portico was an integral part of the Temple where Jesus had preached so often)... Continuing [13] None of the rest dared join them, but the people held them in high honour. [14] And more than ever believers were added to the Lord, multitudes both of men and women, [15] so that they even carried out the sick into the streets, and laid them on beds and pallets, that as Peter came by at least his shadow might fall on some of them. [16] The people also gathered from the towns around Jerusalem, bringing the sick and those afflicted with unclean spirits, and they were all healed. [17] But the high priest rose up and all who were with him, that is, the party of the Sad'ducees, and filled with jealousy [18] they arrested the apostles and put them in the common prison. [19] But at night an angel of the Lord opened the prison doors and brought them out and said, [20] "Go and stand in the temple and speak to the people all the words of this Life." [21] And when they heard this, they entered the temple at daybreak and taught. Now the high priest came and those who were with him and called together the council and all the senate of Israel, and sent to the prison to have them brought. [22] But when the officers came, they did not find them in the prison, and they returned and reported, [23] "We found the prison securely locked and the sentries standing at the doors, but when we opened it we found no one inside." [24] Now when the captain of the temple and the chief priests heard these words, they were much perplexed about them, wondering what this would come to. [25] And some one came and told them, "The men whom you put in prison are standing in the temple and teaching the people." [26] Then the captain with the officers went and brought them, but without violence, for they were afraid of being stoned by the people. [27] And when they had brought them, they set them before the council. And the high priest questioned them, [28] saying, "We strictly charged you not to teach in this

name, yet here you have filled Jerusalem with your teaching and you intend to bring this man's blood upon us." [29] But Peter and the apostles answered, **"We must obey God rather than men."**

69. It is clear that St. Paul in Romans 13, cannot be taken to mean that all Caligulas, Herods, Stalins and Hitlers were personally appointed by God and their authority should in no way be resisted. What St. Paul meant, was what Jesus said to Pilate, namely 'you would have no power over me had it not been given you from above'. Pilate, however, misused his authority. Paul's submission is not therefore absolute. Where the State's authority conflicts with God's teaching there is abuse, and one is not obliged to follow it.

When Pharaoh ordered the Hebrew Mid-Wives to kill the new born boys, the midwives refused to obey. 'The midwives feared God and did not do what the King of Egypt told them to do; they let the boys live'. When King Nebuchadnezzar issued an edict that all his subjects must fall down and worship his golden image, some refused to obey. (Dn 3.) When the Sanhedrin banned preaching in the name of Jesus, the apostles refused to obey. (Acts 4:18) All these were heroic refusals, as, I submit, was Thomas More's refusal to sign the Oath admitting King Henry VIII as supreme head of the Church in defiance of the Pope's authority. Down the ages, obedience to conscience and religion involved personal risk including possible loss of life. In each case its purpose was to demonstrate their submission to God, not their defiance of Government.

70. Catholic teaching on this issue is seen in the Catechism Par. 2256

“Citizens are obliged in conscience not to follow the directives of civil authorities when they are contrary to the demands of the moral order. “We must obey God rather than men” (Acts 5:29).”

And in the CCC #2257 **“Every society's judgments and conduct reflect a vision of man and his destiny. Without the light the Gospel sheds on God and man, societies easily become totalitarian.”**

My conscience affirms that any person, entity or government that coerces, threatens, fines or jails any citizen for refusing to co-operate in paying for the killing of innocent persons is totalitarian on its very face.

71. Now if I may, I shall address Romans 13, vs. 7 which reads: “Pay all of them their dues, taxes to whom taxes are due, revenue to whom revenue is due, respect to whom respect is due, honour to whom honour is due.”

Mark 12, 17: so well known says: “Render to Caesar the things that are Caesar's and to God the things that are God's.”

Both of these scriptures, Romans 13, 7 and Mark 12, 17 deal with a citizens duty to government regarding taxes, revenue, respect and honour.

Both are resolved in a correct understanding of what is meant by rendering to Caesar and rendering to God. Oftentimes, only the first half of Mark 12,17 is quoted: “Render to Caesar the things that are Caesar’s.” This gives the impression that Jesus wants us to offer loyal support to our government, the Queen or King, the President or the Prime Minister and Parliament, the

Supreme Court, the Fatherland, the nation-state. But then comes the second half of the verse: “and to God the things that are God’s.” It confronts us with the challenge of figuring out what are the things of Caesar and what are the things of God.

The context gives some more specific clues: Jesus is asked whether or not the Jews should pay taxes. In response, he asks for a coin. “Whose likeness and inscription is this?” he asks, and they tell him it is Caesar’s. It is then that he issues his puzzling command: “Render to Caesar . . .” The puzzle is solved, as St. Irenaeus, the second-century bishop of Lyons, pointed out, when we come to see that just as Caesar’s image and likeness is on the coin, so God’s image and likeness is on each human being. The coin belongs to Caesar. Each human being belongs to God. Has our nation forgotten that in the very first book and the very first chapter of the book that for so long has reflected our values as a people and a country it is revealed by God in Genesis 1, 27 “ *So God created man in his own image, in the image of God he created him; male and female he created them.*”

72. This truth is the keystone of conscientious objection to abortion and cooperating with a "Caesar" who demands we file signed papers that everyone knows can lead to paying for abortion. I am made in the image and likeness of God; I belong to God; therefore, Caesar has no right to hinder my belonging to God. Moreover, just as I am made in the image and likeness of God, so is everyone else; so who am I to take the innocent lives of others or co-operate with those who pay for this unjust killing of the innocent, indeed, this murder?

73. The Church's mandate is that God the author of life has entrusted to men the noble mission of safeguarding life - from conception - and men must carry it out in a manner worthy of themselves, then, in the face of this, I cannot file returns, until the Government recognizes the inviolable right of every innocent being to life, and outlaws abortion willed either as an end or as a means. (Catechism of Catholic Church 2271) Until then, I am entitled to claim the protection of the Charter, as long as my beliefs and practices are judged to be sincere, and have a nexus with religion, I am entitled to trigger a claim under the Charter, and derive an implicated right, which the trial Judge refused to give me. That implicated right, once triggered, will then be subject to whether the interference taken by the State, is non-trivial.

74. In Multani, Gurbaj Singh, the Claimant, said that he sincerely believed he must adhere to the practice of wearing a Kirpan in order to comply with the requirements of his religion (Para 38). My position is similar. If my personal ambition is to have a close relationship with the divine, by learning and practicing the science of 'love', and if, as part of this, my religion requires me to carry out a mission that safeguards life, then, as long as I do not cause harm to others or interfere with their rights, I am entitled the same treatment as Gurbaj Singh: The right to practice my faith and ensure that that portion of my income that falls to be taxed is not applied to abortions.

In paragraph 14 of the trial Judge Jackson's decision, he said, "In my view, section 2(a) is not triggered". I submit, however, that this was the wrong conclusion on the evidence and his other findings. From what the Respondent has said in its submissions, that my beliefs are sincere, I invite

you to hold that this belief extends to filing or not filing returns, and that my claim is triggered.

75. Moving now to the issue of trivial interference, once the claim is triggered, the Court has to consider whether there has been a non-trivial or non insubstantial interference with the exercise of the implicated right, so as to constitute an infringement of freedom of religion under the Charter.

76. In *Amselem*, the interference related to the holding of a succot on a balcony. In *Multani*, the interference related to the wearing of a religious object – the kirpan. In my own case the interference relates to me being required to sign and file returns against my religious beliefs. In *Amselem* various alternatives were proposed to alleviate the claimants, but it was held that these subjectively lead to extreme distress and thus impermissibly detracted from the joyous celebration of the religious holiday. The report says, “there is no doubt at all that the appellants sincerely believe that they must fulfill the biblically mandated obligation, perhaps not of setting up ones own succah, but of ‘dwelling’ in a succah for the entire nine day festival of succot.” The report then goes on to say this, “the burdens placed upon them as a result of the operation of the impugned clauses are evidently substantial. Preventing them from building their own succah therefore constitutes a non-trivial interference with and thus an infringement of their *protected* rights to dwell in a succah during the festival of succot.” On **pg. 48 par. 74** of the Judgment, the Judge said, “It is evident in respect of Mr. Amselem the impugned clauses in the declaration of co-ownership interfere with his right in a substantial way. For, if as Rochon J. himself found, Mr. Amselem sincerely believes that he is obligated by the Jewish religion to set

up and dwell in his own succah, then a prohibition against setting up his own succah obliterates the substance of his right, let alone interferes with it in a non-trivial fashion. *A communal succah is simply not an option.* Thus, his right is definitely infringed.”

77. Pausing to reflect on these words, Mr. Amselem sincerely believed that he was obligated by the Jewish religion to set up and dwell in his own succah. In that circumstance, a prohibition against setting up his own succah obliterated the substance of his right, and it was therefore considered to be an interference of a non trivial kind.” (Para 74) In my case, I sincerely believe that I am obligated by my Catholic religion to safeguard life from the moment of conception and not to take any formal, direct or material or indirect step. or acquiesce, if that could lead to, or encourage abortion. Indeed such co-operation is a grave offense to my conscience and religion. These moral questions on formal or material cooperation posed a dilemma for me for many years. My dilemma will be described. if you will permit me, will be further detailed a bit later. I beg your indulgence once more as I set the stage for factors that increased the soul sickness I suffered for a long time, coming to grips with event and contacts wondrous and others revealing the horror in the hearts of men.

78.

79. Some other studies that as a young man I dug into were the early Church Fathers and Catholic teaching in very early times. I will not repeat these quotations here, they may be found in Appendix III which as noted in my letter to the Minister of National Revenue of 11/26/03 on page 3 and reads:

“ *NOTE: All Appendices in this letter are in their entirety intended to be an integral part of this letter.”

I ask this honourable court in your good time, to read that letter and all six appendices and the brief addendum as they are a key factor to my religious faith and the formation of my conscience as pertaining to the laws which govern my arguments in this appeal.

80.

81.

82.

83. My religion formed my conscience, so did my work and my family life. My wife and I lost two children by natural miscarriage. In consistency with my faith, we had full funerals for both, casket, limousine, Funeral Mass and burial. The first was in June of 1997 at approximately 6 weeks gestation and my wife chose the name David James Douglas Little, after me, her father and my father. The second was in August of 2000. Her name was Mary Elizabeth, after my mother-in-law and my mother. Little Mary was born in my spouse's underclothing and discovered by me on a gurney in the ER while my wife was protesting to the Ob/Gyn, that that was where to look for the baby, and **definitely not in utero** where he was probing. Mary Elizabeth was about 12 weeks gestation and fully three inches in length. I held the child in my hands, we both kissed her and passed her to the nurse, asking her to take good care of her, as York Funeral Home would be coming soon to gather her for her funeral. "I've been a nurse for a long time and I have never seen that before." My wife confided to me that the nurse said this after

I had left the ER to call the Funeral Home.

84.

85.

86.

87.

My mission, that I am to carry out, according to the declaration of the Vatican Council, is to safeguard life, in the decisions I make day to day. If I have triggered a claim under the Charter, then, to interfere with the protected or implicated right, by requiring me to file returns against that right, would obliterate the substance of it, and, as in Amselem, the planned interference should be considered to be non-trivial. *Filing a return is simply not an option.* If it is the spiritual or religious essence of the right, which should be protected, I see no difference between my position and that of Amselem. Once triggered, there exists an implicated and *protected* right. The issue thereafter is whether the interference with the implicated right is trivial or serious. For me, the proposed interference with my implicated right is a serious one. It is serious and not trivial because it concerns (i) the gravely serious matter of the termination of human life, (ii) the gravely serious matter of offending the fifth Commandment, ‘Thou shalt not kill’, (iii) the serious matter of being made to disobey a personal and religious belief not to file a return, when there is a portent that this will assist abortions. (iv) the serious matter of a direct conflict between (a) clearly stated religious tenets and my related beliefs on the one hand, and (b) the States law of abortion on the other, and (v) if the interference with the right is permitted, it will force me into conflict with God and the State, requiring me to choose between

them. Gurbaj Singh was forced to make a choice between remaining at school, or insisting on his right to wear the kirpan. That type of interference was considered, in his case, to be non-trivial. I am being forced to make choices too, but which are far more serious, and which will result in me being fined, and may result in me being sent to prison. To file returns, knowing I could be funding an ‘abominable crime’, to use the words of the Vatican Council, forces me to live in conflict with my beliefs. To refuse to file returns, without the Charters protection, brings me into conflict with the State and causes me to face the States punishments. Yet this planned interference is against a right, which has, I submit, been triggered. It is against a right, which is already implicated. It is against a right where when no one is harmed by my refusal to file, and no ones rights are interfered with. The overall position I am in, I suggest, makes the planned interference very serious. I submit that one is hard put to distinguish my own situation from Multani or Amselem, other than to say that the interference, which the Respondent seeks to impose, is far more substantial than that in those two cases.

88. As stated, my beliefs centre on the possibility or prospect of my tax contributions funding abortions. The Respondent says the prospect is so remote that, in reality, there is no true connection between the filing of a return and the funding of abortion. The Respondent says that my contention is hyperbole.

89. I want to take the opportunity to deal with this. Should there be any residual doubt, let me explain what my personal religious beliefs are with

regard to the mere possibility of my tax contributions being used for abortions. Let me also address the issue of remoteness.

With regard to the distinction, between abortions possibly being facilitated by my filing a return, on the one hand, and their probability of being facilitated on the other, I wish to make it clear that for me there can be no sensible distinction. It is my personal religious belief, which I am entitled to hold, and which I invite you to say is sincere, that a possibility of funding abortions is just as unworthy and unacceptable as a probability. This is because the result is so severe, namely the death of an innocent human being. This posed a serious dilemma for me for many years.

90.

91. In my submission, with respect, in the light of the errant findings of the trial judge, and issues not even addressed, my conscience has a right not to be impugned by the State requirement to file a return, and to impose this requirement and uphold my conviction, is to interfere with my right in a non-trivial way.

The dilemma I have can perhaps be explained by saying this. With regard to abortion there are three ways I can be culpable of a religious evil.

Case 1 : The fetus is a person and I know that. In this event, if at the time I file a tax return, both the tax authority and I have within our reasonable contemplation, that my consequential tax dollars may be used to fund abortions, then, and in that event, the filing of a return is simply not an option. The idea that we both know what may happen, is an evil, in such an

instance. To co-operate in this way, by filing a return, when both parties have within their contemplation, the possibility that my taxes may be used to fund abortions, would be wholly against my beliefs, and would prevent me from enjoying and practicing my religion.

Case 2 : Where the fetus is a person and I don't know that. In this event, I am in the same position as Case 1. I cannot co-operate. Its like driving over a man shaped overcoat at night, or shooting toxic chemicals into a building that you are not sure has been evacuated. You're not sure there is a person in there, but equally you're not sure there isn't. If there is a person there, and you kill him, your act would have been the height of irresponsibility. If it turned out to be someone you love, what then? That is why this Case 2 and Case 1 are indistinguishable, and they each affect my personal religious beliefs in the same way.

Case 3 : The fetus isn't a person, but I don't know that. Abortion here is just as irresponsible as in Cases 1 and 2. You ran over the overcoat or fumigated the building, without knowing there was no one in there. To do such a thing is reckless, not caring whether there was anyone in or not. Recklessness is the taking of an unjust risk. In some instances recklessness involves elements of maliciousness. You foresee a possibility and you consciously take the risk. I cannot for the life of me do that, when it comes to children, when I believe that their lives commence at the moment of conception.

Case 4 : The fetus is not a person and I know that. This is the only circumstance in which I could file a tax return. (unless the State ceases abortions.) Only if I can be certain that there is no fetus, or that no one was

in the coat or in the building could I drive over, fumigate or fund the government with tax. Only if I can be sure that the Government has ceased to fund abortions from taxes, can I co-operate. My non co-operation is the spiritual essence of my conduct, which is tied to my religious faith.

92. In its submissions, the Respondent claims that there is no connection between my filing of a return and what the Government does with my tax contributions. They claim that there is no relationship or connection between these two events. They say they are too remote, and for that reason the interference with the implicated right is non substantial or trivial. In *Prior v. R.*, which was relied upon by the trial Judge (Para 15) the appellant, Dr. Prior, objected to being taxed for military purposes. In that case one of the issues raised on appeal was that the trial judge was wrong in saying that there was no nexus between the taxes she had to pay and the defense expenditure of the Government. The Judge in that appeal said, "It is clear that the action of the appellant could only succeed if the taxes levied on the appellants income from employment or business are sufficiently connected to the moneys expended for military purposes, so as to render the payment of taxes an insult to the beliefs and conscience of the appellant, as regards to use of violence. The motions judge was right in finding the existence or absence of such connection was strictly a question of law to be answered in the light of the provisions of the Income Tax Act, the Constitution Acts 1887 to 1982 and the Financial Administration Act..... I have no difficulty in saying with the motions judge that neither the payment of income tax nor the defense expenditures of the Government of Canada in any way affect, curtail, diminish or infringe the appellants conscience or religion within the meaning of 2(a) of the Charter. The income tax paid by her under the secular

scheme of the Income tax Act charging her business or employment income tax, in no way identifies her with any of the functions of the Government of Canada be they political, social, economic, defense or for the peace order and good government of Canada.” At first glance, these comments seem to suggest that I may be in the same difficulty as Dr. Prior; there being no connection between the filing of a return and what the State may do with any consequential tax contributions. In other words, my implicated right may exist, having been triggered, but if there is no nexus between the filing of my returns and what the Government may decide to do with my contributions, the Governments interference with my implicated right may be regarded as trivial. The decision in Prior also suggests that the appellants conscience could not be affected by what the Government chose to do with her taxes, as the charge to tax in no way identified her with any of the functions of Government.

The first point I wish to make is that Marceau, J.A. who was the Judge on that appeal, made a statement, in direct conflict with the guidance given in Amselem. He said, “neither the payment of income tax nor the defense expenditures of the Government of Canada in any way affect, curtail, diminish or infringe the appellants conscience or religion within the meaning of 2(a) of the Charter.” The point made in Amselem is that the Court is in no position to be the judge of someone’s conscience. Yet Marceau J.A. did the very thing, which the Judges in Amselem said he was powerless to do, namely determine the subjective aspect of Dr. Prior’s personal belief. Of course the decision in Amselem was made on 30th June 2004, and Pryor v. R was decided 15 years earlier, so one can suggest, I submit, without causing offence, that had Dr. Pryor come before the Court post 2004, the comments

made by Marceau J.A. might have been very different. I submit, therefore, that although Judge Jackson, in my own case, relied on *Pryor v. R.*, it was not an authority, which carries the weight that perhaps he imagined. I also want to say this: in a slightly later case, Muldoon J held in *O'Sullivan v. R* 1991, in making special reference to *Pryor v. R.*, said that "The supreme Court of Canada refused to give Dr. Prior leave to appeal.... It dismissed her application for reconsideration. To pass off the present taxpayer's understanding or that of Dr. Prior, of the contribution which all taxpayers make and every tax payer makes to the projects services and programs of the government which exacts the payment of taxes, as having no connection the one to the other, is perhaps little more than lawyer's solemn sophistry, for patriots and politicians are always telling Canadians how much Canadians ought to admire the exploits of the Canadian Forces and the universality of Canada's health care system. On the other hand the Auditor General annually demonstrates in what regard the folks in charge of governmental services and programs waste the taxpayer's money. That money is neither extra territorial, nor extra terrestrial. The nexus, despite the defendant's counsel's erudite arguments, is real and really understood by a dignified, self-governing populace". What this means, is that there is judicial opinion which says there is a connection between what the tax payer pays and what the government does with a tax payers contributions, and I suggest that the Respondent cannot rely on *Prior v. R* to say there is no nexus between the two, without running into conflict with *O'Sullivan*. If I make a deposit into my bank, I can draw on those funds from my account, because there is a sufficient nexus between the credit payment I have made and my assumed credit balance. This assumption is made by reason of the nexus between my deposit and my account, which is recorded. Although my dollars do not

actually go into my account, and may circle the globe, for all I know, after entering the banks pool, there can be no difficulty in seeing both the cause and effect of my actions. And just as the premiums I make to my private pension policy, go to fund my future pension, despite those monies never being credited to my actual policy, the two events, are regarded as related. They are related by a concatenation of events, which lead to the planned result. So too, there is a concatenation of connected events between my filing of a return and the application of that money by the Government, which uses it for multiple purposes including the Health Care services, which fund abortions.

93. In a damages claim for breach of contract, the aggrieved is entitled to recover that loss, which was in the contemplation of both parties at the time the contract was made, as being the loss, resulting from the breach. The loss having been within their contemplation precludes it from being classified as remote. For damages to be recoverable in a contract case, liability depends upon the parties assumed knowledge and contemplation. In tort, the tortfeasor is liable for damage, which is of such a kind as should have been foreseen by a reasonable man, however unlikely the occurrence might have been. Here, the right of recovery depends upon what was reasonably foreseen. It is the element of foresight, which rules out remoteness. In my case, at the time the tax returns are filed, there is within the contemplation of the parties, and their assumed knowledge, the event, which in my opinion, causes damage. It is knowledge on the part of both the tax authority and the tax payer, that the tax collected may be used to fund abortions. It is this assumed knowledge or foresight, which precludes it from being remote. As in tort, I suggest, it matters not how unlikely that occurrence might be.

Provided a reasonable man can say that there is in prospect, the possible application of funds for abortion, then, no one can sensibly argue that the connection between the filing of a return and the use to which it may be put is too remote. Provided the tax returns are filed in the contemplation by both tax payer and state, that any taxes then due may be used in a particular way, there is, in my submission, a nexus, or a relationship between the two events, ie, the filing and its later use. It matters not, in the case of damages for breach of contract, what intervenes. Two years or so may pass between the signing of the contract and the event, which gives rise to the claim. In that time, all manner of things may have occurred, but no one would suggest that these make the loss more remote. This is because remoteness depends not on the intervening events, but on what the parties to the contract had in mind as a result of their legal relationship. Again in tort, it matters not how unlikely the event might be, which gives rise to the damage. What is important is the foresight by reasonable people of what could occur. If the Plaintiff proves either mutual contemplation on the one hand or foreseeability on the other, then the loss is not considered to be too remote. One may argue that there is no contract between me, and the Government, or that this is not a damages claim, but whatever the result of that argument may be, this is how the theory of remoteness was devised over several centuries in the law, and I submit it has a relevant place here.

94. In its submission, the Respondent, in paragraphs 27 to 33 seeks to show that there is no connection between the filing of a return and the use of the tax eventually paid.

In paragraph 29, of its submissions, the Respondent, in an attempt to show the gulf, which they say exists between the filing of a return and the application of any tax that may result, lists a series of intervening acts that may take place within the system. But in my submission, this is not supported by ‘O’Sullivan v. R’, upon which the Respondent relies. There the Appeal Judge said “the nexus, despite the defendant’s counsel’s erudite arguments, is real...” Likewise, I suggest, that if I pay money to my local authority, knowing that my contributions will go some way to pay for keeping the streets clean, there may be numerous committees, which will direct exactly how the public’s contributions will be apportioned between the services, and there may be many bank accounts into which those funds may end up, but no one would suggest that there is no connection between my contributions and the benefits I enjoy from those local services. They are all within the contemplation of both local tax-payer and the main service provider, even if some of the uses are within the discretion of the local authority, like an emergency fund or storm clearance.

In paragraph 32, the Respondent refers to O’Sullivan v. R., and quotes from the case. The quotations are interesting. They are this : “...because he, like Dr. Prior and all the other tax payers, is under a legal compunction to pay income tax, he cannot legitimately be reproached by his conscience for he does not wish to pay the impugned portion of his tax and does not so do freely and voluntarily....”

In my submission, there are two difficulties for the Respondent with this quotation from O’Sullivan v. R. The first is that, as previously indicated, according to Amselem, the Court is not empowered to judge the subjective

and personal nature of belief, which extends to the state of a mans conscience. The only person who is qualified to reproach his conscience is the Claimant. The most the court can do is determine whether the beliefs expressed are sincere. The second is that once the religious beliefs are judged to be sincere, and the right has been triggered, it is too late to say that he is under a legal compulsion (e.g. to file a return) to do this or that, because at that stage he is under no compulsion, unless and until the Respondent can show that the proposed or actual interference, with that implicated right, is trivial. (The Respondent may say that it is for me as Claimant to prove that the interference is non-trivial, instead of the reverse, but I submit that I have already done that) The case of O’Sullivan, was decided in 1991, that is to say 13 years before Amselem.

The quote goes on to say this, “here no legal authority purports to impose upon the taxpayer any legal duty to participate personally in the counseling or performance of an abortion.” With respect, this misses the point. If I pay my neighbour enough money so as to enable her to have an abortion, I have fully participated in and have been a major cause in the abortion, without which money it could not have been carried out. To cause or facilitate the event is the very opposite of safeguarding it.

Finally, the quote says, “There must be few occasions when a Canadian Court would approve the evasion of a legal duty, The tax payer has a constitutional right to express his vehement condemnations of such practices.” Again, with respect, these comments ignore what should happen once a claim under the Charter has been triggered. Once that occurs, the right is said to exist, subject to proof of other matters, such as triviality of

interference. Once the horse has bolted it is too late to think about closing the stable door. I therefore submit that such comments cannot apply to my position. The Respondent has said in its submissions that I have met the first test, and the only test outstanding is triviality of interference. If that is their position, then, I submit that the claim must be triggered, and it should then follow that I am entitled to the Charters protection, unless the interference is judged to be trivial. That I may express my vehement condemnation about the issue, or to say that there must be few occasions when a court will approve the evasion of a legal duty, is all very interesting, but the searchlight of enquiry is not intended for such matters. It should be focused upon the guiding matters given in Amselem.

I therefore submit that there is a connection between the filing of a return and taxes paid and what the Government does with those taxes, and it is unreasonable to suggest that the link is so remote or tenuous as to either classify the interference trivial, or conclude, as the trial judge did, that I had not presented any connection or religious requirement between filing or refusing to file a tax return and my Roman Catholic faith. Moreover, the evidence I gave, shows that filing a return was against both my conscience and faith.

95. The charges against me, of which I stand convicted, are strict liability offences.

A person is guilty of the strict liability offence under section 238 of the Income Tax Act, by reason of his failure to file the return, within the prescribed time limit. His intent is irrelevant.

The difference between absolute and strict liability offenses are that there is no defense available in absolute liability offenses, whereas strict liability offences are subject to the defense of due diligence.

Due Diligence is a defense which basically says, 'I have done everything in my power to comply with the duty, and I should therefore be excused from conviction.

In my case, I did everything in my power not to comply with the Act, which means that due diligence is not available to me as a defense.

However, where a claim under the Charter has been triggered, and the interference is judged to be non-trivial, and no one is harmed by the exercise of the right, which, at that stage, is protected, isn't a conviction flying in the face of the Charter? And isn't there an injustice, where the successful claimant must pay a fine, and may face imprisonment, notwithstanding his protected right?

96. B.C. Motor Vehicle Act, [1985] 2 S.C.R. 486

In the B.C. Motor vehicle Act case, Motor vehicle Act provided for minimum periods of imprisonment, for the offence of driving on a highway, without a valid driver's license, or with a license under suspension.

In my case, the ITA Act 1985, provides for a minimum fine of no less than \$1000, and discretionary imprisonment, for the offence of failing to file a return, when required, by section 231 of the Act.

In the B.C. Motor Vehicle Act case, the offence was one of absolute liability, for which the defense of due diligence was not available.

In my case, the offence is one of strict liability, for which the defense of due diligence is not available. And this is not because the quality of my submissions on due diligence may be poor or wanting in some respect, but it is because the defense is simply not available, and it is this which makes my offense of strict liability very similar, if not the same as an offense of absolute liability. That which has given rise to the offense under section 238 – deliberate refusal to file a return – has become justified, the spiritual or religious essence of the act attracting protection of the Charter!

In the B.C. Motor Vehicle Act case, the Judges said, “A law with the potential of convicting a person who really has done nothing wrong offends the principles of fundamental justice and violates a person’s right to liberty under section 7 of the Charter if imprisonment is available as a penalty”.

Lamer J. in paragraph 1 of the Judgment said, “A law that has the potential to convict a person who has not done anything wrong offends the principles of fundamental justice, and if imprisonment is available as a penalty, such a law violates a person’s right to liberty under section 7 of the Charter of Rights and Freedoms (Constitution Act 1982 as enacted by the Canada Act 1982 (U.K.).”

In his Judgment in paragraph 14 and 15 Lamer J also quotes, “The Courts will not question the wisdom of enactments.... But it is the high duty of this Court to insure that the Legislatures do not transgress the limits of their constitutional mandate and engage in illegal exercise of power.”.... “Section 7, like most other sections in the Charter, limits the bounds of legislative action. It is the function of the Court to determine whether the challenged legislation had honoured those boundaries.”

At paragraph 76 the Judgment continues with the following, Obviously imprisonment (including probation orders) deprives persons of their liberty. An offense has the potential as of the moment it is open to the judge to impose imprisonment. There is no need that imprisonment... be made mandatory... I am therefore of the view that the combination of imprisonment and of absolute liability violates s. 7 of the Charter”.

In the B.C. case the effect of absolute liability was held to be of no force or effect, and given the circumstances of my own case, and the similarity between my position and that of cases of absolute liability, I submit that on a true understanding of the B.C. Motor Vehicle authority, the fact that I am unable to introduce a defense of due diligence, should not be held against me, and the strict liability nature of section 238, in my case, should similarly be held to have no force and effect.

97. In his decision, with respect, the trial judge did not mention at all the Supreme Court of Canada co-authored majority opinion of Justice Bertha Wilson, in the Morgentaler case of 1988 which was referred to explicitly in

my Submission in Reply requested by Judge Jackson and dated September 21, 2007, Paras. 6 & 7. I ask protection under the Charter of Rights and Freedoms against discrimination in Sec. 15. (1) which states: **“Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on (...) religion.”**

It is simply not fair or just that members of the Catholic Church in Canada, part of the worldwide Catholic Church, under the spiritual leadership of the Pope and Curia in Rome are discriminated against as **the majority religion** and coerced to submit taxes to a regime that uses public income tax to kill innocent unborn children, as I believe them to be.

According to the 2005 survey of Encyclopædia Britannica, Christianity is the largest religion in the world and the Catholic Church is the world's first and largest Christian Church, with 1.13 billion members. It is also the largest religion in Canada with 46% of Canadians being Catholics. Catholic church has members of 13,070,000. There are 72 dioceses and about 8,000 priests in Canada. I mention these figures to argue that majorities, Catholics and other Christians, also are becoming more and more frequently discriminated against, witness the many negative decisions of Human Rights Commissions against Christians across Canada of late.

In *Morgentaler et. al. v. Her Majesty The Queen* [1988] at page 37 it was decided:

“The deprivation of the s. 7 right in this case offends freedom of

conscience guaranteed in s. 2(a) of the Charter. The decision whether or not to terminate a pregnancy is essentially a moral decision and in a free and democratic society the conscience of the individual must be paramount to that of the state. Indeed, s. 2(a) makes it clear that this freedom belongs to each of us individually. ‘Freedom of conscience and religion’ should be broadly construed to extend to conscientiously-held beliefs, whether grounded in religion or in a secular morality and the terms “conscience” and “religion” should not be treated as tautologous if capable of independent, although related, meaning. The state here is endorsing one conscientiously-held view at the expense of another. It is denying freedom of conscience to some, treating them as means to an end, depriving them of their ‘essential humanity’.”

If by judgment of the Supreme Court of Canada a woman has a right in conscience to have equal access to direct induced abortion, then by the same logic, I must not be discriminated against in conscience because I choose not to pay for this ‘procedure’ through surrendered taxes because my religion teaches me formally, which I believe with all my heart conscientiously, that direct induced abortion is nothing less than plain and simple murder.

Pope John Paul II, in an address “To the Laity, Catechists and Catholic Women” in Kaduna (Nigeria) on February 14, 1982 declared, “Abortion is the murder of an innocent child. It has to be condemned by society.”

I respectfully hold that the trial judge did not give due weight to my “SUBMISSION IN REPLY” which sets out sound legal arguments in Par. 6,

and 7, referring to Sec. 7 of the Charter “The right to “liberty” contained in s. 7 guarantees to every individual a degree of personal autonomy over important decisions intimately affecting his or her private life. Liberty in a free and democratic society does not require the state to approve such decisions but it does require the state to respect them.” Per Wilson J. Morgentaler et. al. v. Her Majesty The Queen [1988]

I repeat what was decided by majority opinion in that case:

“ The decision whether or not to terminate a pregnancy is essentially a moral decision and in a free and democratic society the conscience of the individual must be paramount to that of the state. Indeed, s. 2(a) makes it clear that this freedom belongs to each of us individually.”

If the decision whether or not to “terminate a pregnancy” is decided by the conscience of the individual, **how can my conscience not be identically respected and upheld in law, when my conscience holds that it would be evil to file a tax return if there was a serious risk that by so doing I would be contributing to “the murder of an innocent child”** as John Paul II declared. Such discrimination against my conscience is I submit, the very definition of Sec. 15 of the Charter on whose protection I again assert.

In my submission, with respect, in the light of the errant findings of the trial judge, and issues not even addressed, my conscience has a right not to be impugned by the State requirement to file a return, and to impose this requirement and uphold my conviction, is to interfere with my right in a non-trivial way.

98. Turning now to a final matter. If I successfully demonstrate that the interference which the state intends is non-trivial or non insubstantial, the court must then consider how the rights of others may be affected, and the court should examine the harm to others, if any, or the interference with the rights of others, which may require protection. The ultimate protection of any charter right must be measured in relation to other rights.

My position on this final aspect is twofold:-

1. There are no third parties, whose rights fail to be considered in this matter. There is no perceived harm, which can befall anyone that has come forward. To suggest, that the general public would be harmed by my successful appeal, I submit, is unsustainable. If my appeal is successful and this opens the floodgates to others claiming exemption, and if the majority of tax payers tried to follow me, would that not indicate that the Federal Government, should legislate new laws on abortion? The 1988 Morgentaler decision stated on page 39, **“Historically, there has always been a clear recognition of a public interest in the protection of the unborn and there is no evidence or indication of general acceptance of the concept of abortion at will in our society. The interpretive approach to the Charter adopted by this Court affords no support for the entrenchment of a constitutional right of abortion.”**
2. One final essential clarification is necessary on abortion where the life of the mother is in real medical danger of death. The Catholic

Church teaches if a woman needs medical treatment, she deserves treatment whether she is pregnant or not. And if a woman is pregnant and is in need of life threatening treatment for herself, e.g. a cancerous uterus, or any other medically life threatening disease or illness, and if as a result of that treatment, the unborn child should die as an unintended and indirect result of that treatment, that has nothing whatever to do with direct induced abortion, “*that is to say, abortion willed either as an end or a means,*” (CCC 2271)

3. I would gladly file and pay my taxes if new parliamentary legislation is enacted prohibiting the public funding of abortion or making direct induced elective abortion illegal. The Morgentaler 1988 decision, certainly leaves wide open that real possibility. What possible harm could that be? Can it be identified? I think the answer is ‘No’. The Respondent has not adduced any evidence or argument that anyone may be harmed, or their rights interfered with.
4. This issue, which I have voluntarily introduced out of a sense of fairness and a desire to make a full and complete submission, has not been raised at all by the Respondent. It makes no submission on this issue and brings no evidence to bear on the subject.

I therefore ask this Court to grant my appeal, and quash the convictions.