



“Adult Viewing Only”: Dorothy Cameron’s 1965 Trial for Exhibiting Obscene Pictures

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Toronto’s Dorothy Cameron Gallery was bathed in pink light as about two hundred guests packed its long narrow room on the evening of 20 May 1965 for the opening of *Eros 65*, an eagerly anticipated exhibition of representational works about love. A romantic atmosphere was created by pink champagne, roses, red candles in white sconces, and heart-shaped stickers marking purchased works. As usual, Cameron’s party attracted Toronto’s *beau monde* including her sister Anna who was a popular CBC television personality, journalists Pierre Berton, Robert Fulford and June Callwood, and many artists, patrons, and collectors.¹ They bantered happily, unaware that the police would raid the gallery in the morning, charge Cameron with exhibiting obscene pictures and set off a protracted and very public legal battle that has been touched on in memoirs and histories of the era without ever being critically analysed.² As a result, its important role in defining the boundaries of acceptability in Canadian art, bringing state censorship powers under scrutiny, and exposing the fragility of women’s social position remains unexplored.

But on this happy evening, the party’s ebullient centre was forty-one-year-old Dorothy Cameron, the only woman amongst Toronto’s thirty-four commercial art dealers and one of the most vocal champions of Canadian art. She had been raised in northern Ontario and Italy, studied English at the University of Toronto, and pursued graduate work at Boston’s Institute of Contemporary Art. She had then married a Toronto doctor, started a family and, like many educated upper middle-class wives, channelled her professional ambitions into the socially-exclusive Junior Women’s Committee of the Art Gallery of Toronto.³

Toronto was changing dramatically as Cameron settled in the city. New immigrant groups were altering the ethnic dynamic and suburbs were pushing out in all directions, while a generation of young artists challenged the complacent cultural values and Protestant moralizing which

Detail, Robert Nelson Markle, *Lovers II*, 1963, tempera, 59 x 89 cm, Art Gallery of Ontario. (Photo: Art Gallery of Ontario)

had earned the city the sobriquet “Toronto the Good.” Painters II touched off the revolution by introducing abstract expressionism at their February 1954 show. Critics lauded this dramatic challenge to cosy conservatism, though many Torontonians clung to earlier ideals. For instance, in a widely reported 1955 incident, Mayor Nathan Phillips called an exhibition of young Toronto painters “something I wouldn’t want my children to see,” especially a depiction of a nude couple embracing.⁴ The painting’s creator, Graham Coughtry (1931–1999), complained that “every damn tree in the country has been painted,” by which he meant that young artists found that the iconic status of the Group of Seven’s wilderness motifs were hampering their ability to promote a new, urban aesthetic.⁵ Nonetheless, affluent art lovers began taking notice and by Painters II’s final show in 1960, “painting contemporary with its times” had gripped Toronto, a city that artists were opening “all the way up to the art of their time.”⁶ They mined images from popular culture, Canada’s First Nations, lingerie catalogues, and men’s magazines, they hosted uninhibited parties in their studios, and galleries staged irreverent Dada-inspired “happenings” at which artists played extempore jazz and guests created spontaneous art from random objects.⁷

When Cameron’s marriage failed she threw herself into this bohemian milieu by apprenticing with a couple of dealers before opening the Here and Now Gallery in Yorkville in 1959. Its name and location proclaimed her allegiance to the art rebels, but like many romantic ventures, it began foundering within a year. So Cameron persuaded thirty friends, including her sister, Bay Street lawyers, the collector Samuel Zacks, and the socialite Signy Eaton, to finance a new gallery at 840 Yonge Street where the staid business district intersects with Bloor Street’s fashionable shops, the university’s academic enclave, and Yorkville’s coffee houses.⁸ Cameron tirelessly promoted the gallery as a meeting place for people interested in modern Canadian art in order to “impress the importance of this field upon the public and its officials.”⁹ Despite her passion and energy, the market was small, and the gallery was never very profitable and was losing money consistently by the mid-1960s (Fig. 1).

Then, in early 1965, signs pointed to a mellowing moral climate: the venerable Art Gallery of Toronto staged a “happening” in February and the Av Isaacs Gallery, which was close to Cameron’s, exhibited Dennis Burton’s erotically charged “Garterbeltmania” series in April.¹⁰ This convinced Cameron to ask twenty-two artists to submit intimate, erotic, private works for a three-week exhibition about love.¹¹ At the crowded *vernissage* Pierre Berton made a short, pointed speech recounting the decade that had elapsed since Mayor Phillips’s disapproving comments about art, before concluding that the sixty or so works amid which he stood proved that Toronto had



1 | Dorothy Cameron in her gallery at the time of the police raids. On the wall behind her can be seen two works of art that were included in the *Eros 65* show. *Toronto Telegram* Photo Collection, Clara Thomas Archives and Special Collections, York University. (Photo: author)

outgrown its dour heritage.¹² But at least one guest quietly disagreed and, the following morning, complained to the police.

Just after noon on 21 May – the exhibition’s first day – two detectives entered the gallery and asked the receptionist to clear the twenty or so visitors and lock the door. She then telephoned Cameron at home, who in turn called Meredith Fleming QC, a gallery shareholder.¹³ Inspector William Pilkington had arrived by the time Cameron and Fleming reached the gallery. Although only four years older than Cameron, Pilkington embodied traditional Toronto ideals as a Freemason and Sunday-School teacher who collected English hunting prints and kept the Bible in his office. He and his wife of twenty

years enjoyed hearty German meals, epic war movies and the RCMP's annual ball; he confessed that "modern art escapes me," as did a wide swathe of 1960s culture from the Beatles to Brigitte Bardot and calls for the legalization of marijuana.¹⁴ As the morality squad's head, he was responsible for judging whether the pictures were obscene.

Many of the patrons expelled from the gallery milled about outside, along with curious pedestrians and a few journalists, to whom Pilkington declared he would "make a decision" about whether the pictures showed an "undue exploitation of sex," the *Criminal Code* test for obscenity. The gallery's lights were lowered, but the crowd still watched as detectives, Cameron, and Fleming examined and photographed each work. Pilkington's confident public demeanour masked the morality squad's uncertainty about judging images in an uptown art gallery whose effusive middle-class proprietor and her eminent lawyer were unlike individuals encountered on routine vice raids. One detective admitted to worrying "about being a square" in the eyes of the arts community while the painter Dennis Burton (1933–2013) described what he witnessed from the sidewalk in the countercultural vernacular as "a wild scene," and a cynic pointed out that "Eros" spelled backwards is "sore," a word that seemed to encapsulate the motives behind this raid.¹⁵

The drama had no climax. As Pilkington left in mid-afternoon he equivocated to journalists, who had been joined by at least one television camera, that, apart from a single picture, the exhibition "possibly meets contemporary community standards."¹⁶ The gallery reopened with a blank space where *Lovers I*, a dark, explicitly sexual charcoal drawing of two reclining women by Hamilton artist Robert Markle (1936–1990), one of Canada's best young painters, had hung. Markle's work was both sensual and critically observed. He had spent the previous couple of years producing his *Burlesque* series, in which he depicted "the naked female body as seen in the harsh single spotlight of the burlesque theatre."¹⁷ It was odd to censor *Lovers I* though, since it had been exhibited and sold without incident two years earlier at the Av Isaacs Gallery and was being reproduced in *Canadian Art* magazine.¹⁸ Singling out the drawing possibly reflected Pilkington's unease in trying to reconcile his legal and moral authority over Cameron with his professional need to appear decisive in the face of unprecedented public scrutiny. So he allowed the show, which he reasoned would never draw large crowds, to continue so long as Markle's picture was locked in a storeroom.

Cameron and Fleming agreed to the deal, but soon felt that sequestering the picture after such an arbitrary assessment seemed unjust. So the following day Cameron told the *Globe and Mail* that she intended "to make a stand against censorship of art" and her determination was buttressed by the reaction of middle-class Toronto.¹⁹ The paper then published a supportive

editorial on Monday, 24 May decrying the censorship of a picture that had offended detectives and a single member of a large crowd. This was accompanied by a long spoof article about a raid on an exhibition of brown paper Liquor Store bags, in which alcohol had to be concealed in public according to a long-established Ontario law. The satire cast the police as humourless prudes intent on crushing the nose-thumbing attitude of the city's young artists; it described how detectives named after renowned seventeenth-century Puritans Praisegod Barebones and John Calvin spotted all manner of lewdness in bags that had been shaped by artists such as Genghis Cohen, Natalie Attired, and Peter Abbott.²⁰ The *Globe's* irreverent incredulity was bolstered by Pierre Berton's optimistic claim that in the past every picture would have been seized, and the Chair of Ontario's Commission on Obscene Literature who declared that he found Markle's work inoffensive.²¹

Public reactions evinced widespread frustration at resurgent moralism and emboldened Cameron to announce on Tuesday that she intended to re-hang the Markle, because storing it tacitly admitted it was obscene.²² Fleming informed the police of her intention and the following afternoon – before *Lovers I* could be reinstalled – two detectives entered the gallery with a search warrant, which formalized their actions and demonstrated that the media drubbing had hardened their attitude. They gained further resolve when they read the small hand-written “Adult Viewing Only” sign that Cameron had taped to the front door to capture the public mood – if prudes and police could not approach art maturely, they should stay out of galleries.²³

Detectives recorded the names of twenty or so gallery visitors before ushering them out and locking the door. Cameron called Fleming, but her emotions soon betrayed her shock at the authoritative police action. When detectives declared they were going to remove several drawings, she became extremely upset and threw herself in front of them, exclaiming “you'll have to kill me first before you take my pictures.”²⁴ Fleming arrived and calmed her as detectives unhooked *Lovers I*, *Lovers II* (Fig. 2), *Lovers VI*, *Lovers VII*, and *Paramour*, from Markle's *Burlesque* series, along with *The Lovers* (1953), a drawing of heterosexual intercourse by Fred Ross (b. 1927) and a chalk drawing of a woman grasping a man's genitalia by Lawrence Chaplin (b. 1939), a recent graduate of the Ontario College of Art.²⁵ Four of the works depicted nude female couples, while another two showed heterosexual pairings. *Lovers I* and another picture were privately owned, while the rest carried modest prices of between one hundred and one hundred and forty dollars.²⁶ Cameron then became the first art gallery owner to be charged under Section 150 of the *Criminal Code*, which stated: “everyone commits an offence who knowingly, without lawful justification or excuse, sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture,



2 | Robert Nelson Markle, *Lovers II*, 1963, tempera, 59 x 89 cm, Art Gallery of Ontario. (Photo: Art Gallery of Ontario)

model, phonograph record or other thing whatsoever.”²⁷ The front page of that evening’s *Toronto Star* showed detectives wrapping the pictures in brown paper, signalling that the city’s do-gooding moralists were once again ascendant (Fig. 3).²⁸

This apparently arbitrary attack on artistic freedom stunned the legal and arts communities. On 3 June the recently formed Canadian Civil Liberties Association hosted a public debate about the need for active oversight of obscenity laws that gave unrestricted censorship powers to detectives.²⁹ One week later, eight of Toronto’s foremost commercial art dealers issued a statement declaring that “no matter what the administrative process which brought them [detectives] to the point of seizing drawings and charging a gallery owner, someone should have the common sense to prevent it.”³⁰ They feared a precedent that would empower anyone who disliked an exhibition to telephone the police, and expressed a widely held view that charging Cameron was a mistake. Newspapers and magazines supported Cameron almost unanimously, though a few cynics whispered that she had staged



3 | Toronto Police Morality Squad detectives take pictures wrapped in brown paper to their car during the second raid on Cameron's gallery. *Toronto Telegram* Photo Collection, Clara Thomas Archives and Special Collections, York University. (Photo: author)

the raid to publicize a show that was now attracting the biggest crowds her gallery had ever seen (Fig. 4).³¹

Cameron continued working, but her physical, emotional, and financial resources were soon drained and she closed the gallery in early autumn. She blamed the failure on the difficulty of making a living out of selling Canadian art, but the *Toronto Star* published a photograph of her taping a hand-written "For Rent" notice in the gallery window, implicitly linking its failure with the "Adult Viewing Only" sign that she had affixed there in May.³²

The uncertainty that had marked Pilkington's actions in the initial raid reappeared on the eve of the trial. Crown Attorney Peter Rickaby, who had seen *Eros 65* and recommended charging Cameron, realized that her conviction would be denounced as censorship, while an acquittal would make the police seem like ridiculous zealots.³³ This accounts for the offer he made on the eve of the trial to drop the charges if Cameron agreed that she would never exhibit the pictures again. The deal would spare the morality



4 | Curious Torontonians peer through the Dorothy Cameron Gallery front window to see what all the fuss is about. The red hearts taped to the windows were meant to create a romantic atmosphere in keeping with the theme of *Eros 65*. Cameron’s “Adult Viewing Only” sign is visible by the door. *Toronto Telegram* Photo Collection, Clara Thomas Archives and Special Collections, York University. (Photo: author)

squad from further scrutiny and Cameron no longer had a gallery in which to show pictures. She refused, once again believing that her acceptance would be interpreted as an admission that the pictures were objectionable.³⁴ Her obstinacy hardened Rickaby’s attitude and he decided to proceed by indictment, which entailed a possible criminal record, two-year jail sentence, and severe fines.³⁵ Cameron opted to face a magistrate, rather than a judge and jury, believing that the objective assessment of a learned officer of the court would exonerate the pictures.

The trial’s physical surroundings reinforced the emerging power dynamic and exposed underlying assumptions about women and obscenity. Proceedings opened on 5 October in the “cramped and crowded” basement courtroom in the old city hall in which prostitutes – the archetypal female transgressors of social and sexual mores – were traditionally arraigned. City

council had recently decamped to the modernist landmark that symbolised Toronto's aspirations, leaving this stone and mortar evocation of a more conservative era. There was little grandeur in a courtroom with wire-covered windows, Formica tables, and a wall calendar bearing the name of a stationery supplier. Reporters, who usually covered the arts scene, emphasized the absurdity of the surroundings by contrasting Magistrate Fred C. Hayes's gauche light grey suit, chunky ring, gold watch, and garishly spotted tie with Cameron's elegant fur-collared coat, pillbox hat, blue linen dress, and heirloom jewellery.³⁶ Assumptions about gender were also evident when Cameron failed to hear the Clerk call her name and he, no doubt expecting a far less respectable-looking defendant, missed her response to his second attempt. They recognized one another on the third try, but the exchange augured the challenges she would face in explaining the pictures to the court. The *Globe's* liquor store bag analogy was also revived as newspapers published photographs of detectives carrying the pictures into court wrapped in brown paper.³⁷

Crown Attorney Peter Rickaby adopted the traditional strategy for prosecuting obscenity cases. After arguing that the magistrate must decide whether the *Criminal Code's* definitions of "obscene" and "publication" applied to works of art, he brought the seven pictures into court. Detective George Quennell then recounted the first raid. When Rickaby asked him to describe *Lovers I*, Fleming objected, saying "the picture speaks for itself. It may be a picture of Willie Mays catching a fly ball. The witness is not in a position to say what the artist is intending to depict." The magistrate accepted the baseball analogy and instructed the detective to "describe what you see in order to assist the record. I make it abundantly clear that I shall be the one which will be doing the looking and the observing and reaching the conclusions;" at the time, this was the norm in obscenity cases.³⁸ Quennell briefly described the other pictures before turning to the second raid, in which he had noticed the "Adult Viewing Only" sign next to the front door. In the courtroom, Cameron's joke was construed as an admission that the exhibition was unsuitable. Quennell then reverted to gendered stereotypes by saying that when you asked Cameron "a question, she went off on a far tangent until you brought her back again to the subject at hand. She's a very emotional person," and transformed her from a successful, educated professional under unaccustomed stress, into a hysteric who had wilfully contravened social mores. Doing so linked her to the brazen women normally tried in that courtroom. Unfortunately, Cameron appeared to justify the comparison by laughing aloud at Quennell's remark.³⁹ Fleming left the point unchallenged, but he objected when Quennell called the pictures obscene. The magistrate again agreed, though he allowed that "an officer carrying out

an investigation has to reach some conclusion to bring to being the evidence to the attention of the Crown.”⁴⁰ So Fleming tried to undermine Quennell’s judgment by forcing him to admit he was “not an art critic.”⁴¹ Detective George Cross briefly corroborated Quennell’s testimony and the prosecution’s case closed.

The way Fleming reacted to Quennell’s testimony indicated that he intended to prove that the “public good” had been served by an exhibition that introduced students, artists, and ordinary citizens to contemporary Canadian art.⁴² The concept of public good could be proven if, for instance, Fleming succeeded in showing that the exhibition had explained fundamental or important artistic concepts. This was an important aspect to Cameron’s defence, because the concept would override the *Criminal Code*’s strictures against obscenity and lead to her acquittal. Moreover, Fleming’s strategy was rooted in the quintessential modern obscenity trial – the British government’s 1960 prosecution of Penguin Books for publishing D.H. Lawrence’s novel *Lady Chatterley’s Lover*. Penguin had triumphed by calling over two dozen authors, academics, and public figures to situate Lawrence’s expletive-laden prose within the Western literary canon.⁴³ The radical lawyer F.R. Scott successfully repeated this argument before the Supreme Court of Canada two years later thanks to 1959 revisions to the *Criminal Code* that had replaced the Victorian idea that “anything tending to deprave was obscene” with one requiring an evaluation of whether the emphasis on sex in a work was “undue.” Scott enlisted the novelists Morley Callaghan and Hugh MacLennan to convince the court that “undueness” could only be judged using expert interpretation of a work’s social and literary context and prevailing community standards. Subsequent obscenity cases about published works further identified the balance between expert testimony and a magistrate’s ability to determine community standards.⁴⁴ These broadly liberalizing judgments gave Cameron and her gallery’s shareholders the confidence to stage *Eros 65*, and provided an appealing blueprint for her defence.

The strategy required experts who could talk authoritatively about contemporary Canadian art. Iconic figures such as Group of Seven members Lawren Harris and A.Y. Jackson might have filled such roles, but neither was associated with modern art and there is no evidence that Fleming approached them. Nor did Fleming ask Alan Jarvis, the former director of the National Gallery of Canada, who had relentlessly championed the country’s art and culture since 1955. Jarvis knew Cameron well, but his alcoholism meant he could not be trusted on the witness stand. Though Fleming was unable to enlist experts whose judgements might be accepted unequivocally by the court, he found six prominent members of Toronto’s arts scene whose combined testimony he felt would sway the magistrate.

Firstly, Art Gallery of Toronto director William Withrow vouched for the importance of Cameron's gallery and the serious intentions of her artists. However, when Fleming asked him to describe the Markle pictures, he admitted only to seeing "flame-like figures as they flicker across the surface, create an ambiguity which is background and which is figure." Under cross-examination, Withrow suggested telephoning public galleries to see if they owned works resembling the ones on trial, causing the magistrate to snap, "it's really not your task here to decide how this can be done, sir. You just answer the questions." Withrow was then asked whether the pictures had sexual overtones, causing Fleming to interject a second baseball analogy through which he hoped to defuse elitist assumptions about art, that "actual acts of intercourse, that's one thing, but pre or post ... I suppose the courtroom's full of adults and we're all pre or post. We may be playing centre field for San Francisco." The audience tittered. Withrow's adamant focus on indefinable forms then sparked a lengthy debate on points of law and his attempt to participate in the discussion prompted a stern "just don't interrupt will you please" from the bench.⁴⁵ Withrow had not won the court's sympathy, but the defence appeared to gain a small victory as the first day closed. The magistrate acknowledged that Cameron was not a woman of low morals by ordering the trial to reconvene in a more respectable courtroom where, as observers noted, he donned a sombre black coat and grey trousers.⁴⁶

The morning's first witness was Doris McCarthy (1910–2010), a long-time teacher at the Central Technical School, one of Toronto's foremost art programs. She tried to desexualise the images on trial by arguing that the artists were working out ways of arranging figures. As technical exercises, the pictures might meet the *Criminal Code's* public good provisions. But when Fleming attempted to establish community standards by asking McCarthy to compare the works to the Art Gallery of Toronto's recent Picasso exhibition, Rickaby pointed out that Canadian law forbade such direct comparisons. In cross-examination, he made McCarthy focus on what the works depicted and, like Withrow, she only admitted to seeing abstract shapes.⁴⁷

Next to testify was Ronald Bloore (1925–2009), the painter who headed Regina's Art Gallery, who had a degree in archaeology and had just returned from sketching in Greece. He said that the artists were tackling technical problems and argued that genitalia were commonly depicted in Classical art. Bloore's academic expertise was unchallengeable, so Rickaby undermined his testimony by asking him to name his Toronto dealer. When Bloore answered that he was represented by the defendant, Rickaby suggested he would "like to assist Miss Cameron in any way you could." Bloore fired back that he did "not understand" the implication and Rickaby withdrew the question.⁴⁸ A few minutes later, Bloore suggested that *Lovers I* recalled the French

modernist painter Fernand Léger, causing Rickaby to snap “I don’t care what it reminds you of . . . , my question was what is it?” Bloore replied that it might be “an aquatic ballet” before conceding that it was one woman “apparently embracing the genitalia of the other.” When asked why the figures had been posed this way, Bloore said he would never stifle an artist’s creativity.⁴⁹

This was the trial’s turning point, because explicit references to lesbian sex aired an assumption that neither detective had mentioned, though it had certainly implicitly informed their actions. Toronto’s morality squad, which had a long history of harassing gay men, had begun targeting lesbians during the Second World War. Their actions reflected wider social anxieties caused by large numbers of women entering the workforce, as well as the mainstream acceptance of Freudian theories and studies by sexologists such as Alfred Kinsey that demonstrated that a sizeable portion of the population was homosexual. Lesbians also appeared to challenge social mores directly by meeting openly. Initially they gathered in rough downtown bars, where fights and drugs were common, and many of the socially and sexually marginalized women worked as prostitutes, providing police with excuses to harass and humiliate them.⁵⁰ Lesbian sex was first outlawed in 1953 under sweeping “criminal sexual psychopath” legislation. The following year, a Royal Commission began studying this legislation and affirmed that Canadian adults enjoyed a wide variety of sexual activities, though its 1959 report did not recommend legalizing homosexual acts. By contrast, that year Britain’s so-called *Wolfenden Report* into homosexual offences argued for tolerant distinctions between sexual behaviour that was permissible for adults in public and private spheres.⁵¹ *Wolfenden* had no force in Canada, though it profoundly influenced legal thinking about homosexuality in this country. By 1962 a gay “community” was emerging fitfully in Toronto, prompting a morality squad inspector to proclaim that “sexual perversion is spreading. These people are no longer ashamed to admit what they are.”⁵² Despite the police, a couple of churches supported the emerging community, a New Democrat MP promised to table a bill legalizing homosexuality, the city’s first gay publications appeared and the mainstream media ran sympathetic stories about gay men.⁵³ By 1965 Toronto’s first respectable, middle-class lesbian bars had opened. Cameron had judged the submissions for *Eros 65* within this broadly liberalizing context. Unfortunately, she underestimated the unshakeable views held by the police.

Therefore, when Rickaby introduced the idea that at least one of the pictures depicted lesbian sex during his cross-examination of Bloore, he altered the context within which the pictures had been created and exhibited from Western artistic tradition to the sexual and social tensions in mid-1960s Toronto. His intention was to ensure that they were judged against the latter.

Though only some of the works were even vaguely lesbian, Rickaby was attempting to implicitly link them to the legally marginalized community that was familiar to the police and courts. The morality squad and the magistrate might well have suspected that Cameron was gay because she had married unhappily and now moved in a famously tolerant arts community. Moreover, if Rickaby's gambit succeeded, it would comprehensively destroy any argument that the exhibition had served the public good.

The next witness, lawyer and *Toronto Telegram* art critic Harry Malcolmson, had to refute these connections. He conceded that the name *Eros 65* was meant to attract customers, that the pictures were "gamey," and that their realism challenged the dominance of abstraction in contemporary art. But he refused to concede that lesbianism was their central theme and argued that the publication of *Lovers I* in *Canadian Art* proved its acceptability. Rickaby undermined this point by having Malcolmson agree that the magazine reached only about one tenth of one percent of Canada's population, which could not represent community standards.⁵⁴ Rickaby's attacks seriously undermined Malcolmson's testimony. Fleming then called art teacher Mary Bagnani to the stand to explain that the exhibition was an important way to expose young people to contemporary Canadian works. Rickaby sensed that Bagnani had failed to prove that the exhibition had served the public good, so he asked her only which of the works she liked best.

To borrow one of Fleming's baseball analogies, the sixth witness was supposed to be the clean-up hitter. Ted Heinrich introduced himself on the stand as a Berkeley- and Cambridge-educated art historian who had headed the Royal Ontario Museum and founded York University's fine arts department. But before Heinrich could say anything else, Rickaby objected on the basis that trials were limited to five experts. Fleming replied feebly that he was calling "simple" witnesses, and court adjourned so that he could consult the relevant case law. The following morning he conceded and asked Heinrich only to introduce the catalogue of a 1964 Vancouver Art Gallery exhibition. The magistrate was not compelled to consult written evidence. Rickaby had no questions, and closing arguments began on this diminuendo.⁵⁵

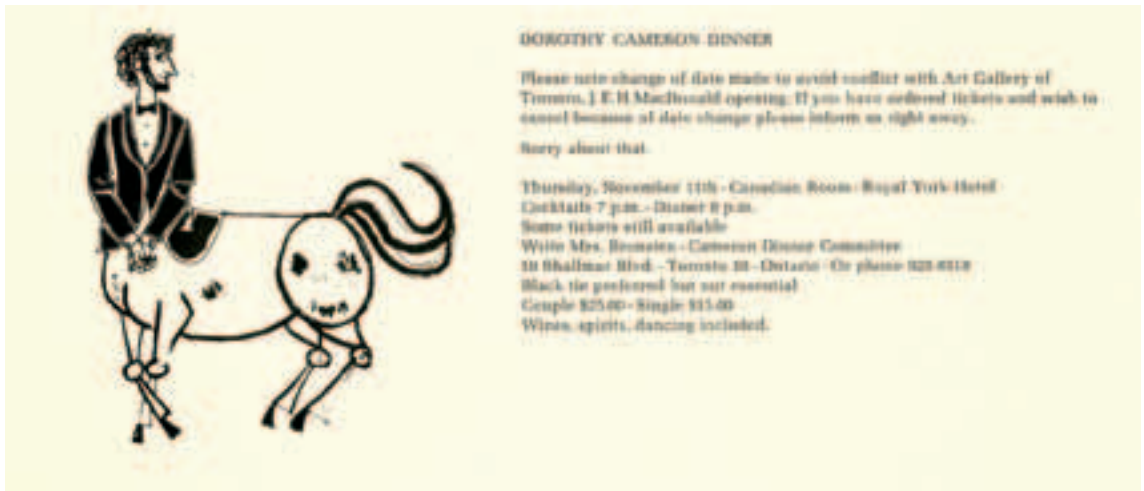
Fleming portrayed Cameron as "a person of some refinement and culture" who had never been in trouble, and had not staged a "clandestine exhibition." He argued that the seven pictures met community standards because the Gallery's shareholders had endorsed the exhibition, and *Lovers I* had been published in a national magazine. Finally, he maintained that the works depicted the human form and that pictures, like books, had to be judged on their overall characteristics, rather than specific details. He underlined the point by asking rhetorically how the Crown could emphasize lesbianism,

when neither detective had mentioned it. More troublingly, he pointed out that a “print explicitly depicting fellatio” had been overlooked by the police, perhaps, he suggested archly, because it “was extraordinarily pretty.” The act was also heterosexual, legal, and therefore acceptable to the male police officers. Unfortunately, Dorothy Cameron and her sister reinforced gender stereotypes underlying the trial by weeping quietly on the front bench as Fleming spoke.⁵⁶

Sensing victory, Rickaby claimed the experts’ unshakeable focus on abstract forms “makes me a little suspicious – it seems obvious to the ordinary eye” that the works on trial depicted sexual acts. He clarified this by stating “I am not suggesting any reasonably intelligent human being could be corrupted by these pictures,” especially since no one was compelled to enter Cameron’s gallery, and conceded that it was acceptable for artists to depict sex and genitalia. But he also alluded to *Wolfenden* ideas by arguing that the works depicted intercourse, which is normally carried out in private between men and women. However, when “the same act is performed on the city hall steps it becomes indecent,” especially, as his references to lesbianism implied, when it concerned female couples.⁵⁷ Rickaby then admitted that the pictures would be inoffensive if they were hung in a more broadly-themed exhibition, causing a surprised magistrate to ask what he was trying to say, and at least one reporter to note that the prosecutor had “apparently thrown his case down the drain.” He soon recovered and clarified that grouping the pictures under the title *Eros 65* made sex their dominant idea.⁵⁸

There was a flurry of public commentary during the weeks in which the magistrate pondered the verdict. In mid-October, the CBC’s controversial satire television program *This Hour Has Seven Days* aired a skit featuring a Toronto morality squad officer lecturing recruits about art. He displayed visions of Venus by Rubens and Titian, which he described in cockney patter as explicit, but acceptable because they were based in Western tradition. By contrast, a modern abstract jumble was “lewd, obscene, and designed with only one purpose in mind, and that is to stimulate the libido of the average art lover.”⁵⁹ The parody closely echoed the *Globe*’s liquor store bag article and reinforced notions that reactionary detectives had censored what they had misunderstood.

Cameron’s supporters, led by the publisher Jack McLelland, reacted in force one month later at the Royal York Hotel. Invitations to the black-tie dinner were illustrated with a centaur, the mythological man-horse that symbolises lust and drunkenness. This particular centaur captured the risqué glamour of Cameron’s parties by sporting a dinner jacket and sly grin (Fig. 5). The light-hearted evening was hosted by Alan Jarvis who called the charges against Cameron “a sickening blow by a blunt instrument.”⁶⁰ He mocked



5 | The invitation to a dinner to raise funds for Cameron. The drawing of a satyr in evening dress played on the mythological creature’s sensual nature, with the respectability of a society event at Toronto’s most elegant hotel. Theodore Allen Heinrich collection, box 130, file 1694, Archives and Special Collections, John Archer Library, University of Regina. (Photo: author)

Toronto’s resurgent rectitude and joked that the morality squad’s head, for whom a place had been reserved, had not shown up. This cued the actor from *This Hour* – still in costume – to burst in and “raid” the room. The irreverent whimsy floated on a sea of wine donated by one of the Cameron gallery’s backers, while the well-oiled guests danced into the early morning to the music of the vibraphonist Peter Appleyard.⁶¹

The levity ended two weeks later when the trial judge ruled that a “word description of certain sexual experiences taken in the overall character of a book would not render the book obscene. But when these circumstances are portrayed in a sketch, drawing, or painting, the effect of this portrayal and its acceptance in the community may be entirely different.” He chastised the experts for focusing on artistic concepts and though he never mentioned lesbianism explicitly, he found that the works’ dominant characteristic was an undue exploitation of sex, and that the exhibition had not served the public good. Pleading for clemency, Fleming reemphasised Cameron’s lack of criminal intent, stated that her gallery had closed, and that she had defended herself on a point of principle. Cameron was fined fifty dollars for each picture, or five days in jail.⁶² She could evidently pay so it was a token punishment that further demonstrated the Crown’s discomfort with the case, and implied that the law needed to catch up with contemporary society.

Though the pictures were unacceptable, they had not been widely distributed, Cameron was clearly not a pornographer, and would never reoffend. So the magistrate effectively slapped her wrists in hopes of concluding the case.

But the conviction shocked the many Torontonians who had naively believed that works by respectable artists hanging in a first-rate gallery could not be confused with pornography. Reactions crossed the political spectrum, with the liberal *Toronto Star* denouncing “a throwback to the worst days of mid-Victorian Toronto,” which empowered the state to dictate what adults could see, while the conservative *Telegram* was dismayed by a time-wasting “judicial procedure (that) is redolent of the Middle Ages,” and called the trial “INCREDIBLE” above an article lamenting the *Criminal Code*’s outdated strictures.⁶³ Robert Markle snorted “I’m really impressed by the non-allowance of integrity on the part of an artist in this community. In no other area of endeavour could a layman make his own opinion felt in this way.”⁶⁴ Owners of two of the pictures wondered if they would ever again see their art, while Pierre Berton, who had opened *Eros 65* so optimistically, sighed “I’d hoped Toronto had grown up a bit more, but obviously it hasn’t.”⁶⁵ Reactions culminated at year’s end, when the Canadian Press named Cameron the most newsworthy woman in art and literature; lauding her for creating a climate of concern for freedom of expression. She responded self-effacingly that “I was never alone. There was an army that formed itself overnight.”⁶⁶

One of the most important battalions in that army, the Canadian Civil Liberties Association (CCLA), took up Cameron’s case. In January 1966, Julian Porter, a young lawyer who had observed the initial trial, began preparing the appeal. Because this had to rest on points of law rather than new arguments, Porter asked Ted Heinrich to reinforce the original defence by compiling a list of sexually explicit Western art works and addressing “the psychology of art and the concept of viewing art as distinct from reading a novel or partaking in another art form. It may be difficult to adduce such types of argument before the Court of Appeal but could you give the writer some ideas of the psychology of art and how it may be argued before a Court?”⁶⁷ Heinrich listed over fifty works from pre-Renaissance Europe to modern Canada that depicted sexually-charged myths such as “Leda and the Swan,” copulation, lesbianism, and graphic female nudity, backed by twenty-seven art books and exhibition catalogues.⁶⁸ He and Porter then formulated an argument that likened artists to lawyers as professionals who “practice in the wake of tradition.” To downplay lesbianism, Heinrich wrote a short essay arguing that Man is artists’ central preoccupation, that the “nude” is only a form, and that artistic explorations of “form, line and psychological state” have reflected social progress since the Renaissance. He also voiced one of the fundamental concerns raised in Cameron’s trial: that community standards

cannot “be such as will deprive our citizens of the opportunity of viewing works acclaimed by renowned experts because they offend the sensitivity of a sergeant of police.”⁶⁹ This bolstered the CCLA’s argument that “there is no obscenity in the description or portrayal of the nude or of sex in the fine arts – no matter how explicit the portrayal may be. Obscenity lies in the treatment of the subject-matter – whether it be for a base purpose” and that the trial judge had not given sufficient weight to the “manner, circumstance and extent of the publication,” even though the case clearly involved a show for a small audience at a respectable gallery.⁷⁰ The CCLA focused on the Crown’s fundamental uncertainty about the case and echoed the widely held belief that the conviction would do “irreparable harm” by outlawing many of the Western canon’s core themes.⁷¹

While these arguments were being prepared, Robert Markle appeared on *This Hour Has Seven Days*. He was clearly uncomfortable defending work he admitted was graphic, erotic, and had lesbian overtones, but was unable to understand how it had contravened community standards when “*Time* magazine runs a photograph of a Vietnamese with his head chopped off, you know. Now what’s going on? A national magazine can run that kind of thing and I, I’m talking about love and something beautiful and they lock me up.”⁷² Fred Ross found it simply “ridiculous” that a drawing whose message was “charm and sensitivity” could be obscene.⁷³ More stridently, the cover of February’s *Saturday Night* magazine bore a large portrait of Cameron with a thick white strip censoring her eyes, while a long article severely criticized the police and the Crown.⁷⁴ One *Saturday Night* reader responded with a satirical poem that concluded:

Let’s all stand against oppression (which is Cultural regression);
battle prudes whose only object is to vex.
There is far too much repression;
let us fight for free expression
Of our wants, and most importantly Sex.⁷⁵

The two-day Ontario Court of Appeal hearing that opened on 9 May 1966 starkly demonstrated how Cameron’s exhibition had challenged conservative visions of community and culture. Chief Justice John Aylesworth and two of his colleagues had served in the First World War, while all nine justices had been alive when its first shots were fired. The youngest and newest judge was fifty-three-year-old Bora Laskin, a brilliant legal scholar whose early career had been blighted by the reluctance of Toronto law firms to hire Jews. Nevertheless, in 1965 he was appointed to the Appeal Court, which he found replicated the worst features of Toronto’s legal profession by

emphasizing seniority and productivity, rejecting creative or novel arguments, and generally taking a “crime control” approach to the law. Laskin believed in the court’s duty to protect individuals and as a result he dissented more often than all his colleagues combined. Roughly one third of his dissenting opinions were written in criminal cases, which were being appealed increasingly frequently thanks to the introduction of Legal Aid in 1966.⁷⁶

On the appeal’s first morning Cameron’s supporters lined the courthouse steps brandishing signs and distributing pamphlets. They then took up places in the august courtroom where the books Ted Heinrich had assembled were stacked in neat piles on the appellant’s table. Behind this small library sat the CCLA’s Walter Williston QC, who would lead the appeal. To prevent corrupting those present in the court, the pictures were displayed in a private anteroom.⁷⁷ Five judges – two more than the minimum – heard the appeal. Laskin’s presence on the bench caused Williston to whisper “we’ll lose, four to one. Laskin, of course, will *have* to vote for us – he owes it to his public.”⁷⁸ June Callwood, the campaigning journalist and CCLA board member, sensed the same support thanks to a chance encounter with Laskin in the courthouse halls. On hearing that she was supporting her friend, he responded with a smiling “good for you,” before proceeding on his way.⁷⁹ The presence of justices James McLennan and F.G. MacKay might have increased the hopes of Cameron’s backers, since they had ruled that John Cleland’s 1748 novel *Fanny Hill* was not obscene in a landmark judgment the previous year.

Williston began the legal arguments by stating that *Eros 65* had been “calculated to attract connoisseurs and art lovers rather than persons interested in pornography,” before citing three flaws in Cameron’s conviction. The works had artistic merit; it was legitimate for artists to depict sex; and comparable works were exhibited elsewhere. The justices replied that the experts had signally failed to describe what the works depicted, for as McKay said “the witnesses were not concerned at all with the *Criminal Code of Canada*, and we have to be – that’s the difference.” Williston predicted a dull future if the conviction stood, claiming “I just don’t want to spend the rest of my life looking at Grandma Moses,” the American naïve painter, to which Aylesworth retorted “do you think you are in any danger of that?” Williston then made the *Wolfenden*-inspired point that “if these pictures were plastered at Queen and Yonge [streets] the person who did that should go to jail,” but they had been displayed in a private gallery for a restricted audience. Moreover, he claimed that postcards of Rembrandt’s works could be censored by this conviction, and referred to the magazines *Sizzle* and *Man’s Favourite Passion* to show the obvious distinctions between smut and art. This earned a further rebuke from Aylesworth, who eventually conceded that if only art experts had visited *Eros 65*, the law would not have been breached.

But unfortunately, as Williston argued, “this is a peculiar kind of case, a case where the judge himself goes into the witness box and makes up his own mind.” Williston and Aylesworth jostled about whether obscenity lies in what works of art depict, or how they are used, before Williston closed by pleading for *Wolfenden*-inspired community standards based on what the judges “will permit in their homes” and “what they will tolerate in artists in a limited field.”⁸⁰ It was a spirited argument, but the justices’ interventions hinted that they believed that the impact of Cameron’s conviction was fairly narrow.

Gordon Hachborn then argued for the Crown that art results from pure intentions, while baser motives produce pornography. He strongly objected to allowing galleries to exhibit works that would otherwise be banned, and underlined this democratic point by likening Dorothy Cameron to a merchant who has full knowledge of what she sells. He rejected Williston’s plea for adaptable community standards by arguing that they could not reflect the “super sophisticated, super-knowledgeable art lover’s point of view – nor from the standards of the person who knows nothing and cares nothing – some kind of middle ground is needed.” Or, as Aylesworth stated more prosaically, “the sexual act is not limited to Toronto and Vancouver – it is also known in Hamilton.”⁸¹

The judges accepted the books that Ted Heinrich had compiled, over Hachborn’s objection that this was getting new “evidence in the back door,” and the legal arguments ended. Those who had hoped for a favourable decision were disappointed, because the appeal was rejected on 23 June.⁸² Aylesworth’s majority opinion focused on the enormous gulf between the detectives’ testimony and experts who “carefully restricted themselves to the actual treatment and have not considered the obvious exploitation of sex in each of the exhibits.” His own examination of the pictures convinced him that they lay “not in any gray area of doubt; they are of base purpose and their obscenity is flagrant.”⁸³ In a supporting judgment, Justice McKay wrote that some of the works might not be obscene on their own, but they had to be condemned collectively.⁸⁴

The hammering eloquence of Bora Laskin’s dissenting opinion has been called as “perfectly attuned to the emerging ethos of sexual liberation as his judicial brethren were out of tune with it.”⁸⁵ He was deeply troubled that the conviction rested on the trial judge’s subjective reaction to the pictures, he rejected the notion that the name *Eros 65* had been an invitation to see obscene art, and he argued that community standards could not be drawn from “an arithmetic totalling and averaging of sectional or regional measurements. A standard must come from experience of art; it cannot rise from a vacuum if it is to be something more than a personal reflex. Its reflection in time is more important than its roots in place. In other words,

we are concerned with changing criteria, with movement in public taste that takes place under the push, initially at any rate, of artists and their sponsors.” Moreover, such a standard can “not rest on what is the safest level of general acceptance,” because this might be unattainable in a large and diverse country like Canada “without it being a reduction to the lowest level of appreciation.”⁸⁶ Laskin captured the tremendous disappointment of Cameron’s supporters, for as Julian Porter summarized “the general theme of the [majority] judgement was that anybody with a pair of eyes could see that they [the pictures] were obviously obscene and that was that.”⁸⁷

One last hope remained, because the split verdict sent the case automatically to the Supreme Court of Canada. The CCLA’s spring 1967 brief to the Court included a “little lecture on art” by Heinrich along with a plea that the lower courts had focused on sex while ignoring the artists’ intentions, the expert testimony, Canadian and international precedents and the contradiction that men’s magazines were sold at newsstands while “a person would be deemed a criminal who showed pictures acknowledged to be sincere and honest works of art in a private gallery.”⁸⁸ The Supreme Court refused to hear the case. Though the Court rarely discloses the reasons for its decisions about whether to hear a case, denying Cameron’s appeal almost certainly reflected a belief that her conviction had not set a far-reaching precedent.⁸⁹

Superficially, only the denouement remained. The pictures, which were only obscene when displayed collectively, were returned in brown paper wrappers to Cameron, who returned them to their owners. She eventually married Ronald Bloore, became a freelance curator, and remained an animating presence in Toronto’s art scene. Canadian gallery owners were briefly wary of displaying works that might be deemed obscene, but the Crown had been chastised rather than emboldened by Cameron’s case. The police have generally left gallery owners and artists alone in the intervening years, while several of the seized pictures have since been acquired by public galleries.⁹⁰

The initial *Chatterley*-inspired defence was appropriate, even if Robert Fulford later recalled “I have never in my life felt so powerfully the gulf between those who care about art and those who don’t.”⁹¹ The experts had simply failed to convince the court of the nuances, emotions, and cultural references through which art is expressed and understood. At the same time, the trial highlighted Toronto’s difficult evolution from dour colonial centre to cosmopolitan city. Neither the police nor the courts understood the irreverent spirit in which Cameron, her clients, and her friends approached art and life. These misunderstandings were amplified because many of the young artists employed popular cultural motifs that blurred the distinctions between art

and reality and could be interpreted as reflecting standards that were inimical to the city's older inhabitants. This further hampered detectives' ability to see beyond their accustomed lens of obscenity when examining the pictures and to interpret Cameron's "Adult Viewing Only" sign as an admission of impropriety. Cameron's status as an articulate businesswoman with significant support from Toronto's media, social, cultural, business, and legal elites and the elegant gallery setting in which she displayed the pictures were equally disorienting to the morality squad. Their initial offer to compromise reflected both their unease at assessing art and gendered assumptions that a divorced mother from a good background would be anxious to protect her name and reputation. Had she accepted, *Eros 65* would almost certainly have run its course, but her social and professional position gave her the confidence to reject both deals. Although she was convicted, the original sentence was a fairly gentle admonishment that hinted at Cameron's gender and social status and the Crown's unease with the case. Finally, the unexpected emphasis on lesbianism exposed one of the most difficult facets of Toronto's evolution. This aspect of the case was not widely reported because the gay and lesbian community did not yet attract broad public sympathy or support.⁹²

Cameron's decision to stage *Eros 65* was precipitate but not wrong and has had an ongoing impact on Canadian art and law. Had it been a show of abstracts, the police could have shrugged that modern art was incomprehensible. But these sexually-charged images were touchstones for Toronto's social tensions, and transformed Cameron's trial into one of the first engagements in the social, cultural, sexual and generational battles of the 1960s. While the judgment did not become a cudgel with which to strike the arts community, its indirect impact was huge. As has been noted, Bora Laskin's dissenting opinion captured Canada's emerging social mores. Six months after Cameron's failed Supreme Court appeal, federal Minister of Justice Pierre Trudeau introduced sweeping changes to the *Criminal Code* that legalized homosexual acts in private along the lines that the *Wolfenden Report* had established in the United Kingdom. Then, in 1970, Prime Minister Trudeau appointed Laskin to the Supreme Court and to the position of Chief Justice three years later. Laskin's court reshaped the way Canadian law relates to society and his opinion in the Cameron case continues to be one of the most widely-cited judgments in obscenity cases around the world. Cameron may have failed to prove her case, but its legacy has helped to shape a broad liberalization of obscenity law in Canada and elsewhere.

NOTES

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« Pour adultes seulement » : le procès de Dorothy Cameron pour exposition de tableaux obscènes en 1965

ANDREW HORRALL

Au début des années 1960, Dorothy Cameron, galeriste à Toronto, défend l'art canadien. Elle s'intéresse aux jeunes artistes torontois et cherche à créer un marché pour l'art contemporain canadien. La scène artistique torontoise est en pleine effervescence : toute une génération de peintres, de sculpteurs et d'artistes en tout genre se laissent inspirer par leur ville natale et décident d'y demeurer pour affirmer leur talent. En compagnie d'autres galeristes, Dorothy Cameron met cette esthétique urbaine à l'honneur dans des expositions qui bousculent ceux pour qui l'art canadien se résume essentiellement aux représentations du Bouclier canadien. En mai 1965, la police visite la galerie de la rue Yonge au cours des premiers jours d'une exposition sur l'amour intitulée *Eros 65*, après avoir reçu une seule plainte d'une personne présente au vernissage. L'escouade des mœurs examine les œuvres exposées, saisit sept tableaux qu'elle juge obscènes et accuse Cameron d'avoir exposé du matériel obscène en public.

L'intervention policière témoigne des tensions qui opposent alors les jeunes artistes et la contre-culture émergente aux groupes conservateurs plus âgés à Toronto. Dans les jours suivant la descente, la police est fortement critiquée et ridiculisée dans la presse et à la télévision par des citoyens incrédules qui n'arrivent pas à imaginer qu'on puisse assimiler des œuvres d'art sérieuses à la pornographie. Les partisans de Cameron sont en grande partie des amateurs d'art avertis, persuadés que l'évaluation objective des tableaux par un juge réfuterait la présomption d'obscénité. La galeriste refuse donc l'offre du procureur de la Couronne d'abandonner les poursuites, préférant se défendre contre ce qu'elle considère comme un acte de censure injustifié qui risque d'ouvrir la voie à d'autres attaques à l'endroit de l'expression artistique.

Pendant le procès, la Couronne soutient que les tableaux sont obscènes parce qu'ils illustrent des actes hétérosexuels autant que lesbiens. L'avocat de Cameron fonde sa défense sur celle qui avait réussi en Grande-Bretagne et au Canada à réfuter les accusations d'obscénité portées contre le roman *L'Amant de Lady Chatterley* de D.H. Lawrence. Il fait appel à cinq experts en art qui expliquent en quoi les tableaux saisis sont des œuvres d'art

sérieuses qui s'inscrivent dans la tradition artistique occidentale. Le juge n'est pas convaincu et condamne la galeriste en novembre 1965. Même si l'amende imposée est relativement légère, le jugement choque les partisans de Cameron, qui décide de porter la cause en appel. Sa démarche est appuyée par la toute nouvelle Association canadienne des libertés civiles.

La condamnation de Dorothy Cameron suscite une nouvelle vague de moqueries dans la presse et sur les ondes, notamment à l'émission *This Hour Has Seven Days*, revue d'actualité satirique controversée diffusée à la CBC. Robert Markle (1936–1990), artiste émergent de Toronto et auteur de cinq des tableaux saisis, n'arrive pas à comprendre que ses œuvres puissent être taxées d'obscénité. D'autres craignent que la condamnation ne crée un précédent qui autoriserait la saisie éventuelle d'œuvres d'art légitimes au prétexte qu'elles auraient heurté la sensibilité d'un seul spectateur.

Puisqu'ils ne peuvent présenter de nouvelles preuves lors de l'appel, les avocats de Cameron tentent de développer l'argumentaire fondé sur la tradition artistique qui avait été invoqué à propos du procès. En vain. Dans un jugement partagé, la Cour d'appel de l'Ontario rejette l'appel. La majorité des juges statue que les tableaux sont manifestement obscènes et contraires aux normes sociales. Selon eux, le regroupement des œuvres incriminées dans l'exposition *Eros 65* en a accentué l'effet d'obscénité. Néanmoins, Bora Laskin, dernier juge nommé à la Cour et cadet de la magistrature, présente une vibrante opinion dissidente soutenant que l'art a pour fonction sociale de remettre en cause les idées et les opinions préconçues. Son opinion ouvre la voie à une éventuelle requête devant la Cour suprême du Canada. Cependant, le stress et la pression de la bataille juridique ont raison de la pugnacité de Dorothy Cameron, qui ferme sa galerie. L'art contemporain canadien perd alors une importante ambassadrice. Sa condamnation n'a toutefois pas eu les conséquences que redoutaient les défenseurs de la galeriste; en effet, on ne l'a jamais invoquée par la suite pour interdire des expositions. Par ailleurs, l'opinion dissidente de Bora Laskin est devenue l'un des arguments les plus cités dans les procès pour obscénité partout dans le monde.