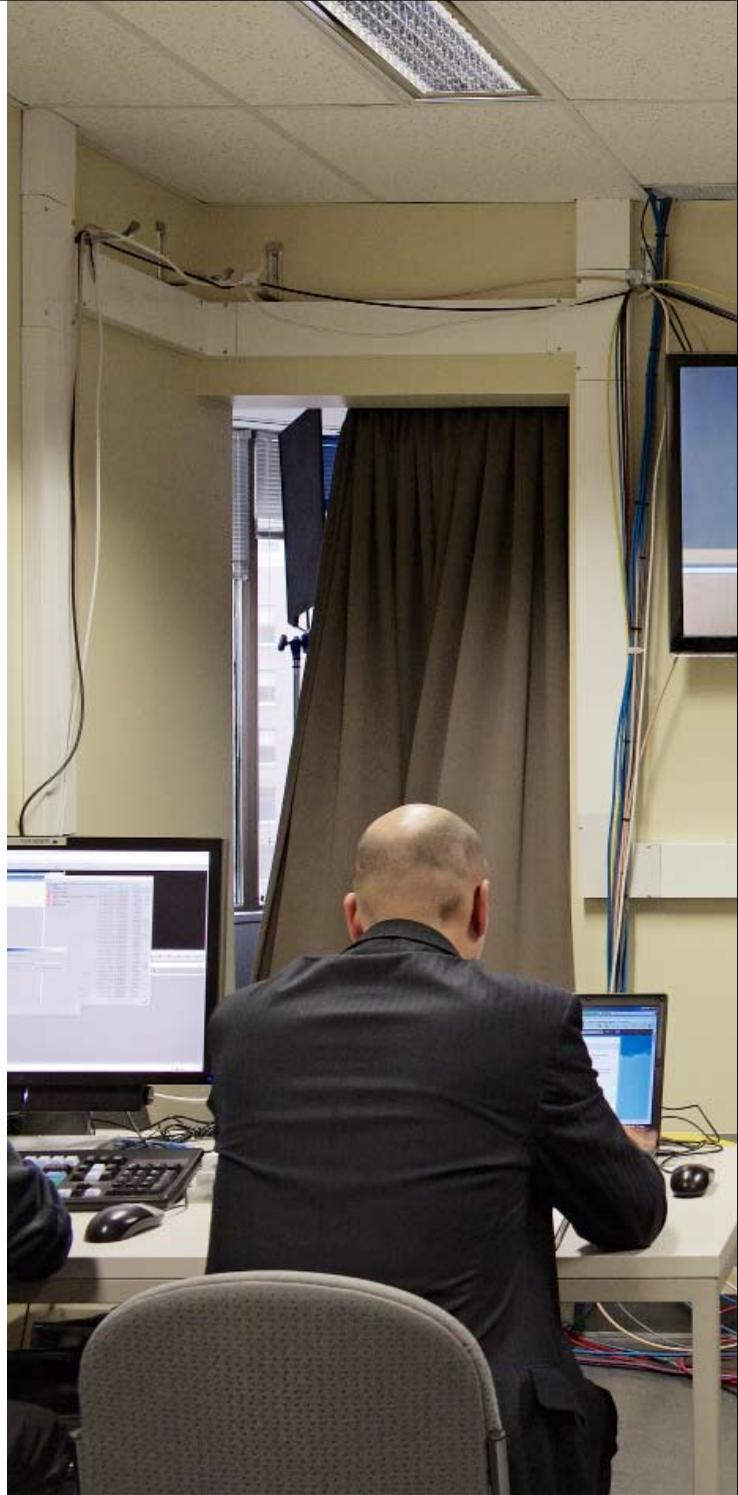


POLITICS

THE AVENGER

Justice France Charbonneau is the steely calm at the helm of Quebec's corruption inquiry

BY LISA FITTERMAN
PHOTOGRAPHY BY BENOIT AQUIN



France Charbonneau sits on the dais, her kohl-rimmed eyes watchful, her thin red lips pursed in concentration. The judge is presiding over the provincial inquiry into widespread corruption in Quebec, and on a Thursday in an unusually warm week in early October, she is listening to former construction boss Lino Zambito testify. Once the co-owner of a now defunct sewage infrastructure company, he has stunned the province with his tales of collusion and kickbacks, including the revelation that he had to pay the Mafia 2.5 percent off the top of every contract he won.

During his testimony about political party contributions being made in exchange for favourable treatment, Charbonneau leans forward and sweetly asks him who bears the costs of such arrangements.



Zambito, plump, pale, and sweating, stalls before answering. “When the cost of a contract goes up, it’s the public who pays,” he says finally.

“Exactly,” she replies.

The exchange is classic Charbonneau: spring a question when she perfectly well knows the answer, to get it on the record. She seems to want to remind everyone—witnesses, lawyers, civil servants, politicians, and the public—exactly what is at stake in this harshly lit hearing room in downtown Montreal.

Since the public hearings began in May 2012, this stormy soap opera, broadcast live, has gripped Quebec, its strength magnified by Twitter feeds and a twenty-four-hour news cycle. It feels like a cross between a *Judge Judy* marathon and the Olympics. Expectations are high. The inquiry covers the terrain of what

MARIANNE OF QUEBEC The intense interest in her inquiry has turned Judge Charbonneau into a symbol of justice.

could be three separate hearings, with a daunting mandate to address provincial public works contracts over a fifteen-year period, political party financing at both the provincial and municipal levels, and the infiltration of the construction industry by organized crime.

Citizens are at once furious and fascinated by the revolving cast of politicians and business types in the commission’s hot seat. Some, like Zambito, are straightforward. Others, like Garnier Construction Ltd. owner Giuseppe (Joe) Borsellino, are not. Borsellino has been named by several witnesses as one of the architects of a scheme to fix public bids. But he has been evas-

ive. “Everything there is *truqué*,” he remarked with a shrug during his testimony (translation: it is rigged). The line led to a Twitter hashtag, #everythingstruqué, which Montreal caricaturist Ygreck merged with the city’s logo, the name next to a stylized rosette.

A prosecutor turned judge, the sixty-two-year-old Charbonneau is the steely calm at the centre of the storm. Her appointment was announced in 2011, by then premier Jean Charest, along with the establishment of the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry. For three years, Charest had resisted pressure to call an inquiry: ongoing police investigations would be put at risk, he said, and his government had already introduced tougher legislation to combat this kind of crime. But as his approval rating headed into free fall, he could stall no longer.

Charbonneau was a politically savvy choice. She is known not so much for having a brilliant legal mind as for her tenacity, energy, common sense, and fearlessness. She worked as a prosecutor between 1979 and 2004. Most notably, she had once before faced down organized crime in Quebec, having successfully prosecuted Maurice “Mom” Boucher, the cold-blooded Hells Angels leader, in 2002. Back then, few expected her to win what was largely a circumstantial case, a retrial ordered because of flaws in the judge’s instructions to the jury.

Charbonneau has since gained legions of besotted fans. “La Joconde,” or the “Mona Lisa,” read a headline of an opinion piece published last fall in *La Presse* by Henri Côté, a retired doctor and hospital administrator. “I think if Leonardo da Vinci came back to paint *Mona Lisa*, he would call her France Charbonneau.” Later, he tells me over the phone, “I had been following the commission from the start, and I made the link because of her smile. Her attitude is so calm, serene, and concentrated. Her personality, her control, her delicate touch, and her smile.”

As citizens learn just how deep the corruption ran, her symbolic power as a crusading figure—a Marianne of Quebec—seems just as important as her actual influence. “The public needs a figure like her,” says Yves Boisvert, one of the province’s leading legal commentators and a columnist for *La Presse*. “France Charbonneau has become the incarnation of justice in Quebec.”

Gordon Bernstein, then president of the merchants’ association on boulevard Saint-Laurent, first suspected something was amiss six years ago. Construction on the fabled strip had lasted a year, and with the street still torn up there seemed to be no end in sight. So on a spring morning in 2007, he waited by one of the work sites to discuss the situation with construction magnate Paolo Catania, whose firm, F. Catania and Associates, was in charge of the job. A dark, sleek car pulled up. Bernstein blinked. Was he really looking at a turbocharged Bentley?

“The door opened, and out stepped Catania, wearing an Italian suit worth several thousand dollars, fine Italian leather shoes, and a very expensive watch,” he told me. “We were at a work site. There were men in hard hats, and here was this fashion plate. It was inappropriate, and it reeked.”

His suspicions were confirmed when news stories about the construction industry began to appear, first at a trickle and then a deluge. In March 2009, 430,000 viewers watched as Radio-Can-

ada’s investigative program *Enquête* broadcast a series of stories about corruption and Mafia influence in the awarding of public contracts. Other media outlets followed suit, revealing, in one case, that Frank Zampino, then the chairman of city hall’s executive council and the mayor’s right-hand man, had vacationed on a yacht belonging to construction magnate Tony Accurso. The scandals kept on coming. There was the improper awarding of a grossly inflated \$356-million contract to replace the city’s water meters. In another incident, Catania purchased a tract of public land valued at \$50 million for a mere \$5 million.

All of this only confirmed what Quebecers had long suspected but could not prove: they paid up to 85 percent more than other provinces for public contracts because the system was rotten to the core. As *Enquête*’s host, Alain Gravel, explained to me in December, “It’s like a sweater that keeps unravelling. Two months after starting this, I came home and told my wife, ‘We’re not in this for a year. We’re in it for years.’”

The public was furious. Inspired by whistle-blowers such as François Beaudry, a retired senior engineer in the provincial transport ministry—who told *Enquête* that the Mafia controlled about 80 percent of the road construction contracts in Montreal—other citizens began to speak out. There were letters to newspapers and angry calls to talk radio programs. Gravel has repeatedly been approached by people who thank him and Radio-Canada for the investigations. “I never thought in my life that I would contribute to change in my society,” he says. “I’m proud of what we’ve done.”

The extent of the corruption is mind boggling, but its existence is not at all surprising. The Mafia in Quebec, run by Sicilian and Calabrian immigrants, has long been considered the most powerful in Canada. The Rizzuto family, now led by Vito Rizzuto, has cultivated ties with Colombian drug cartels, the Hells Angels, and Montreal’s Irish mob, better known as the West End Gang. The Rizzuto clan also has connections with the Mafia in New York, especially the Bonanno crime family. Nor is this the first time Quebec has established such a commission. Premier Robert Bourassa struck a similar one in 1972 to investigate organized crime.

What has changed is the swiftness, depth, and determination of the response. Journalists like Gravel have been given more resources to investigate and broadcast their stories. Meanwhile, the provincial police launched a special squad in October 2009 called Operation Marteau, or Hammer, which includes members of the provincial police force, Crown prosecutors, and the RCMP. Since then, there have been a series of high-profile arrests, including those of Zampino, Catania, and Bernard Trépanier, a bagman for the municipal party Union Montreal. Operation Hammer has now been folded into UPAC, the province’s permanent anti-corruption unit, which in 2012 placed fourteen construction sites under surveillance, executed more than 450 search warrants, and arrested forty-nine suspects.

Given these efforts, Gravel grows impatient with suggestions that Quebec is more crooked than other places in Canada. What sets the province apart, he argues, is the work being done by journalists and police to fight corruption—labour not replicated elsewhere. “A journalist once asked me if Quebec was corrupt because it is a small and closed society,” he says. “My God,

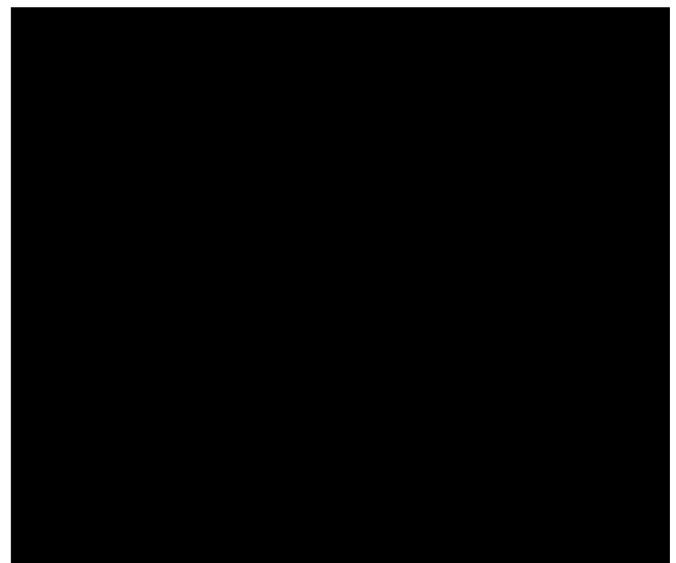
you have everything here: English cinema, French theatre, Iranian restaurants.”

It is a broad society, he says, and in any society a given percentage of the population will be crooks. Look at Enron, he continues. Look at the US mortgage crisis, and at Italy. Look at Ontario, the subject of a joint investigation last fall by Radio-Canada and the *Toronto Star*. They found that the province has become a major headquarters for a powerful Mafia faction called the 'Ndrangheta, which provides refuge for several alleged Italian organized crime figures. “It is clear that Quebec is corrupt, but then so is the rest of the planet. The difference is that here, we know we are corrupt.”

Growing up middle class in Montreal's north end in the '50s, France Charbonneau never considered becoming a lawyer, never mind the torchbearer for Quebec's fight against corruption. Times were different then: men worked, and women were homemakers. Although Charbonneau was a good student, when her mother suggested she forgo college for secretarial school, she agreed. “Secretarial school?” I asked, incredulous, in one of our interviews. She laughed at my confusion, and added that she was at the top of all her classes, save one: “I hated shorthand with a passion.”

I first met her in the summer of 2002, a few months after she put Boucher behind bars for life. We had lunch at Rôtisserie Laurier, an institution in Outremont, the tony Montreal neighbourhood nestled against the eastern flank of Mount Royal. She appeared cautious, waiting for me to order before asking for exactly the same thing; she didn't want me to use her choice as a way to describe her character. That caution still exists today, only magnified. As a judge and commissioner, she is granting no interviews, period.

After she graduated, she worked for a company of chartered accountants and a law firm in the early '70s, but her interest in secretarial work soon waned. Quebec had come through the Quiet Revolution, rejecting the influence of the Catholic Church and the traditional policies of the corruption-riddled era of Union Nationale premier Maurice Le Noblet Duplessis. With the feminist movement in full swing, women had begun to move be-



yond the roles previously assigned to them.

She enrolled in law school and in 1978 articulated in the Montreal legal aid office. She had a love of mystery novels and a strict sense of right and wrong. She also believed that accused criminals were romantic desperadoes who broke the law because they had no other choice. The work soon disabused her of that notion, and she was horrified by the demands clients placed on defence lawyers. Soon she decamped to work for the Crown as a prosecutor. Those who knew her then remember her as a workhorse. “She is not the greatest jurist. That is not her strength,” said a former prosecutor who asked not to be named. “Her strength was court work, fact-based examinations, and pleading to the jury.” This makes her a good choice to head the commission, he continued, because the hearings revolve around facts, not questions of law, and she learns her lessons quickly. “Her strength lies there.”

Jacques Duchesneau is the former Montreal police chief turned anti-corruption crusader. In 2011, he wrote a devastating report for the provincial transport ministry on collusion among construction companies, the Mafia, and political parties. (He subsequently leaked it to journalists because he felt the government was sitting on it in the hope that it would go away). Duchesneau first met Charbonneau in 1979 and remembers her as a straight-talking prosecutor. She could sometimes be cold blooded, he says, but she also had a temper. “Even back then, you could tell she was a different breed,” he tells me. “The way she walked and spoke to you, you knew she was not in it for the glory. She was in it for justice.”

With its port, Montreal provides a natural place for organized crime to thrive. And the '90s saw the rise of the Hells Angels and the Rock Machine biker gangs, with their deadly, internecine war over control of the lucrative drug trade. From 1994 to 2002, some 160 people were killed in this battle. Most, but not all, had criminal ties. In August 1995, an eleven-year-old boy named Daniel Desrochers was riding his bicycle past a rigged car in Montreal and was killed after it exploded. Two years later, spurred by the public fear and outrage, the federal government passed Bill C-95, which stiffens the penalties for convicted offenders who are proven to be members of an established criminal enterprise.

Yet the deaths did not stop. In June of that year, Diane Lavigne, a corrections officer at Bordeaux Prison in north end Montreal, was shot and killed by a man on a motorcycle as she drove home from work. Three months later, assailants ambushed a prison transport bus with corrections officer Pierre Rondeau at the wheel, killing him and wounding his partner.

The barrel chested Boucher was a high school dropout with a professorial mien and the parlance of a street thug. He was the leader of the Nomads, one of Quebec's most dreaded Hells Angel chapters. He lived with his wife in Contrecoeur, about seventy kilometres northeast of Montreal, and kept a mistress in nearby Boucherville. In 1994, when the president of the Rock Machine was arrested on American cocaine charges, Boucher figured it was a good time to establish a monopoly over street-level drug dealing, first in Montreal, then beyond the province. He was one of the top generals during the biker war, a man who could never

be linked to various deaths but was the shadow lurking behind them. Police considered him the most dangerous criminal in Quebec, and he protected himself by having underlings do his dirty work, selling drugs or showing a beleaguered justice system who was boss by killing people who worked for it.

In December 1997, the police caught a break: Stéphane Gagné was arrested and agreed to testify against Boucher. An aspiring biker, or “hang-around,” he told police he had killed Lavigne and Rondeau on Boucher’s orders, to prove himself to the gang. For Boucher’s first trial, in November 1998, at which he faced two counts of premeditated murder, Charbonneau was the near-silent second prosecutor, there to support the senior Crown attorney. It was a largely circumstantial case—and it flopped.

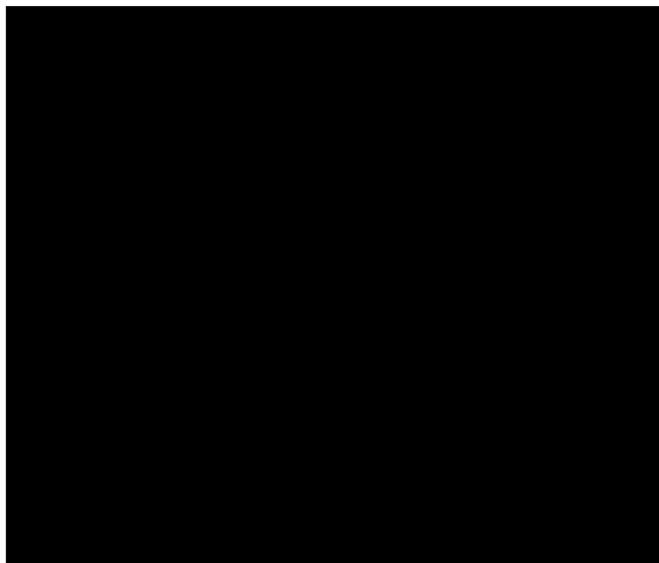
In the end, the jury deliberated for just three days before the uncomfortable-looking jury foreman pronounced Boucher not guilty. The accused strutted out of the prisoner’s dock a free man, silent and smirking, knocking down the journalists (me included) and curiosity seekers who stood in his way. That very night, surrounded by acolytes, he showed up for a boxing match at Montreal’s Molson Centre, where some of the audience greeted him with a standing ovation. The message was clear: Boucher had delivered a knockout blow to the justice system.

The biker war, on hiatus during the trial, returned with vengeance. The stakes were higher now, with an eye to penetrating into Ontario. “How could we not appeal?” Charbonneau asked me at the time. “Let the bikers think they had won? No.”

She pushed for a retrial, but many of her colleagues and superiors did not want to risk looking like chumps all over again. There were fears the case was too circumstantial and that Gagné—a thief, drug pusher, and hired gun who admitted he had lied in the past and spoke in a colourful, often crude street vernacular—would never be credible to a jury. Still, Charbonneau was convinced that the Crown should be driven by principle, not a concern over its image. “I don’t want to sound like I’m bragging or accusing others of not reacting as they should,” she told me. “I pushed because I felt the Crown did not have its day in court.” She eventually convinced her bosses to let her proceed, but with the proviso that she would be the lead prosecutor—and the unspoken understanding that she would bear the responsibility if the Crown lost again.

For fifteen months, she worked up to eighteen hours a day. Her husband, Quebec Superior Court Judge Benoît Emery, became the family’s principal cook and caregiver to the couple’s young daughter. On March 25, 2002, the trial began. Opposing her was Jacques Larochelle, a brilliant, sometimes slapdash lawyer who had defended Boucher at the first trial, and had succeeded in making Gagné, on whose slouching shoulders the case still rested, seem untrustworthy.

The turning point came during Larochelle’s cross-examination of Gagné, on the matter of what he had told police in his first interview and the fact that he had later contradicted himself. “I was tired [during the interview],” Gagné tried to explain. Larochelle retorted that he had seen the video of the interview, and that Gagné was not tired at all. This was the opening Charbonneau had been waiting for, because she been unable to admit the video into evidence unless it was raised by the defence. When it screened in the courtroom, it revealed Gagné



at the police interview, resting his head on the table in front of him, and showed him yawning throughout. In one dazzling fell swoop, she had turned her witness into a credible man. He really had been tired.

This kind of strategy would serve her well a decade later as the head of the corruption inquiry. She followed the cross-examination closely and realized where it would lead before the opposing counsel did. She jumped up and pounced. And she did not stand down.

This time, the jury took eleven days to render its verdict. Charbonneau, who never looked at Boucher during the trial, did not see him raise his eyebrows in shock when the foreman said, “Guilty.” Then, as now, she was not one to gloat.

On any given day during the commission of inquiry hearing, a dozen lawyers crowd into the hall. They represent political parties, construction organizations, unions, media, and individuals ranging from political high rollers to lowly city engineers. Everyone rises when Charbonneau enters the room. Then it is down to business: a lawyer’s request for a publication ban, or a witness who is reluctant to face the commission. For the most part, “Madame la Présidente,” as she is called, allows the commission lawyers to take the lead. But she does not hesitate to jump in with questions, or to take on witnesses whose answers are at best evasive.

One dreary Tuesday in February, for example, she halted the testimony of Nicolò Milioto, who has been named in the hearings as a middleman between the construction cabal and the Mafia. Balding and bespectacled, Milioto is better known as Mr. Sidewalk. Between 2006 and 2009, his company, Mivela Construction, won \$57.7 million in public contracts. On this day, he was being questioned about meetings and cash hand-offs at a Montreal café thought to be the unofficial headquarters of the Rizzuto family. For much of the morning, he brazenly stonewalled. Then, when asked to identify his contacts, he balked, telling chief commission lawyer Sonia LeBel, “I am not going to name names.”

Charbonneau jumped in. “You don’t determine the pertin-

ence of the questions,” she said, her lips tight. “You are only to answer them. You, Mr. Milioto, are not directing this interrogation.” Then she called a brief recess so Milioto’s lawyer could explain the consequences of being cited for contempt of court and charged with perjury: a \$5,000 fine or up to a year behind bars for contempt, and as much as fourteen years in prison for lying.

By last fall, it had become clear that the inquiry was not just about the Mafia, or small construction companies conspiring to overcharge for a minor paving job. The testimony of Zambito, the former construction entrepreneur, was so stunning that observers wondered why he was being so frank. Among other revelations, he admitted that money for bribes was raised through phony billings. He also told the commission that it was impossible for a company to get work in Montreal and the surrounding municipalities unless it co-operated with the system of corruption and collusion.

Since then, the commission has heard other lurid details, including an anecdote about a safe belonging to a municipal political party that had been stuffed with cash until the door would not close. Former Montreal city engineer Gilles Surprenant admitted to profiting to the tune of \$736,000 since the ’90s from what was known in the construction world as a “*taxe pour Surprenant*,” or TPS, a play on the French acronym for the federal sales tax. He also brought commission investigators a small leather suitcase containing \$123,000, the remnants of his ill-gotten gains, which was admitted into evidence. The scandals have reached into the loftiest corridors of economic and political power. Construction firms such as Cima+ and SNC-Lavalin have been implicated in the rigging of contracts. Three mayors have already resigned, in Montreal, Mascouche, and Laval.

Veteran criminal defence attorney Harvey Yarosky has been involved in numerous commissions of inquiry over the years, including Gomery, where he represented Jean Brault, the president of Groupaction Marketing, who testified in 2005 that he had given money to the Quebec wing of the federal Liberal Party in exchange for sponsorship contracts. “I have never seen one get off to as dramatic a start as Charbonneau’s,” he says. “It has very quickly produced some amazing results, and I am fascinated to know how far it will go.”

Signs of how profoundly Charbonneau’s work has seeped into the public consciousness are everywhere. On Halloween last year, I saw young Quebecers in Surprenant (“Mr. TPS”) costumes made out of fake money. Others dressed up as Trépanier—the former Union Montreal figure alleged to have routinely skimmed 3 percent off large public contracts—by fastening money bags to their clothing with “3 percent” written on them in big black letters. Translator Bernard Monnin, who has been following the inquiry on TV, says that if the commission had not been called, he would have mobilized his neighbours to stop paying taxes until real change occurred. And the Carré Rouge student protests last year, which helped to defeat the Charest government, taught voters that the street is a place of real power.

At the best of times, overseeing a commission of inquiry is like running a three-ring circus. It is easy to stumble, as John Gomery, the retired Quebec judge who presided over the sponsorship scandal inquiry in 2004, learned. His facial expressions

during testimony made the news. He called golf balls signed by Jean Chrétien and paid for with sponsorship funds “small-town cheap,” and he criticized the management of the sponsorship program as “catastrophically bad.”

Gomery acknowledges his tendency to speak without thinking. “I hired an expert in public relations. He let me talk too much, though the buck stopped with me. I was the guy who opened his mouth too much,” he told me ruefully.

Charbonneau has had her own difficulties: She lost her first chief commission lawyer to a potential conflict of interest after UPAC searched a firm he had represented in the past. Then another senior lawyer resigned after he was passed over for the lead job. Lawyers grumble about being handed documents at the last minute. To date, at least two witnesses have been accused of lying, including former city inspector François Thériault, who claimed he did not reap any financial benefits from his job and was later charged with perjury and obstruction of justice.

More serious criticisms relate to the testimony of a commission investigator, the last witness before hearings broke in November for a seven-week recess. His testimony dealt with meetings held at a private club in Old Montreal, and he presented a list of people who were seen there. For some, including a former Liberal cabinet minister, it was the first time their names had been raised in the hearing room. “The Commission Needs to Explain Itself,” read the headline over Yves Boisvert’s column in *La Presse*. Visitors to the club were discussed in the hearing room as if they were suspects, he implied, complete with mug shots and a brief biography for everyone in the hearing room and viewers across the province to see. This left them under a cloud of suspicion, he said, no matter why they were at the club, and with no chance to defend themselves until at least well into the new year.

Charbonneau preached patience. There is a reason for everything, she said in a statement. She compared the work of the commission to a jigsaw puzzle. “All the pieces can’t be put together at the same time,” she said. At other times, she has appeared frustrated. When she opened the winter session of hearings in January, she warned that lying will not be tolerated; if witnesses are caught, they will be reported to the authorities.

One lawyer, who did not want to be named, says Charbonneau’s weakness is that she is one sided. “She is very Crown minded, not very open to Charter applications or defence-minded motions,” he said. “That she was named to the commission is a good thing, because nobody is going to get her as a judge for the next few years.”

But Duchesneau, the former police chief whose devastating report helped start the inquiry, dismisses the criticism as sniping. Charbonneau is exposing a network of corruption that has gone unchecked for years. In the short term, he says her job is to listen, not to come up with instant solutions. (Her report is due in October, but she has requested an extension from Premier Pauline Marois.) “I am impressed by her guts and her will to find justice,” he says. “She embodies the real meaning of justice. You can render a good decision, but you need to walk the talk.”

Charbonneau’s appointment coincided with a transformational shift in the province’s politics, says Boisvert. Mayors have resigned, Union Montreal is a shadow of what it once was,

Encounter

BY AMANDA JERNIGAN

A friend, seeing his babe in ultrasound,
imagined it an astronaut, “behind
glass dome reflections, lost in space...,”
and so I had that image close to mind
when the technician finally tipped her screen
to me, revealing—not an astronaut, but Earth,
so “small, light blue, so touchingly alone.”
Thus Leonov. It was a commonplace,
back then, that once we had the earth in sight,
the isolation of the planet “known,”
we would clean up our act, would mend our ways—
a kind of cosmic recognition scene.
So much for that, the skeptic in me says.
And yet as I beheld you floating there
I felt myself grow small, the air grow thin,
as if I were the one adrift in space,
and you the one who might yet pull me in.

and the Quebec Liberal Party lost a closely fought election last September. In November, Pierre Duhaime, the former CEO of SNC-Lavalin, the largest engineering firm in Canada, was arrested by the anti-corruption squad and charged with fraud. In January, acting Montreal mayor Michael Applebaum introduced a special police integrity squad to ferret out city corruption, and an advisory board to recommend revisions in how the city awards contracts.

“This wasn’t a simple flim-flam. It was colossal,” Boisvert says. “The consensus that it needed to be looked at was already a prelude to change, a prelude to finding another way to conduct business and finance political parties.” Antonia Maioni, a political science professor at McGill University in Montreal, agrees. And she wonders how Quebec reached a point where breaking rules became a matter of course. To her, Charbonneau is a welcome proxy for a frustrated public. “I’m no Pollyanna, but I have to believe we are moving forward, and Madame Charbonneau is leading the way,” Maioni says. “She’s like, ‘The buck stops here.’ She wants answers. I’d hate to be a witness in her courtroom.”

In January, Martin Dumont, a former Union Montreal political organizer, was called to reappear before the commission, to explain inconsistencies in the explosive testimony he had given in October. It was he who spoke about the safe stuffed with money, and who first revealed in detail an entrenched system of backdoor party financing. Appearing wan, with bags under his eyes and wearing a black serge suit too big for him, he was on the defensive from the start. Commission lawyer Denis Galant accused him of making up a story about a Union Montreal receptionist complaining to him after she was asked to count out \$850,000 in cash. But he stuck by most of what he had said in the fall, stating that he had recounted events as best as he could remember.

At one point, he responded to the harsh questioning by bursting out: “You have no idea what it’s like to testify before you.” Then, flustered by his own words, he insisted, “I’m not saying you’re intimidating.” But really, he was.

