

## Chaoulli, Truly: A Supreme Irony

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On January 11, 2008, 77 year old Jacques Sauvageau went to a private medical clinic in Montreal that advertised itself as capable of delivering emergency care. Despite being in obvious acute respiratory distress he was told to wait. He fell unconscious and his dentures tumbled out. After other waiting patients raised the alarm, a physician emerged, pronounced the man dead, and told the nurse to call 911 to report the death. The 911 operator pleaded with the nurse to try to revive the man, and another patient and later the paramedics vainly intervened. A coroner's report revealed Mr. Sauvageau died of a pulmonary embolism and nothing could have saved him. But the physician who refused to attempt to revive him could not have known this to be the case.

And lo and behold, that physician was none other than Jacques Chaoulli, the great champion of two-tier medicine who persuaded the Supreme Court to strike down Quebec's prohibition of private insurance for medically necessary services. A confession: when the [Globe and Mail article](#) describing his behaviour came to my attention, it made my day. Is my pleasure guilty, and is it *Schadenfreude* – taking pleasure in others' misfortune?

I'm not sure. Chaoulli has not to my knowledge suffered any misfortune. He is missing the humiliation gene. Confronted with a waiting room full of aghast patients in a state of insurrection about the disregard for Mr. Sauvageau's welfare, he refused to humanize. Nothing in his history suggests he gives a tinker's damn about what the media or the public think of him. Neither self-doubt nor shame inhabits his psyche.

That doesn't make him unique, and elementary failures of human decency are too common to be newsworthy. Dr. Chaoulli's transgression is of interest because the Supreme Court decision bears his name. This is a man who argued to the highest court in the land that the public system makes people wait too long and therefore harms them. So when the private clinic in which he was working makes a blue-faced old man wait unattended until he dies, we are treated to a spectacular irony.

We all screw up, and it's usually bad form to pile on. Is it fair game to raise questions about Chaoulli's character and motives from this story? Yes it is, because he has for years cast himself as the conscience of the country with a burning desire to make people's lives better. He has [compared himself to Gandhi and claimed he and Tommy Douglas have a lot in common](#). He has [publicly mused](#) about "playing the role of safeguard for the Canadian people as to quality healthcare....Since I was the one to lead this legal challenge, I believe I'm in the best position to know what Canadian people need in terms of healthcare quality." He sees a communist under every health care bed. In a [report](#) for the libertarian Cato Institute in the US, he blames the US

Congress for the plight of 6000 Americans awaiting transplants because it prohibits the selling of organs.

No one forced him to portray his quest as a righteous crusade. Since he speaks and writes in moral language, he invites scrutiny as to whether he walks his own talk. My reaction to his current plight may be *Schadenfreude* but explanation requires Sigmund Freud. The public record suggests that he has a messianic view of himself, invoking not just Gandhi, but Martin Luther King in a [speech](#) to the right-wing Heritage Foundation in the US. "I have a dream. My dream is to show the world how to get rid of a new and subtle form of tyranny hidden under the cover of a Welfare State's compulsory health care program." He went on a 4-week hunger strike in 1996 to protest the government's refusal to allow him to charge patients directly for his services.

Good people can make bad policy and bad people can make good policy – Nixon in China and all that. Not every doctor tempted by the riches afforded by two-tier medicine would pull a Chaoulli on a patient at risk. Lots of Medicare-loving doctors treat their patients and colleagues abysmally. Everyone has a breaking point and no one behaves impeccably 100% of the time.

Nothing in the public record suggests that Chaoulli is a sympathetic character. He had his wife put the touch on her Japanese, non-English-speaking father for the \$500,000 to fund his court challenges. I wonder if that's starting to smell like week-old sushi. Assuming the membership screening committee has booted him out of the Gandhi and Douglas club, it is only natural to speculate on the company that shares his values. Elmer Gantry? Jim Baker? Investment bankers? Gary Hart, the 1988 Democratic presidential aspirant who dared the press to catch him *in flagrante*. They did, and he was done.

Chaoulli has his place in history, thanks to the 4 Supreme Court justices whose disturbingly flawed decision misread the evidence and failed to discern the real agenda. But now that history has a footnote that is sure to follow him around the speaking circuit. The Quebec College is investigating the clinic. Chaoulli brought it all on himself. I suspect the right-wing think tanks who fawned over him will find the coroner's report and newspaper coverage in their in-boxes. Will they stand by their man, or discreetly distance themselves from St. Jacques?