



Interview: Ontario's Presiding Officers

It has been two decades since the Ontario Commission on the Legislature (popularly known as the Camp Commission after its chairperson, Dalton Camp) pointed out that the Speaker of the Ontario Legislature was widely perceived to be subservient to the government of the day.

As a result, the position lacked legitimacy in the eyes of the Members of the Legislature. Camp argued that only a neutral and non-partisan Speaker could win the confidence of Members on both sides of the House and preside over the Legislature with authority. Over the years since Camp reported, the position of Speaker in Ontario has gradually attained the status of genuine independence and neutrality.

Today not only the Speaker but also his colleagues in the Chair, the Deputy Speaker and Chair of the Committee of the Whole House and the two Deputy Chairs of the Committee of the Whole House, are loyal and faithful servants of the Legislature, not the government.

The following is an interview with David Warner, Speaker of the Ontario Legislature; Gilles Morin, (Liberal) Deputy Speaker and Chair of the Committee of the Whole House; Dennis Drainville, (Independent) first Deputy Chair of the Committee of the Whole House; and Noble Villeneuve (Progressive Conservative), the second Deputy Chair. The interviews were conducted by David Pond of the Ontario Legislative Research Service in June 1993.



To what extent do duties in the Chair affect your ability to serve your constituents as an elected Member?

David Warner: I explain to constituents that the results will be the same; the style will be different. I have to do things more quietly than in the past. I cannot put out press releases. I cannot go making speeches in the House. But I can be an advocate for my constituents and if a constituent writes to me about a particular government policy, I can write on behalf of the constituent to the minister and say: "My constituent is concerned about such-and-such and I think you should take a look at it." It is just a different style.

I have an advantage in that this is my fourth term. The people in my area have had the pleasure or displeasure of my knocking on their doors for 20 years so they get to know me and they have, I think, a sense of trust.

I have had constituents say: "Boy, it is great. Our member is the Speaker of the House. We have never had a Speaker." In 200 years, there have been very few Speakers who came from Toronto, and none in living memory, so it is a unique honour and a lot of my constituents appreciate that.

I feel, and my constituents certainly express it, that I am as effective as ever in terms of assisting them and helping solve the problems. I go about solving their problems in the way any member of the House would do. Regardless of what side you are on, when you get

a practical problem to solve with respect to workers' compensation or a drug benefit or whatever, you just do it. That does not change, no matter who you are in the House.

Gilles Morin: I still remain active in matters I consider important as an elected Member. For example, I have introduced a private Member's public bill (Bill 154, *The Government Cheque Cashing Act*, 1993), which has been debated in the Legislature and in committee. This bill addresses a serious social problem and was supported by Members on both sides of the House. I knew when I introduced it that it would not be regarded as partisan by my colleagues.

It is important for a Member who serves in the Chair to avoid partisan activities which might affect the legislature's perception of the Chair as impartial and neutral.

My constituents are proud of my status as Deputy Speaker. They know the role that I have to fulfil. I am always available to my constituents. My role as Chair certainly does not affect my ability to serve the people of my riding. For example, I will not hesitate to approach a minister on their behalf. In fact, I suspect my status as Deputy Speaker gives me an edge vis-à-vis other Members in approaching a minister. No minister has ever refused to see me or help me.

Whenever I am in the Chair, I know that my responsibility is to make sure first that the Members are able to express themselves. That is the main thing. When I am in the Chair I forget that I am a Liberal, I

forget that the others are Conservatives, or NDP or members of the government.

Noble Villeneuve: When I am in my assigned seat as a Member of the Progressive Conservative Party, I can tell you, I am anything but non-partisan. I am very partisan. However, I think human nature is such that whenever you go to that Speaker's chair, you probably go beyond partisan politics in attempting to leave the perception that you are at that point in time unbiased. I hope I have not been in such a way to have hurt my own party. I do not think I have.

But there are times when you, as an occupant of the Chair, regardless of what party you were elected from, would probably tend to be even a little more severe to your own people, just to leave the impression that indeed you are attempting, as best you can, to be impartial.

I think we all take the course of action that we deem best whenever we are in the Chair and then whenever we are private Members representing a constituency and a particular political party. I think you will probably find that the occupants of the Chair, by and large, may tend to be just a little bit less political than, say, some of the more radical or the more politicized positions that Members take from time to time, and I think that is fair game. We are certainly not hiding the fact that we are elected to a political party, and we have a job to do in that light. We can do it with a great deal of zeal, which sometimes is appreciated by some people and not appreciated by other people, and then there are other times when you do the job pure and simply with some degree of partisanship but always with the interests of your constituents in mind. That is the bottom line, the constituents first and foremost.

Dennis Drainville: I believe there are two kinds of people who come to Parliament. There are those who are truly partisan politicians and who see their own party's view, as being predominant and important and urgent for them to communicate. Such people are rarely good Speakers because it is difficult for them to be able to take the Chair and to see themselves in a non-partisan situation.

I am the other kind of person. I have no difficulty at all in divorcing myself from the partisan views of my colleagues. I now sit as an Independent. I think, in a sense, that only enhances my capacity to be able to serve in this particular role.

Is it customary for Members to approach the Chair privately to discuss a ruling?

David Warner: To be candid, I do not see nearly as many Members in my office as I would like to. I have had Members come here to discuss things they were concerned about. I think that is good and I think that is the way it should be rather than simply criticizing. You cannot challenge the Speaker's ruling. I have served here when that was possible and I always felt badly about it. It was very embarrassing for the Speaker. It was done not because they did not like the Speaker and not because the Speaker had made a



Speaker Warner with two of his Deputies: Gilles Morin (left) and Noble Villeneuve

bad decision; they were challenging for political reasons.

That has no place in the running of a Parliament. The Speaker has to make a ruling based on the rules, order, precedents, the philosophy. So you rely on the resource books, such as *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* and *Beauchesne's Rules and Forms of the House of Commons of Canada*. You rely on precedents from Westminster and Ottawa and Australia and you rely on your own set of Standing Orders. You weigh all that and you make a decision. That is fine. It is not appropriate to challenge that decision in the House. But if you are unhappy about it, go and see the Speaker. Sit down and talk to the person. Find out why was that decision made. That has got to be healthy. I have seen a few Members, but I sure would like to see more if they are unhappy.

Gilles Morin: Yes, Members have approached me, but usually to compliment me on a ruling. Occasionally, I have been criticized. However, service in the Chair is a lonely job. Obviously, it is nice to be liked, but I am not there to take sides or try to curry favour with one side or another. My duty is to be firm, fair and friendly.

Noble Villeneuve: I have had Members from all parties come along and say, "I agreed with your decision," or they will tease you, but yet possibly leaving a message that you gave in a little too easily on this, that or the other. It leaves you with some food for thought, if nothing else. It may be said in a joking way. It may be said in a serious way but you as an occupant of the Chair tend to remember those comments when the next time rolls around that you have to make a decision, hopefully impartially.

I initially never realized that even if I had never taken Question Pe-

riod, as an occupant of the Chair I have been in some fairly controversial debates. I have attempted to control things, and the feedback I get from the public and from my colleagues is that I do a reasonable job. You appreciate hearing that from the people to whom you are attempting to provide some sort of orderly debate. But by and large, it is given the occupants of the Chair more profile than I ever thought it would. As a member of the third party your profile sometimes tends to be a little bit overshadowed by many other people and that is fair game, but as an occupant of the Chair, constituents in my riding come along and say, "Oh, I saw you in the Chair the other day and you did seem to be able to control reasonably well when things got hot," and you kind of get a good feeling from that.

So you take it for what it is and you try to be impartial without stealing the show. We just cannot have the occupant of the Chair attempting, for whatever his or her reasons may be, to steal the show. It is like watching a hockey game and you are always complaining about the referee. If you watch another hockey game and the referee seems to not be there....To me, that is the way I attempt to be, yet sometimes you have to call for order and you have to remind Members that interjections are not in order, that they will have their turn to speak if indeed they want to speak and participate, and that is basically the job of the Speaker.

Dennis Drainville: One hundred and thirty Members is a small group of people, and you know everyone. If you make a decision which adversely affects a particular Member or even a particular party in a given debate, there are usually people who will come up to you afterwards and say: "You made a mistake. Why did you do that?" There are even

times, perhaps, when there are charges of being unfair.

But, generally, it happens immediately after because, in Parliament, being theatre on a grand scale, people's emotions run high. People feel strongly about things, and if you have said something or done something which, in a way, has made a ruling against a particular individual or party, then they will be feeling that somehow you have done something to hurt them.

On reflection, days afterwards, people, if they have been hot towards you or intemperate towards you, will generally come back and say, "I am sorry; I was just angry at the time," and they realize that the position that you have put forward is not one that is born from any partisanship, but rather was a decision that had to be made to maintain the order of the House.

Do you have any thoughts about how effective Question Period is here in Ontario?

David Warner: Question Period, first of all, is very important because it is the best opportunity for the opposition to focus on the issues of the day related to the government. So Question Period, in our system is paramount and it is a central focus. But, having said that, Members on the opposition side ask questions to which they already know the answers, and ministers give non-answers as replies. So it is a game on both sides of the House. The Members have prepared their supplementaries. The ministers have their briefing books. It is theatre. I mean, that is really what it is. It is not Stratford but it is theatre.

I think, as far as how many people get on and the amount of time and so on, that is really determined by the Members. The Speaker can call them to order, and I do, but if any group, including the government,

wants to get on more questions, all they have to do is have their Members disciplined about the length of time it takes to ask a question and to answer.

I can referee it, but if the Members are really sharp, they will make their questions crisp and really succinct. The irony is, of course, that the same is true on the other side. The ministers would make their responses short, because we allow government backbenchers to ask questions too and very few of them get on. So if the government wants to do their backbenchers a favour, they would tighten up the time.

So it is really, I think, to a very large extent, in the hands of the Members rather than the Speaker. It is up to them. We keep figures and stats, and Members occasionally ask and I provide them the figures and say, "Look, there is the amount of time you are using and I keep calling you to order." The irony is that all the Members know that when they go outside the chamber and they are interviewed by the press, they have got to give them 40-second sound bites.

Why can they not do it in the House? They do it out of the chamber, out in the corridor. Now of course the media, especially television, has become even stricter about the sound bites they want. So they want a Member to explain in 25 seconds some complex issue as to what will cause the economy to improve.

The Members manage to get those little things in, but for some reason they find it more difficult in the House just a few minutes earlier.

What Parliamentary Reforms do you think are needed?

David Warner: I think one of the challenges, when you are first elected is to move from being a politician to being a parliamentarian. In the end, with all of the really deep-

rooted problems, the sense of having a true democracy, the answers lie with parliaments, not with governments. Parliaments will solve those problems. One of the ways to reach it is to have a rules committee or whatever the name is, to take a look from time to time at how you modernize and in a non-partisan way come up with the rules that will suit the needs of Parliament. Not everyone has that interest, which is too bad.

There are real challenges here. We have got a committee system that is antiquated, clumsy and does not work very well. It really begs for reform, and as far as I can see, we are not really doing very much about it. There are all kinds of things that could be done. Westminster has altered its committee system dramatically and it is having some good effects. Ottawa has changed its committee system and it is getting some good effects out of it and we are just spinning our wheels, which is really too bad.

In order to make it happen, you need Members from all parties who have a genuine interest in Parliament who will put pressure on and say, "We need, for the sake of Parliament, to change the way we run our committees, the composition, their mandate, everything." It needs to be overhauled completely. We have got a lot of new Members in the House, for one thing, so it is tough to expect miracles, I guess, and tough to expect a lot of things overnight. With the huge turnovers that we have had over the last 10 years, you lose continuity. We have had in the span of 10 years, three different governments. I do not know the precise numbers, but I would be willing to bet that we have had somewhere in the neighbourhood of 200 to 250 Members who have come and gone in that period of time. So you lose stability. There are no two ways about it.

Dennis Drainville: I am concerned about the lack of discretionary authority on the part of the Speaker. We have curtailed significantly the role of Speaker in this Legislature; so much so, in fact, that the Speaker has very little discretion and, unfortunately, the rule of the majority ends up being tyranny by the majority in this particular place very often.

For instance, we brought in some new Standing Orders which were presented as reform measures. Now, those rules significantly curtailed the opportunity of Members to truly advance their cause in this place. It was said by the government at that time that of course the government would not always be using the new time allocation rule. What we saw in the last sitting is that time allocation was used increasingly. We will see that again in this session.

The government will always use the tools at hand. That is the way the system works. So what you have to do is ensure that there are some kinds of blocks there for the abuse of power.

There is much talk about the need for less party discipline. What do you think of this?

David Warner: Party discipline in Ontario has always been very rigid, quite inflexible and, if anything, it is more rigid today than I have ever seen it. You may have witnessed some dissent on the government side, but those members are paying quite a price for it. The same is true of the opposition Members. If the government identifies that this is a confidence item, the opposition Member would be in a lot of hot water to go voting with the government, so it serves both sides of the House extremely well.

The discipline here is more rigid than in Great Britain. One of the

reasons for it, I think, is that in Great Britain the government very clearly identifies which items are confidence and which ones are not. We do not do that here. After they have identified what is important to the government and what is not, then it makes it easier to allow dissent.

If it is not a matter of confidence then, so what if the government loses a vote? It is not the end of the world. If you have got a majority government, you can always afford to lose certain Members. You can still win the vote. So it is not 72 to 51, or whatever, it is 70 to 53. So what? You have still won the vote.

On a matter of conscience or the way his or her constituents feel on a subject, a Member is able to express that. I think that is healthy for the system, but ingrained in this party discipline in Ontario is the sense that you have to be with the party 100%, otherwise, you are disloyal. I think that is misplaced. I think it is wrong. I think our system would be a lot healthier in the long run if we would just allow Members to express themselves, and Parliament to express itself, for the caucuses to determine what is really important and what is not quite so important and let people vote the way they want to. We do not do that. We do not allow members to record an abstention.

We allow voters to do that. As a citizen I can go into the polling booth, and say to the returning officer, "I decline my ballot." I can say, "Mark my name off; I have shown up," and my ballot is marked as being declined because I did not like any of the candidates.

Why should not a Member here be able to stand up and say: "I do not like the government's position, I do not like the opposition's position, so I do not want to vote on this; I am here, I have listened to the debate, I have participated; I do not want to vote; I am an abstention"? We do not

allow that. I am not saying that we should adopt that, but I think we should explore that question and we are not doing that.

I understand the importance of party discipline, but we have gone too far. If I had a wish list I would put every Member, not all at once but in little groups, off to Westminster to see how they do it, because they have got a better answer. Now, they have been at it longer. They have been at it for 700 years and we have not, but I would send all the Members over there to sit in the House of Commons, sit in the House of Lords, meet with the Speaker, meet with the Clerks, the committees, watch the committees. They would come back, I think, with a more informed and I think more relaxed view about how Parliament should function.

Dennis Drainville: I think party discipline is a significant problem. We have a most extreme view of party discipline in Canada, and certainly in Ontario. We need to change that. I think we need to see more opportunities for Members to be able to disagree with their own parties, or the government, when it is in office. There should be a means of ensuring that if a government bill goes down that it does not become an issue of confidence, and there are many ways in which that can be handled.

When I have asked ministers, "When the final touches are put on legislation, where do you go to make sure you have got the kinds of things in the bill that need to be there?" rarely does a minister—in fact, a minister has never said that they listen to the debates in the House, that they listen to the debates in committee. In fact, the situation is that we are involved constantly in a debate that really never has any effect on the direction of the government and that is because of something that again is not

in the Standing Orders but that is how the governmental structure in Ontario functions. That has to do with the fact that over a period of the last 30 years power has moved from the Legislature into the Premier's office and decisions are made there—whoever is the Premier, whether it is the present occupant or the occupants before. This is true not only of Ontario but of all other jurisdictions in Canada.

Consequently, that move within the government power structure has had an effect on the Members in the House, because we are no longer seen as people who have any real part in either the formulation of policy or in the passing of legislation. Rather, we are—and I hate to use this very negative term—pawns in a political game who are there to vote at the behest of our particular Premier or leader. That has an incredibly negative effect on the way Parliament functions.

There are a number of options, but you could either have a system in which confidence motions always follow the fall of any government bill, in which case the government would never be expected to fall unless there was a motion.

I think the whole approach of going to public hearings after the acceptance of the principle of the bill, after second reading, makes no sense whatsoever. I think the first thing we need to do is we need to have commissions of the Legislature, along perhaps the Swedish model or the Quebec model, where one or more Members go out on a particular issue, do as much study publicly to hear what people have to say about that issue, come back, put forth a white paper document, see how that flies and then eventually refine that document. Eventually, that becomes the principle and it should flow that way.

This will allow more input on behalf of the public on a particular issue, but it will also give Members an opportunity to have some real say in the direction that particular bill is going to end up going in. I think that is important.

I also think there should be more opportunity for private Members' bills. I think the government should not constantly block private Members' bills from being allowed. That does happen in Ontario, and it is an odious practice, in my view, that undercuts the rights of the Members of the House.

What impact, if any, has television had on the behaviour of Members?

David Warner: On balance, I think it has had a positive effect. Members, if nothing else, tend to be better dressed. They are not as likely to exhibit unsocial behaviour. A few will grandstand for the camera, but it is not very many really. I think the downside is our own fault in that we did not prepare the public for what they were going to see.

It is not the public's fault. We did not tell the public in advance, "Okay, when you turn on the TV, here is what you should expect." Parliament is not a church, and it is not a school; it is a Parliament where we fought for centuries to get the right to speak without reprisal, without fear of death, fear of being beaten up, and the right to speak your mind on behalf of the people you represent. Unfettered free speech is something that is a very deep guiding principle of democracy. That is what you see in there.

Sure, there is a lot of impoliteness, and there are things that people should not say. So that is the Speaker's job, to call them to order for that. The Members should not do that. I realize, but at the same time, to be able to debate issues in a lively, animated fashion, that is our

Parliament; that is what it is about. That is what the British parliamentary system is all about. So we want to keep that.

But we did not explain any of that to the general public, and they flipped on their TVs in 1986 or 1987 or whatever it was, and some people were just horrified by what they saw. What they are seeing is not any worse than what has always gone on. In fact, in some ways it will be better. In the early days, there were fistfights and swordfights among members. People got killed and beaten up and so on. All of that is gone. Members have not resorted to that. So in fact the Members' behaviour is better today than it was 100 years ago. But we just simply did not prepare the public. Nobody knew what was going on in here 100 years ago.

So TV, on balance, has been a good thing. Having said that, I urge better deportment by many of the Members. I think being civil and polite and listening and so on is really important in any milieu, including Parliament.

Do you have any thoughts on the quality of debate and the conduct of Members in the Legislature?

Gilles Morin: I remember visiting not too long ago the House of Commons in England, and I found the British so proper. They are so proper by nature, and they have a way of telling you to go to hell in a nice way. It is because of their superb command of the language, which I wish some of our Members might emulate.

I remember Bette Stephenson, who had a way with words. On one occasion she called another Member a snake. I said, "Order please. You should not use that word." She said, "Well, he is an asp."

To what extent do the Presiding officers work together?

David Warner: I meet every day with the Clerk. Our team which consists of the Deputy Speaker and the two Deputy Chairs, myself, the Clerk, two Table Officers and the Sergeant-at-Arms meets once a week. We discuss what has happened in the last few days, what is likely to happen, and share information, go over some of the problems that occurred, seek advice.

There is always informal discussion. I try, when the House is meeting, to see those I am sharing the Chair with on a very regular basis. Every day we see each other, we chat, so there is constant communication and a sharing of information and a common purpose. Because this team of eight meets regularly we are able to have a common focus on how the place should be run, and it works.

It works because Noble and Gilles and Dennis are all prepared to put aside their partisan feelings for a common purpose of the Parliament and making the Parliament work. Otherwise, I could not do it by myself. It is impossible. Their cooperation has been absolutely fantastic. They are professionals. I have seen Noble sit in the chair and take incredible flak from his own group. His answer is: "These are the rules. These are not my rules. These are the rules of the House." You have to give so much credit to those guys because they are making it work.

Gilles Morin: I have known David Warner since 1985. When he returned after the 1990 election, it was easy for us to rekindle our friendship. There is a common bond of friendship and mutual respect among all four occupants of the Chair. We work together and we get along well. We know that we are here to serve the Members of the Legislature.

I find there is a good team spirit among us, a good chemistry. What we have here in Ontario is unique. The Speaker has a lot to do with that. He has the type of personality that brings people together, and that is extremely important.

Noble Villeneuve: We do have regular meetings. It is a once-a-week deal where all the occupants of the Chair, along with the officers of the House, meet, discuss some of the different situations that may have arisen the previous week, how they were handled or how they might be handled. You have some degree of anticipation without giving away any political secrets as to some of the surprises that may be forthcoming, and we attempt to foresee any potential difficult decision that whoever is in the Chair at the time would have to make, bearing in mind always the Standing Orders and the rules of the House.

There is a degree of consultation with the Clerk and the officers of the Legislature who are the experts on the rules. I have been challenged in Committee of the Whole and the Speaker had to be called in, and in those cases he supported my ruling.

We had discussed those possibilities at our previous occupants-of-the-Chair meetings and that is where I find those situations helpful.

The Ontario Legislature broke new ground in 1990 by electing its Speaker by secret ballot. How did that work? Was it a successful innovation?

David Warner: In 1989 the Legislature amended its Standing Orders to provide that henceforward the Speaker would be formally elected by the Members of the Assembly in a secret ballot. Historically, the government proposed a candidate for Speaker (usually after informal consultations with the opposition), which the House then affirmed. The new Standing Order was modelled on a similar amendment to the Standing Orders of the Canadian House of Commons introduced in 1985. This procedure is designed to ensure that the Chair is occupied by a Member who has the support of his or her colleagues.

I was first Speaker to be elected under the terms of the new Standing Order. On November 19, 1990, at the

commencement of the 35th Parliament, I won the election on the second ballot, defeating three other candidates.

I think the election of the Speaker does a couple of things. Hopefully, for the Members it provides them with a neutral basis, "We elected this person and therefore we are part of the decision, we are part of making it work." From my point of view, because the Speaker never knows who voted for you and who did not – it makes me beholden to every member of the House equally.

There are no favourites. The newest Member from the third party has the same status as the Premier of the province in the eyes of the Speaker. I think that comes about in part by the election process, because you have no way of knowing who voted for you and who did not. My nomination was put forward by a government Member and supported by an opposition Member. You start off on a footing that you have got equal allegiance and everybody's important.

