

Unfortunately, Osborne and his successors were appointed by exercise of the royal prerogative. This was not theoretically wrong. The Admirals had a semblance of statutory authority and the supremacy of Parliament over the prerogative of the Crown had by now been established. The failure of the Government to secure from Parliament the statute necessary for the maintenance of Government and law in the Island may be attributed largely to the influence of the West Country merchants. The Fishing Admirals challenged, often with violence, the justices of the peace and the Governor resided in Newfoundland only during the fishing season. The creation of a Supreme Court by statute in 1791, however, exemplified the abandonment of the struggle by the Fishing Admirals and of the realization by the merchants in England that they could no longer hope to unseat the Royal Governors.

While there was now an executive authority (though little more than an agent of the authorities in London) and after 1791 a judicature, a local legislature was lacking. The demand for a voice in law-making and policy took the form of a desire not for seats in the United Kingdom Parliament but for a local legislature to deal with local affairs. In this Newfoundland followed the line of development of other British colonies.

In 1803 the Governor, Lord Gambier (1802-04), urged "the establishment of a legislative power in Newfoundland, similar to that which has been found necessary to the prosperity and good government of other parts of His Majesty's foreign dominions".* Likewise Governor Duckworth (1810-12) recommended that a local authority be created. Shortly afterwards, in 1817, the settlers were conceded their wish that the Governor should reside on the Island throughout the year.

Representative government was granted in 1832, despite the antagonism of the West Country merchants. Its form—though not its practice—existed down to the institution of Government by Commission in 1934. The executive authority was vested in the Governor. He was assisted by an Executive Council, whose functions were purely advisory. The legislature was made up of a Legislative Council and a House of Assembly. The Legislative Council† was nominated by the Governor, while the Assembly was elected by popular vote. The two were empowered to make laws for the colony subject to the ultimate approval of the King-in-Council in London.

The Governor continued to receive instructions from London as a colonial governor. He was required to refuse in certain cases his assent to local measures. He was not yet required to accept the advice of ministers responsible to the local legislature.

The evolution of responsible government and progress towards the conditions confirmed by the Statute of Westminster of 1931, worked inside this form in a way familiar to the self-governing countries of the Commonwealth.

The newly-fledged popular assembly was not content with the change made in 1832. The Executive Council contained none of the persons elected by franchise. It consisted entirely of officials nominated by the Governor, including the Chief Justice of the Supreme Court, the Attorney General and the commander of the land forces. From the outset the Executive Council and the Assembly clashed. Although

* Lord Gambier to Lord Hobart, December 12, 1803. The Government had already done so for Nova Scotia.

† A kind of Upper House.