“Crown Dependency”: history, usage, and possible reform.

A Report for Sir Philip Bailhache KC, Deputy for St Clement, April 2025.

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"Crown Dependency" is a collective term used to refer to the Isle of Man, Jersey, and Guernsey and its dependent territories of Alderney and Sark (for ease simply referred to as Guernsey), which I will refer to as our jurisdictions in the discussion that follows. In this report I will consider the history of "Crown Dependency" as a collective term for our jurisdictions; the possible advantages and disadvantages of an umbrella term referring to our jurisdictions, and only our jurisdictions; and alternatives to "Crown Dependency" as the term for this category.

The history of the political term "Crown Dependencies".

The jurisdictional distinctiveness to, and yet close relationship with, England and successor states can be found across all three jurisdictions. For the Isle of Man this was established by 1399,[1] for Jersey and Guernsey by 1204 at the latest. The ancientness of these relationships can easily be elided with the ancientness of the term. Policy Centre Jersey, for instance, states that "Jersey's status as a British Crown Dependency dates back to 1204 and a series of charters in the 14th century".[2]

In the wide-ranging constitutional review of the Kilbrandon Commission, our jurisdictions were considered separately from all other non-UK possessions of the UK Crown. The remit of the Kilbrandon Commission included "the constitutional and economic relationships between the United Kingdom and the Channel Islands and the Isle of Man".[3] In discussion of the taking of evidence, the Commission enumerate them: "Jersey, Guernsey, Alderney, Sark and the Isle of Man".[4] When discussing them collectively, however, the Commission at no point refer to Crown Dependencies, instead using "the Islands".[5] Given the importance of Kilbrandon, the extent to which evidence was gathered from each of our jurisdictions, and the attempt to consider them collectively, this suggests that "Crown Dependencies" as a collective for our jurisdictions was not in use at the beginning of the 1970s. When did it emerge as a political term?

The earliest use of the term in our sense that I have found is in 1983. Philip A Crowl, an American historian, published *The Intelligent Traveller's Guide to Historic Britain*.[6] The cover of this guidebook uses that title, but the front page adds a subtitle: "England, Wales, The Crown Dependencies", and throughout the text discusses the Isle of Man, Jersey and Guernsey.

"Crown dependency" had begun to be used in discussing individual jurisdictions before then, but not in the distinctive sense used by Crowl. Although our jurisdictions have been referred to repeatedly in UK Hansard since at least 1802, the term appears in UK Hansard only in 1970, during a debate over the blasting of Beaucette Quarry in Guernsey by the Royal Engineers.[7] The primary concern was that the armed forces were being used to subsidise a private project, but this concern was exacerbated by the taxation regime of Guernsey. Mr Roebuck noted: "Guernsey is not part of the United Kingdom; it is a Crown dependency which has a special relationship with the United Kingdom because of its

1 cf. *ex parte Brown* (1864) 5 B&S 279.
2 https://www.policy.je/papers/jerseys-constitution#the-nature-of-the-british-crown-dependencies (accessed 21 March 2025).
3 Royal Warrant, 15 April 1969; reproduced in Royal Commission on the Constitution, 1969-1973, (1973) (hereafter Kilbrandon), v.I, iii-iv.
4 Kilbrandon, v.I, at para 1343.
5 e.g. ibid, at para. 1469. This term also appears in legal contexts, for instance the British Nationality Act 1981 s.50, where "'the Islands' means the Channel Islands and the Isle of Man".
6 *The Intelligent Traveller's Guide to Historic Britain*, (New York: Congden and Weed, 1983).
7 Adjournment debate: Beaucette Quarry, Guernsey, HC 796, col 169 (19 February 1970).

proximity and the antiquity of its connection with the Crown".[8] It is worth noting that "dependency" is not capitalised in Hansard.

Early uses of the term do not clearly use it in a way suggesting a different category from "dependent territory of the Crown", which would go beyond our jurisdictions to include the British, later UK, Overseas Territories. It appears in UK Hansard in 1986 for instance, again without the capital, during a debate concerning Turks and Caicos. Baroness Young made a statement in the House of Lords concerning the report of a commission of inquiry into corruption in the Turks and Caicos Islands.[9] Lord McNair asked if the particular issue "draws our attention to a wider problem; that is, our policy towards our remaining Crown dependencies in general?"[10] Baroness Young replied agreeing that very serious consideration needed to be given to "the future for the smaller dependencies, of which Turks and Caicos is one, in the Caribbean."[11]

This was not simply a UK approach. Looking at Manx sources, the term appears similarly late, and similarly ambiguously, in the official debates of Tynwald and its Branches. In 1967 the Speaker of the House of Keys lamented: "we have tried to share in the evolution of Her Majesty's colonial territories and Crown dependencies, but ours has been the lot of Cinderella".[12] There is a hint here that the Crown dependencies are distinct from colonial territories, but two years later we find it used in the broader sense of all dependent territories. In a discussion of the relationship between the UK and the Isle of Man, a Tynwald statement was delivered to the Home Secretary which noted "As the Isle of Man is a Crown dependency, Tynwald cannot believe that there is one policy of Her Majesty's Government for those dependencies which are in the care of the Secretary of State for Foreign and Commonwealth Affairs and a different policy for those supervised by the Secretary of State for the Home Department".[13]

We do see Jersey and Guernsey referred to particularly as fellow Crown Dependencies with features shared by the Isle of Man. In a discussion of joining the EEC,[14] speakers used dependency of the Crown and Crown Dependency interchangeably; but we do find – unsurprisingly given the topic – a discussion of "Crown Dependencies in Europe",[15] alongside use of the older, and as discussed below, legal, "British Islands".[16] Mr Verecker saw particularly strong parallels with concerns expressed by Jersey, quoting a paper from the States "because I feel it puts our case as well as theirs very forcibly and simply, and if you substitute the 'Isle of Man' for 'Jersey' in every case I feel, sir, it really puts our case on the map".[17] Given the strength of the parallel, it is striking that Mr Verecker does not refer to a common category containing Jersey and the Isle of Man.

Into the 1980s it is still appearing as a broader term than our jurisdictions. In 1982, for instance, the Speaker asks "when do you expect that the Governor's office here will conform with the functions exercised by the Governors of other Crown Dependencies such as Jersey and Guernsey?",[18] rather than "the Crown Dependencies of Jersey and Guernsey". In 1989, during a debate on corporal

[8] Ibid, at col 170.
[9] Turks and Caicos Islands, HL 495, col 495 (25 July 1986).
[10] Ibid, col. 497.
[11] Ibid, col. 497.
[12] TC 8 August 1967 at 1848.
[13] Replicated in TC 21 January 1969 at 709.
[14] TC 18 February 1970, from 869.
[15] Ibid, at 873 per Sir Ralph Stevenson.
[16] Ibid, at 877 per Mr Simcocks.
[17] Ibid, at 887-888 per Mr Verecker.
[18] TC 14 December 1982 T278 per The Speaker. See also HK 28 November 1989, at K428, per Mr Brown.

punishment, the Virgin Islands, Montserrat and Hong Kong are referred to as "other Crown dependencies".[19]

The later 1980s, and the end of the 20th century, marked a significant shift. In 1987, "Crown dependencies" was used, categorically, in the modern sense. While moving the Second Reading of the Merchant Shipping Bill in the House of Lords,[20] Lord Brabazon of Tara noted that the Bill "provides, very importantly, for the ship registers in the Crown dependencies and the dependent territories to be assigned to categories according to their needs and to their ability to administer and enforce the relevant international safety conventions".[21] Later during the progress of the same legislation,[22] Lord Brabazon explained that a clause referring to registration in the British Islands meant "the United Kingdom, Channel Islands or the Isle of Man".[23] He was pushed on where this definition came from, and replied: "I am not sure where it is defined. The "British Islands" are the Channel Islands and the Isle of Man. They are normally known as Crown dependencies. I cannot read what my note says; but the definition comes from a well-known Act of 1978".[24] The Bill became law as the Merchant Shipping Act 1988, referring to "the British Islands",[25]

The reference to the "well-known Act of 1978" is interesting. There are two relevant Acts. Lord Brabazon may have been referring to the Commonwealth Development Act 1978, which defined "dependent territory" as "any territory outside the British Islands for whose external relations Her Majesty's Government in the United Kingdom are responsible at the commencement of this Act, excluding Southern Rhodesia".[26] This does not define British Islands, but does show that they were distinct from British island dependencies more broadly. More likely he was referring to the Interpretation Act 1978 which provides this definition: "the United Kingdom, the Channel Islands and the Isle of Man",[27] itself a replication of the Interpretation Act 1889 s.18(1). Contrary to the House of Commons Briefing on the Crown Dependencies,[28] however, the phrase was a legal one before the 1889 Act, with, for instance, the Sea Fisheries Act 1868 taking British Islands to include Ireland, the Isle of Man, and "the Islands of Guernsey, Jersey, Alderney, or Sark, or their Dependencies".[29]

So in 1987, while recognising that the collective legal term which included our jurisdictions and the United Kingdom was the "British Islands" – as had been the situation for more than a century – Lord Brabazon saw "Crown Dependencies" as the way the group excluding the United Kingdom was normally known.[30] This was given more momentum in 1998, through the Edwards Review. In January 1998 Andrew Edwards has been commissioned by the Home Secretary, Jack Straw, "to review with the Island authorities in Jersey, Guernsey, and the Isle of Man their laws, systems and practices for regulation of their international finance centres, the combating of financial crime and co-operation

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19 TC 19 April 1989 at T1454 per Mr Gilbey.
20 Merchant Shipping Bill, HL 489, col 1293 (10 November 1987).
21 Ibid, col 1293.
22 Merchant Shipping Bill, HL 490, col 543 (24 November 1987).
23 Ibid, col 590.
24 Ibid, col. 591.
25 E.g. Merchant Shipping Act 1988 s.27(1), 39,
26 Commonwealth Development Act 1978 s.17(1).
27 Interpretation Act 1978 Sch.1.
28 D Torrance, *Research Briefing: The Crown Dependencies*, (2024, CBP8611).
29 Sea Fisheries Act 1969 s.27.
30 The maritime context also led to the first use of the term in academic commentary of which I am aware: AV Lowe and C Warbrick, "Current Legal Developments: Law of the Sea" (1988) 37(2) International and Comparative Law Quarterly 412 at 412. The first use of the term in non-legal academic commentary of which I am aware is R Le Herissier, "Jersey: Exercising executive power in a non-party system" (1998) 18(2) Public Administration and Development 101.

with other jurisdictions".[31] Although the text of the Review refers repeatedly to "the Islands", it does on occasion prefer "the Crown Dependencies", and the title of the Review is "Review of Financial Regulation in the Crown Dependencies". The first unambiguous use in Tynwald of the term in its modern meaning was during debates on this Review.[32]

To summarise. Between the Kilbrandon Report of 1972, and the Merchant Shipping Bill of 1987, the term "Crown Dependencies" began to be used as a colloquial descriptor meaning the "British Islands" without the United Kingdom. At this point it was not a legal term at all. The next section discusses the increasing use of "Crown Dependency" as a legal term.

The history of "Crown Dependencies" as a legal term.

During the 21st century we find "Crown Dependencies" evolving into a legal term used in international legal treaties, primary and secondary legislation of the UK and our jurisdictions, and the decisions of a range of courts.

International legal treaties.

In 1950, a Foreign Office Circular distributed to other states explained that in future treaties entered into by the UK "will not be considered as applying to the Channel Islands or the Isle of Man by reason only of the fact that it applies to the UK … and any signature, ratification or accession on behalf of the UK will not extend to the Islands unless they are expressly excluded".[33] In 1972, for instance, Protocol 3 of the Treaty of Accession to the EEC followed this language, referring to "Channel Islands and the Isle of Man",[34] rather than the Crown Dependencies.

In 1993, however, the States of Jersey published *Treaties: Application to Crown Dependencies*, and by the turn of the century the UK was beginning to use the term in communications to treaty organisations. In its 1999 report to the Committee on the Rights of the Child for instance, the UK had an addendum on "Overseas Dependent Territories and Crown Dependencies",[35] where the 1994 report did not. The fifth periodic report under the ICCPR article 40, submitted in the same year, was described as "report by the Crown Dependencies"; while the 1993 was not.

A similar moment can be seen in communications with the Council of Europe in relation the European Convention on Human Rights. In the 1970s, the phrase does not appear in relation to the Manx context of the ECtHRts case *Tyrer v UK*, with the Isle of Man instead being described as "a dependency of the Crown".[36] This changed at the end of the 20th century however. In renewing an ongoing derogation in relation to counter-terrorism legislation in November 1998, the language used to the Council of Europe was the Channel Islands and the Isle of Man.[37] When the derogation was renewed again in 2001, the formal letter noted "It is not yet possible to withdraw the derogation in respect of the Crown Dependencies, that is the Bailiwick of Jersey, the Bailwick of Guernsey and the Isle of Man … (The letter from the Permanent Representative of 12 November 1998 to the previous Secretary General

[31] See *Review of Financial Regulation in the Crown Dependencies* (October 1998), available at https://assets.publishing.service.gov.uk/media/5a7c468f40f0b6321db3819a/4109.pdf
[32] LC 27 January 1998.
[33] FO Circular no.0118 (Bevin Despatch) para 4.
[34] Protocol 3, art 1, 2, 6.
[35] CRC/C/41/Add.9 (26 May 1999).
[36] *Tyrer v UK*, (1978) App. 5856/72 at para 13.
[37] Derogation contained in a letter from the Permanent Representative of the United Kingdom, 12 November 1998.

explains the position in relation to the legislation in the Crown Dependencies)".[38] The letter of 12 November 1998 does not, however, use the term. This communication led to the first reference to "Crown Dependency" in any court, as a footnote to the European Court of Human Rights case of *Bankovic v Belgium* in 2001.[39]

A more recent example of the continued normalisation of this term in international law can be found in relation to the Paris Agreement on climate change. In 2022, the Treaty was extended to "the territory of Jersey",[40] while a similar extension in 2023 was "to the Crown Dependency of the Isle of Man".[41] An extension to Guernsey only in the same year simply named it – perhaps because of the complexity caused by excluding Alderney and Sark from the extension.[42]

Given the coincidence of timing of the rise of use of the term with the Brexit negotiations, one might have anticipated use of the term in the post-Brexit agreements. This is not the case. The Withdrawal Agreement refers to "the Channel Islands and the Isle of Man".[43] The Trade and Cooperation Agreement normally lists the three jurisdictions when needed.[44] It should be noted that this Agreement does not always treat our jurisdictions identically, which could justify the list approach taken.[45]

Primary and Secondary Legislation.

In contrast to "British Islands", the term Crown Dependency was not used in any 20th century legislation, although it did appear in three explanatory notes to UK legislation in the late 20th century.[46] In the UK, it first appears in an SI in 2005,[47] and in primary legislation in 2009.[48] It is first used in legislation in 2010 in Guernsey, [49] in the Isle of Man in 2015,[50] and in Jersey in 2018.[51]

The older term "British Islands" continues to be used frequently in legislation, as noted below, but it will be recalled that it goes beyond our jurisdictions to include the United Kingdom.

Case law.

As mentioned above, the first use of the term in a court decision that I am aware of is in *Bankovic v Belgium*, in the European Court of Human Rights in 2001. In the UK, *Bankovic* was cited in 2005, but the term was first used substantively in *Barclay v Secretary of State* in 2009.[52] In Guernsey, UK cases

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[38] Withdrawal of derogation contained in a Note Verbale from the Permanent Representative of the United Kingdom, 19 February 2001.
[39] *Bankovic and Others v Belgium and Others* (2001) App. 52207/99.
[40] See C.N.114.2022.TREATIES-XXVII.7.d (29 April 2022).
[41] See C.N.89.2023.TREATIES-XXVII.7.d (23 March 2023).
[42] See C.N.512.2023.TREATIES-XXVII.7.d (6 December 2023).
[43] Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 2019, art. 3(1)(c).
[44] E.g. EU-UK Trade and Cooperation Agreement, 2020, art. 509(4)(b).
[45] E.g. ibid, art. 503, 520(4).
[46] The first of which being in the note to the Merchant Shipping (Categorisation of Registers of Overseas Territories) Order 1988.
[47] Consular Fees Order 2005 s.2.
[48] Appropriation Act 2009, with a budgetary item "the management of the UK's relationship with the Crown Dependencies".
[49] Companies (Recognition of Auditors) Regulations 2010 (Guernsey SI 2010 no. 34).
[50] Freedom of Information Act 2015 s.5.
[51] EU Legislation (Customs Union, Impact and Export Control) (Jersey) Regulations 2018.
[52] *Barclay v Secretary of State for Justice* [2008] EWCA Civ 1319 (English Court of Appeal).

using the term were cited in 2008, while the term was first used judicially in 2012.[53] In Jersey the term was used judicially in 2013,[54] and then given the most ambitious judicial use in *Fallows* in 2014,[55] discussed further below. In the Manx courts it was first used judicially in *Kewley v AG* in 2014.[56] As well as being used in cases per se, the term has also begun to be used in courts internal regulation: Privy Council Practice Direction 1 uses the term,[57] while it also appears in the guidance to employment tribunals on evidence by video or telephone from persons abroad.[58]

How is it used?

Very frequently, "Crown Dependency" is used as an invocation of a broader category without any content, before quickly moving to discuss the particular jurisdiction. In a 2003 report by the IMF, for instance, the title of the report is "Isle of Man: Crown Dependency of the United Kingdom: Assessment of the Supervision and Regulation of the Financial Sector",[59] but the report is purely on the Isle of Man. We could also point to the extension of the Paris Agreement, noted above, where each of our three jurisdictions is described in slightly different terms in the formal communication to the UN.

It can also be used as shorthand for the largely autonomous islands around Britain where the UK has some control and responsibility. Giving evidence to Tynwald, Deputy Gavin St Pier from Guernsey suggested "it's emerged at some point in the 1970s largely as sort of shorthand in Whitehall as, you know, saving somebody –in the days when they had to type everything – typing "the Isle of Man, Guernsey and Jersey" and they just came up with a shorthand. And then "CDs" became a shorter version of that. So I think it's an administrative convenience".[60]

We see this form of use in case law, as well as in legislation. The Guernsey case of *Attard v Overseas Pension and Trust Limited*,[61] for instance, refers to purchase in 2011 of assets "in the Crown Dependencies and South Africa"; while in *Barbara (Care Order*) the Royal Court referred to the possibility of a child being adopted: "If no adopters could be found in Jersey, the Minister would consider adoption in the UK or one of the other Crown dependencies".[62] It is perhaps significant of a broader change that although this judgment refers to a class identical with the British Islands, that term is not used.

It has, however, received more substantive use by the courts, in four distinct modes.

Firstly, it has been used to understand the reach of Privy Council decisions. In *AB v CD* the Manx High Court discussed the approach of the Privy Council to "local sensitivities in the Crown Dependencies",

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53 *Burton v Law Officers of the Crown* (2012) 4/2012 (Court of Appeal of Guernsey).
54 *Lloyds Trust Co v Fragaso et al* [2013] JRC211 (Royal Court of Jersey).
55 *Fallows* [2014] JRC001 (Royal Court of Jersey).
56 *Kewley v HMAG* (2014) 2014/15 (Isle of Man Staff of Government).
57 Privy Council, Practice Direction 1: General Note and Jurisdiction of the Judicial Committee of the Privy Council, para. 1.6.
58 Presidential Guidance (Employment Tribunals: Evidence by video or telephone from persons abroad) [2025] ICR 434 para 5,6, 23.
59 IMF, *Isle of Man: Crown Dependency of the United Kingdom: Assessment of the Supervision and Regulation of the Financial Sector Volume I—Review of Financial Sector Regulation and Supervision*, IMF Staff Country Reports 2003/366.
60 Constitutional and Legal Affairs and Justice Committee, *First Report for the Session 2023/2024. The Constitution of the Isle of Man: Internal Self-Government and External Self-Determination*, (PP 2024/0034) para. 122.
61 *Attard v Overseas Pension and Trust Limited* (2021) GRC058 (Royal Court of Guernsey)
62 *Barbara (Care Order)* [2015] JRC 234 (Jersey Royal Court).

in relation here to dicta from an appeal in Guernsey.[63] Given the issue of the precedential value of decisions of the Privy Council to jurisdictions other than that from which the appeal arose is an issue across the Privy Council portfolio, referring to the subset of Crown Dependencies is, if anything, counterproductive.

Secondly, it has been used to understand the international legal position. In *DEFA v Richardson*,[64] for instance, counsel argued for the relevance of an international legal obligation to the Isle of Man as a Crown Dependency. There is, in the light of the Bevan Despatch, much sense in this – the UK has a history of treating different dependent territories differently in its treaty making; and the Crown Dependencies as a category fits well with one distinct set of territories.

Thirdly, it has been used to understand and enunciate the constitutional position of the particular jurisdiction in question. We see this in relation to autonomy of our jurisdictions vis a vis the United Kingdom, for instance in *Burton v Law Officers of the Crown,*[65] where the Court of Appeal begins its discussion of the constitutional position of Guernsey with "The degree of autonomy enjoyed by Guernsey as a Crown Dependency not forming part of the United Kingdom is well-recognised".[66] This can be seen in a number of other cases.[67] As an approach it has most merit when focussing on legal relationships from institutions within our jurisdictions to the UK. In *Lovering v Atkinson*,[68] for instance, the Guernsey Court of Appeal cited Privy Council Practice Direction 1, which uses the term Crown Dependency; while the recent mapping exercise of the UK constitution focuses on the constitutional relationship with the UK in its discussion of "Crown Dependencies" at 9.3.[69]

Finally, it has been used as part of a comparative law exercise. In *Kewley v HMAG*, Tattersall JA considered "the approach adopted by the court in England and Wales and by the courts of our fellow Crown Dependencies in the Channel Islands".[70] Most substantively, we see this approach in *Fallows,*[71] where it was used by a Jersey court to determine the content of national law.

In *Fallows* Birt B considered whether a county court English judgment could be registered under the 1960 Law allowing reciprocal judgements. He decided not to follow a 1995 judgment which had excluded this category of order from the 1960 Law. One of his reasons for doing so was:

> "It is clear that the 1960 Law forms part of a package of statutes introduced in the three Crown Dependencies and the countries forming part of the United Kingdom with the intention that certain judgments given by courts in the United Kingdom can be enforced in each of the Crown Dependencies and vice versa. It seems to me extremely important that there should be a consistency of approach. It would be highly undesirable to leave in place a position whereby an English judgment can be registered in Guernsey and the Isle of Man but cannot be registered in Jersey, even though the legislation in each Dependency is in all material respects

[63] *AB v CD* (2016) 2016/7 (High Court of the Isle of Man). See also *FHR European Ventures LLP v Ramsey Neil Mankarious* [2013] EWCA Civ 17 (English Court of Appeal).
[64] *DEFA v Richardson* (2019) 2019/122 (High Court of the Isle of Man). See also *J v K* [2016] JRC110 (Jersey Royal Court).
[65] *Burton v Law Officers of the Crown* (2012) 4/2012 (Court of Appeal of Guernsey).
[66] Ibid, para. 34.
[67] E.g. *Le Lievre and Others v UK* (2016) App 36522/15 (European Court of Human Rights); *Nordbo v UK* (2017) App 67122/14 (European Court of Human Rights). I will leave aside a reference to Magna Carta as bearing on Crown Dependencies, made by a party in *Morris v Schlaefer* [2023] JCA120 (Jersey Court of Appeal).
[68] *Lovering v Atkinson* (2018) no.517 (Court of Appeal of Guernsey).
[69] D Torrance, *The United Kingdom Constitution – a mapping* exercise, (2025) HC CBP 9384 at 9.3
[70] *Kewley v HMAG*, (2014) 2014/15 (Isle of Man Staff of Government) at para. 35.
[71] *Fallows* [2014] JRC001 (Jersey Royal Court).

identical. There is an important public interest in ensuring that there is a consistency of approach."[72]

Advantages and disadvantages of a common term for the Isle of Man, Jersey, and Guernsey and associated jurisdictions.

The advantage of a common term for our jurisdictions is that it stresses real commonalities. To me the central commonalities are the lack of full international legal personality; an asymmetrical constitutional relationship with the United Kingdom; being an (inter alia) English speaking dependent territory within the European region; the limited capacity that follows from smallness; the intimacy that follows from smallness; the emphasis on autonomy as a good in itself; and the relationship with the sea, and maritime borders, which follows from insularity. The existence of the legal term "British Islands" since at least the middle of the 19th century, and the speed with which the newer political term "Crown Dependency" has been juridified, both point to the usefulness of a term for jurisdictions with so much in common.

The UK has found it sufficiently useful that it was used to restructure the Ministry of Justice in 2008, with the Appropriation Act 2009 providing funding to allow the creation of a Crown Dependencies Team in the Ministry of Justice, and a Minister within the Ministry of Justice with responsibility for Crown Dependencies (currently Lord Ponsonby). From the UK looking out, conceptualising, understanding, and dealing with a single category of "Crown Dependency" - as opposed to thinking separately about the Isle of Man, Jersey, Guernsey, Alderney and Sark - is likely to have administrative gains.

Switching our perspective to our jurisdictions, it can also be useful for them in dealing with the UK. We can identify two obvious negotiating strategies which capitalise on this conceptualisation.

Firstly, where the relationship with the Crown Dependencies differs, pressure to change particular elements of that relationship can make use of a "levelling up" strategy. In the Isle of Man, after 1981 the Lieutenant-Governor had a delegated authority to indicate royal assent to much legislation. [73] Similar rules were agreed for Guernsey,[74] "bringing the position into line with that of the Isle of Man".[75] Another example from the opposite direction is the registering with the national legislature of UK legislation affecting our jurisdictions. In 2023 the Constitutional and Legal Affairs and Justice Committee of Tynwald recommended that "legislation made by the UK Parliament at Westminster should not be extended to the Isle of Man without the consent of Tynwald".[76] In doing so they had clearly been influenced by evidence of the very different practice of Jersey and Guernsey:

> "Deputy Sam Mézec explained to us that if provisions of Act of the UK Parliament extended to Jersey, the law of Jersey required the Chief Minister to bring the provisions before the parliament of Jersey for a debate. If the UK Parliament had acted without the prior consent of the parliament of Jersey, the result would be what he called "very tricky territory".Deputy

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[72] Ibid, para 15.

[73] Royal Assent to Legislation (Delegation to Lieutenant-Governor) (Bailiwick of Guernsey) Order 2024.

[74] See T.W. Cain, "Royal Assent to Acts of Tynwald", (1992) 19 Manx Law Bulletin 113.

[75] House of Commons Justice Committee, *The Constitutional relationship with the Crown Dependencies: Second Report of Session 2023-24*, (HC 30, 2024) at para. 64. See further States of Deliberation of the Island of Guernsey, *The grant of Royal Assent to Projets de Loi, Counsellors of State and Other Constitutional Matters*, (2023) P2023/20.

[76] Constitutional and Legal Affairs and Justice Committee of Tynwald, *First Report for the Sessions 2023/2024: Internal self-government and external self-determination*, (2024) para. 83.

> Gavin St Pier explained to us that a statutory obligation similar to that in Jersey had recently been put in place in Guernsey."[77]

Secondly, where the relationship with the Crown Dependencies is the same, a "ganging up" strategy can add weight to arguments for a change, or resistance to change, impacting on all our jurisdictions. A recent example is the resistance of our jurisdictions to moves to legislate without the consent of the national legislature.

There are, however, two risks from the excessive use of a common term.

Firstly, an emphasis on commonality – "as a Crown Dependency" - risks obscuring differences between our jurisdictions in way which earlier approaches treating the Isle of Man, Jersey and Guernsey as sui generis in their relationships to the Crown, did not. To give three examples, all with a constitutional bent: (1) Jersey and Guernsey are UK possessions as part of the (prior) Duchy of Normandy; while the Isle of Man is a UK possession by right of conquest from the (beheaded) former sovereign. (2) The Manx legal order is close to colonial norms, with some areas of distinctiveness; while that of Jersey and of Guernsey is Norman-French law with a colonial influence. (3) The closest European neighbour to Jersey and Guernsey – and so the one with both subtle and obvious influences – is France, while for the Isle of Man it is Ireland.

Secondly, an emphasis on commonality of our jurisdictions risks obscuring commonalities that are shared well beyond them. My understanding of the Manx position, in particular, has benefitted greatly from the global literature on small democracies, and on small island developing states. I regularly use a set of comparator democracies – some sovereign, some not – to help to understand the Manx situation, and to consider possible reforms.[78] An over-emphasis on the commonalities shared by our jurisdictions can restrict what is drawn upon to understand, and develop their positions; particularly if it pre-empts consideration of our jurisdictions alongside UKOTs.[79]

A new nomenclature?

If a common term is desired, we have already seen a shift from "British Islands" which included the United Kingdom to, surprisingly recently, "Crown Dependencies". A Tynwald Select Committee in 2024 recommended "that the word "dependency" does not reflect clearly the constitutional status of the Isle of Man; and that Tynwald calls on the Isle of Man Government to engage in discussion with the Manx public and with the Governments of the Channel Islands and the UK with the aim of finding a better term".[80] It drew on evidence from Jersey and Guernsey, as well as the Isle of Man.

Criticism was primarily aimed at the "Dependency" part of the term. The Speaker of the House of Keys indicated "Whilst this title correctly connects our Island nations to the Crown, it is perhaps time to review the 'Dependency' epithet. We are after all, not dependent on the UK. We have entered into relationships and partnerships, and we are doubtless the junior partner, but I don't think it is right or helpful to market ourselves to the world as 'dependencies'".[81] Other contributors similarly stressed

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[77] Ibid, para. 79.

[78] For instance in PW Edge, "Lisvane's legacy? Constitutional reform in the Isle of Man" (2020) 40(1) Legal Studies at 5(c).

[79] As an example of this approach, see for instance M Mut Bosque, "The sovereignty of the Crown Dependencies and the British Overseas Territories in the Brexit Era", (2020) 15(1) Island Studies Journal 151.

[80] Constitutional and Legal Affairs and Justice Committee, *First Report for the Session 2023/2024. The Constitution of the Isle of Man: Internal Self-Government and External Self-Determination*, (PP 2024/0034) para.

[81] Ibid, para. 121.

"dependent" as undesirable, while favouring a term which continued to stress the emphasis on the Crown.[82] The Committee concluded that "it is specifically the word "Dependency" that people would like to change. All of the options presented to us maintain the word "Crown" and we would wish to maintain this as well. Our connection with the Crown is something to be cherished for many reasons. Most particularly it makes it clear that our relationship is with the Crown as the permanent Head of State and not with the UK Government of the day."[83]

This aspect of the Report was rejected by the Isle of Man Government, on the basis that:

> There is a long history to the description of the Isle of Man as "a dependency of the Crown". "Crown Dependency" as a shorthand term may perhaps be more recent.
>
> Although the term "Crown Dependency" is viewed by some as being less than ideal, it is undeniable that it has been in common usage for many years and it is widely understood. That does not mean that it should never be changed, of course, and the change from "colony" to "Overseas Territory" shows that change is possible in a UK context.
>
> Although some of the contributors to the Committee's inquiry argued otherwise, it may be suggested that the Island does, in fact, "depend" on the United Kingdom, on behalf of the Crown, in a number of areas – including defence, formal international relations, nationality, passports, consular support and representation at inter-government bodies such as the United Nations. It should also be remembered that a most important element of a nation's ability to direct its own affairs, the adoption of primary legislation, "depends" on the Crown (or its delegated representative in the Island in most cases) for Royal Assent – without which an Act of Tynwald cannot become law.
>
> From the Committee's Report, it can be seen that there is no clear alternative term that is preferred by all and it may be that no such term exists.
>
> Whilst the Isle of Man is not an independent sovereign State, it is a proud nation and the Council of Ministers does not believe that a label such as Crown Dependency demeans the Island or defines how we view ourselves.
>
> The Council of Ministers does not believe that this is a priority issue for most of the people of the Isle of Man and it cannot support committing resource to this recommendation.
>
> Nevertheless, if the Committee itself wished to undertake a public consultation on this issue, the Council of Ministers would be interested in the outcome.
>
> It may be noted that the term Crown Dependency (and Crown Dependencies) is used in some UK legislation and this would have to be taken into account if the term were to be changed.
>
> It should also be noted that Jersey and Guernsey are included within the same definition, and therefore consultation might also need to include them, as their views may differ as to whether the term should be amended, and/or, indeed, to what it should be changed."[84]

[82] For instance Deputy Jonathan Le Tocq, from Guernsey, ibid, para. 123.
[83] Ibid, para. 127.
[84] Council of Ministers, *Response to the First Report for the Session 2023/2024*, (2024) GD 2024/0109 at pp.8-9.

The Report was considered by Tynwald in November 2024. Tynwald adopted an amended resolution that "the word "dependency" does not reflect clearly the constitutional status of the Isle of Man",[85] which did not have the call for action recommended by the Report.

As the Council of Ministers noted, there is no alternative term which would be the obvious replacement for "Crown Dependency". The absence of a widely accepted alternative is itself an argument against abandoning the term. This report will conclude with a brief consideration of some alternatives for the term.[86]

Possible alternative terms.

British Islands.

One possibility, perhaps the most conservative form of reform, would be to revert back to an emphasis on the pre-1980s language of "British Islands". As well as predating "Crown Dependency", this is a term which continues to operate as a legal term. It appears in 45 Acts of Parliament this century, for instance in the Armed Forces Act 2006; the Human Ferilisation and Embryology Act 2008; the Investigatory Powers Act 2016; and the Counter-Terrorism and Sentencing Act 2021. It appears in a very large number of UK Statutory Instruments, in January and February 2025, for instance, appearing in the Veterinary Surgeons and Veterinary Practitioners (Amendment) Regulations Order of Council 2025, and the Official Controls (Amendment) Regulations 2025. It continues to be used in Manx legislation (for instance the Civil Partnership Act 2011 s.92); Jersey legislation (for instance the Sanctions and Asset-Freezing (Jersey) Law 2019); and Guernsey legislation (for instance the Animal Welfare (Guernsey) Amendment Ordinance, 2025).

The principal problem with this approach is the inclusion of the United Kingdom in the legal term. It is not, therefore, an umbrella term for our jurisdictions and our jurisdictions alone. As the ubiquity of the term shows, there is a legal and practical utility in a brief term which refers to the UK and our jurisdictions. One possibility would be to remove the United Kingdom from the legal definition of "British Islands". This would also acknowledge that, since 1922 the UK, unlike our jurisdictions, has not been delineated exclusively by maritime borders. However, not only would this require (minor) changes to a significant body of legislation across the UK and our jurisdictions, it would also create its own problem of nomenclature. If the UK is no longer part of the British Islands, what collective term should we use for the UK and our jurisdictions?

This is not the only problem with "British Islands". In contrast to "Crown Dependency" this term may be seen as emphasising geography over constitution. It is perhaps significant that the shift in terminology has coincided with increasing autonomy for our jurisdictions, which may help to explain the emphasis on the constitutional relationship. It may also be seen as emphasising British in a way which inappropriately indicates a relationship with a subset of the United Kingdom. It is noteworthy that British Overseas Territories (BOTs) were renamed from "British Dependent Territories" by the British Overseas Territories Act 2002.[87] Although the legislation making this comparatively recent change is still in effect, a newer term of UK Overseas Territories (UKOT) was hinted at in the FCO report

[85] TC 21 November 2024.

[86] I do not consider "Crown peculiar" as not only is it unlikely to attract widespread support, but it is a term that has been used in relation to Guernsey and Jersey but not, as far as I am aware, to the Isle of Man. See further J Le Patourel, *The Medieval Administration of the Channel Islands*, (1937).

[87] British Overseas Territories Act 2002 s.1.

on the Overseas Territories,[88] and can be found in official publications today.[89] The recent mapping of the UK constitution, while noting the legal term since 2002, is also ambiguous – referring to "Overseas Territories" consistently.

Crown Kingdoms and Crown Realms.[90]

Another possibility was put forward by the Speaker to the House of Keys who, while open to other suggestions, suggested "'Crown Kingdoms' alongside the Channel Islands and possibly Scotland".[91] This has the advantage of keeping the emphasis on the relationship with the Crown, rather than the adjacent sovereign nation, with its own political and constitutional structures, which actually exercises suzerain power over our jurisdictions. It also, in line with other suggestions, would be equally applicable to any of our jurisdictions if they became independent from the United Kingdom, but retained a link to the Crown as Head of State. New Zealand, the Ross Dependency, Takelau, and the associated states of the Cook Islands and Niue, for instance, form the Realm of New Zealand.

Crown Dominions.

Another possibility was put forward by Deputy Gavin St Pier of Guernsey, who suggested "'Crown Dominions' so that we could still stick with "CDs" and we wouldn't have to try and reframe the whole language for everybody. And I think "dominion" is a very old term that suggests a relationship with a monarch. We are indeed the Crown's oldest dominions, between the three of us".[92] This term was also suggested, although less patently, by Deputy Jonathan Le Tocq, on the basis that the modern relationship of our jurisdictions was analogous to the position of Canada when Dominion status was developed.[93]

Dominions of the Crown as non-English parts of the possessions of the Crown does indeed have a long pedigree: being used, for instance, in relation to the Colony of Virginia around 1660. Initially "a style signifying subordination", during the 20th century the term began to be used in relation to parts of the British Empire with complete self-rule.[94] In 1901, "British Dominions beyond the Seas" referred to all British territories and possessions; in 1907 the autonomous Dominions preferred "self-governing Dominions" for themselves; and by 1917 the "self-governing" became implicit in use of Dominions.[95] At the 1926 Imperial Conference the term was used for "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations".[96] The Statute of Westminster of 1931 removed the key legal markers of subordinate status of the Dominions; but the period of non-subordinate

88 FCO, *The Overseas Territories: Security, Success and Sustainability*, (June 2012).
89 E.g. H Wright, *25 Year Environment Plan Outcome Indicator K4: 2023 Update on the Protected Areas in the UK Overseas Territories*, (JNCC, 2024).
90 D Torrance, *The United Kingdom Constitution – a mapping* exercise, (2025) HC CBP 9384 at 9.2.
91 Constitutional and Legal Affairs and Justice Committee, *First Report for the Session 2023/2024. The Constitution of the Isle of Man: Internal Self-Government and External Self-Determination*, (PP 2024/0034) para. 121.
92 Ibid, para. 122.
93 Ibid, para. 123.
94 WD McIntyre, "The strange death of Dominion Status", (1999) 27(2) Journal of Imperial and Commonwealth History 193 at 194.
95 PC Oliver, "Dominion status: History, framework and context" (2019) I-CON 17(4), 1173.
96 See A Berridale Keith, "The Imperial Conference 1926" (1927) 9(1) Journal of Comparative Legislation and International Law 68 at 69.

Dominions was brief. The term fell out of use following the Second World War, with brief consideration of Dominion status for Fiji in 1969 very much an outlier.[97]

If Dominion is now a "vacant" category,[98] there is a case for it being adopted for our jurisdictions. Indeed, as larger countries such as Canada and Australia ceased to use the term, the Smaller Territories Committee considered whether smaller territories should be eligible for Dominion status.[99] It is worth noting that, as with Kingdom or Realm, there was – ultimately - no connotation of subordination in the term. Indeed, considering the history of Dominions, it may be seen as a term compatible with aspirations of increasing autonomy.[100] To that extent, adopting it could be a strong marker of an aspiration for constitutional development.

Dependencies of the Crown.

Deputy Jonathan Le Tocq also put forward another possible new term. He suggested a reordering of the term into "Dependencies of the Crown" – "it puts the emphasis on the Crown rather than the UK Government … it helps me to argue that actually your responsibilities are only because they are delegated from our relationship to the Crown. And if you put it the other way round …. That often gets confused with things like 'Crown Prerogative' and things which are phrases that are often used, the terminology is to do with the British Parliament".[101]

The reordering aims to reduce the emphasis on dependence which was criticised by, inter alia, the Standing Committee of Tynwald. It could be worth exploring whether beginning the phrase with "Dependency" is likely to achieve this in English; and if so, whether to an extent which addresses the concerns over Dependency.

Crown Territories.

Sir Philip Bailhache suggested "We ought to be called Crown Territories".[102]

This would be consistent with the use for other dependent territories of British (or UK) Overseas Territory, as well as keeping the emphasis on the relationship with the Crown noted above. As noted above, although the term UKOT is beginning to be used, the current legal term of British Overseas Territory (BOT) has been used since 2002.[103] This replaced the earlier term "British Dependent Territory",[104] which itself replaced the former term "colonies".

Freely Associated States.

A final option would be to look further afield, and consider terms used by the US and New Zealand. The United States has a particular constitutional relationship with the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau. These are described collectively as "The Freely

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97 WD McIntyre, op.cit., at 199-202.
98 See WD McIntyre, op.cit., at 205.
99 WD McIntyre, op.cit., at 202-203. Note also consideration of an alternative term, as an alternative to full Dominion status, of "Island or City State", rejected as "attractive intellectually, but academic and un-English".
100 For two examples of this, consider the Irish Free State, discussed in L McDonagh, "Losing Ireland, losing the Empire: Dominion status and the Irish Constitutions of 1922 and 1937" (2019) I-CON 17(4), 1192, and J Valkoun, "Accepting Dominion status as a way of reconciliation of British-Irish disputes?" (2021) Britain and the World 14(1), 1; and India, discussed in R De, "Between midnight and republic: Theory and practice in India's Dominion status" (2019) 17(4) I-CON 1213.
101 Ibid, para. 123.
102 Ibid, para. 124.
103 British Overseas Territories Act 2002 s.1.
104 British Nationality Act 1981 s.50(1), Sch.6.

Associated States" (FAS).[105] An obvious objection to the term would be that the FAS are sovereign states, and members of the United Nations. The relationship between New Zealand and Nieu and the Cook Islands, which also uses the language of Free Association, is perhaps closer to that of our jurisdictions. The status of our jurisdictions as dependent territories, however, militates against this language – Tokelaua for instance is currently described as a dependent territory of New Zealand, not one in Free Association with New Zealand.[106]

Conclusions.

Although the Council of Ministers suggests that Crown Dependencies "has been in common usage for many years", that very much depends on perspective. Compared with many features of the Manx, Jersey, and Guernsey constitutional landscapes it is a new term. Changing the term, a child of the end of the 20th century, would not disrupt ancient traditions.

This presupposes that an umbrella term for the Isle of Man, Jersey, and Guernsey, and for those jurisdictions only, is valuable. The longevity of "British Islands" – which included before 1922 the islands of Great Britain and of Ireland - is indicative of the value of some form of umbrella. The increasingly widespread legal use of Crown Dependencies through the 21st century indicates the same. The use of such an umbrella term risks over-emphasising commonality across our jurisdictions, and obscuring commonality beyond our jurisdictions. Nonetheless, used with care, an umbrella term can be useful; particularly as regards the relationship of our jurisdictions to the United Kingdom.

There is some interest across our jurisdictions in a change to the name of this umbrella category. Arguments for continued use of Crown Dependency are likely to gain in strength the longer the term is used, and the more it is juridified. Arguments for change are hampered by the lack of an obvious replacement term. None of those reviewed are completely unproblematic, but there is much to be said for "Crown Dominions". The category of Dominion has been vacant for long enough to avoid confusion if repopulated with territories lacking international legal personality and complete self-government in all matters; while reflection on the way the term developed in the 20th century may make it particularly appealing to those who find "dependency" anachronistic or demeaning. The addition of "Crown" helps to reduce this confusion still further, and stresses the relationship of our jurisdictions to the Crown.

[105] See T Lum and JG Tuuola, *The Freely Associated States and Issues for Congress*, (2024).

[106] A Quentin-Baxter, "The New Zealand Model of Free Association: What does it mean for New Zealand?" (2008) 39 Victoria University of Wellington Law Review 607.