Stainmore: Deeds, Divisions and Devices
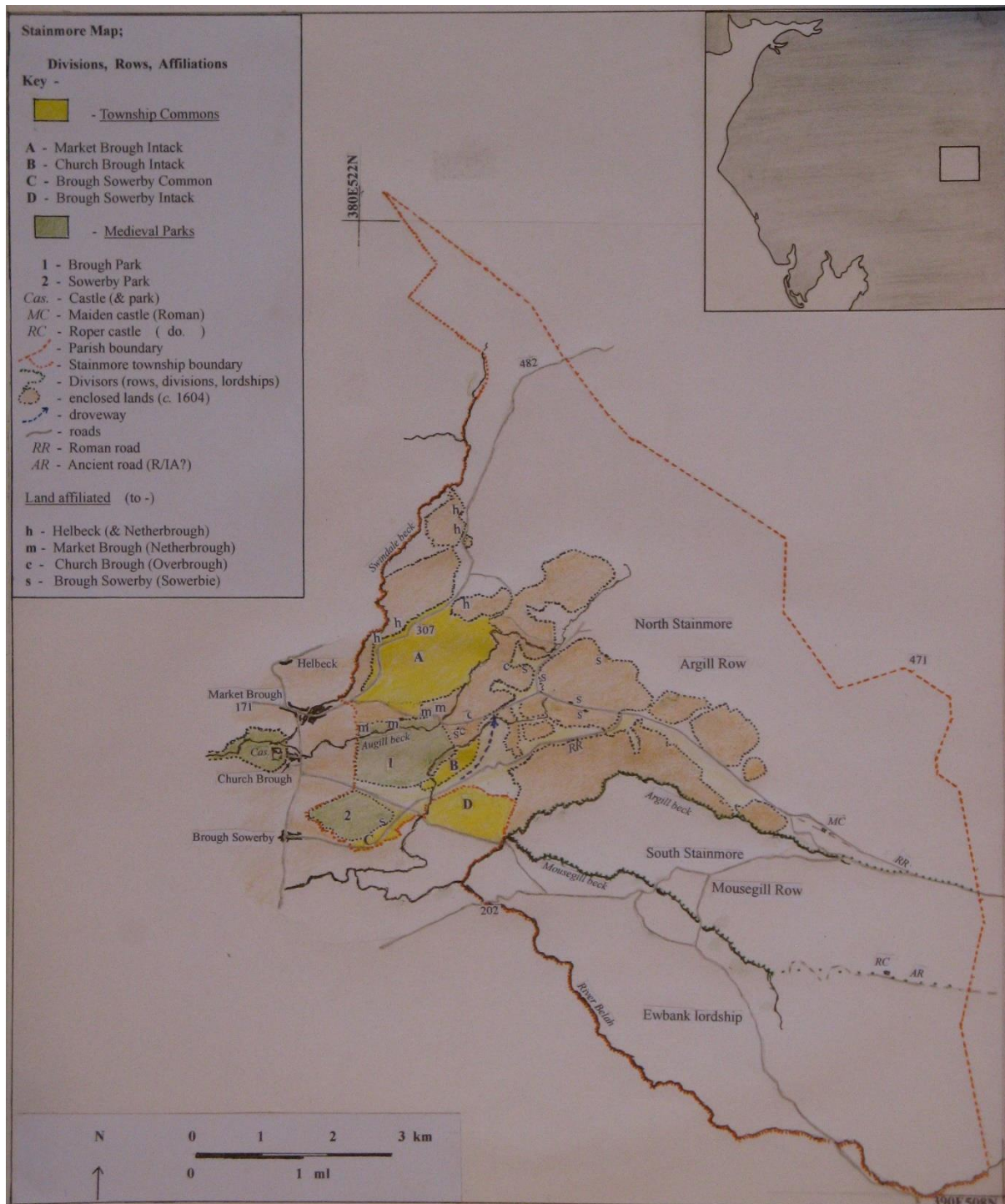
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The Clifford land survey of 1604 provides details of land holdings in Stainmore township but has subheadings naming neighbouring townships. Why is this? A deed of 1696 held at the National Archives revealed how the parish of Brough under Stainmore was organised into divisions called foots'. These were used to allocate and allot the township responsibilities within the parish to comply with the Act of Settlement (1662). Stainmore's adjudged advantages led to boundary changes in 1756-8, after an appeal against the poor rate ('cess') assessed in 1753. The 'row', another name used for the divisions, is re-interpreted, and the results applied to Stainmore's landscape divisions. The use of the North Stainmore division to provide township commons and parks is shown to be part of an affiliation of the landscape to the neighbouring settlements of the parish.

Keywords: divisions – settlement – cess – foot – row – lordship – affiliation

Introduction

This paper is about the township (now parish) of Stainmore (two divisions: north and south), and its close relationship with its neighbours. The parish name 'Brough under Stainmore' (Brough with; (*cum*) Stainmore in the 1379 Poll tax) was, in the same tax returns, reflected in the name of nearby 'Kirkby Stephen (with) Mallerstang'. Both names indicate that these settlements had close ties to the adjoining forest townships with whom they were jointly assessed.[1] This, together with inter-commoning and other characteristics, suggests Brough was part of a multiple estate.[2] As well as having forest status, the old Stainmore township (of 22,468 a., *c.* 9,100 ha. in 1843) was part of the honor of Brough and a lordship and manor of the Appleby (Westmorland) Barony.[3]

Stainmore Map;

Divisions, Rows, Affiliations
Key -

☐ - Township Commons

A - Market Brough Intack
B - Church Brough Intack
C - Brough Sowerby Common
D - Brough Sowerby Intack

☐ - Medieval Parks

1 - Brough Park
2 - Sowerby Park
Cas. - Castle (& park)
MC - Maiden castle (Roman)
RC - Roper castle (do.)
⸺ - Parish boundary
⸺ - Stainmore township boundary
⸺ - Divisors (rows, divisions, lordships)
⸺ - enclosed lands (c. 1604)
⸺ - droveway
⸺ - roads
RR - Roman road
AR - Ancient road (R/IA?)

Land affiliated (to -)

h - Helbeck (& Netherbrough)
m - Market Brough (Netherbrough)
c - Church Brough (Overbrough)
s - Brough Sowerby (Sowerbie)

380E 522N

482

471

North Stainmore

Argill Row

Swindale beck

h
h
h

h
307
A

Helbeck

Market Brough
171

m m m m
c
sc

s
s
s
s

c

Angill beck

Cas.

1
B

Church Brough

2 s
C

Brough Sowerby

D

RR

Argill beck

MC

South Stainmore

Mousegill beck

Mousegill Row

202

RC   AR

River Belah

Ewbank lordship

RR

390E 508N

N

0   1   2   3 km

0   1 ml

The Clifford survey

Persistent rains had caused crop failure and famine in the north and west in *c.*1595–7 such that 'the mechanisms of poor relief seem to have broken down'.[4] Shortly thereafter in 1604, a survey was commissioned, by George Clifford 3rd earl of Cumberland (1558–1605).[5] This sought to maximise the income from the Earl's Westmorland estates, with updates from the previous survey of 1582 (now lost).[6] The survey survives as a book in the Hothfield archives, a slender bound paper document giving detailed summaries of each landholders tenancy and property history, reciting previous rentals and listing all improvements, changes to, and charges on, the premises. Valuations were reviewed and rentals adjusted. Residences were ranked; from halls, tenements and messuages to houses and cottages. Coverage was made comprehensive by adding a contemporary rental, which ensured that 'unimproved' property was not overlooked.[7] The complications of ownership, deriving from family relationships, sometimes over decades, were also documented, and assessed in terms of marriage contracts, widow right, mortgages, beneficiaries and the sales of tenant right.

Though the combination of survey and rental was detailed and thorough, most townships had many unnamed properties which were not located, whereas because Stainmore was a dispersed settlement nearly all of its property was named. They were listed under headings for the geographic areas they occupied, making Stainmore perhaps the most geographically referenced of the townships recorded. In the survey Stainmore township was called 'East Stainmore' (as it was in court books into the 19th century).

A particularly discreet parcel of land which it described is called 'Sowerbie Parke' (*c.*157 a., 64 ha.) disparked around 1400.[8] In the 1604 survey the park (page 66, dorse) had ten tenants, seven of whom can be matched to names in neighbouring Brough Sowerby township.[9] Like

its northern companion Brough park (*c.*331 a., 134 ha. disparked *c.* 1390), it was named after the settlement adjacent to it, where it abutted Stainmore's western boundary (see map on p.2).[10] The old boundary of Brough park is to be found from the farms sited around it and their names: 'Hag gap' (O.E. *haga*), hedge gap – which lay along the hedge-fenced pale there.[11] Also the several 'Parkhouses' which, with a single exception (probably a park lodge), were all sited along and against the old park pale perimeter. [12] Part of this park pale has been persuasively confirmed by excavation, and the park itself is well documented.[13]

Commons near and next to the parks served the same settlements with their township commons, and in the 1604 survey, were described thus – 'All the Ten(a)nts of Netherbrough' (Market Brough) 'doe hold one close called the cow pasture & pay yerely for the same – lix[s] ix[d.]' (59s. 9d) for *c.* 416 a., (168 ha.). 14 'All the Ten(a)nts of Overbrough' (Church Brough) 'hold an improvm(en)t called pasture close & pay yerely – xxiiij[s].' (24s.) for *c.* 80 a., (33 ha.). 15 note that Brough Sowerby common which adjoined the southern pale of Sowerby park has never been enclosed (see map on p.2). These enclosed parks and commons lay between about 180-300 m. (590–984ft.).

Less easy to explain are some sub-headings which appear in the section covering North Stainmore and at the end of the survey (pages 116–120). The survey began from the lower lands where the Brough townfields ended and Stainmore began to ascend the escarpment (from *c.* 180–200m., *c.* 585–650ft.). The climb then advanced in broad 'steps', into the upper reaches of the hills (at *c.* 300-450m., *c.* 975–1462ft.), an area of high plains, commons and fields. For pastoral farming it presented a convenient and well-watered topography. At the end of the survey the sub-headings attached were – 'Netherbrough; East Stainmore adhuc',

'Overbrough; East Stainmore adhuc', and 'Sowerbie; East Stainmore adhuc' . Why is this, and can other documents offer an explanation.?

The deeds of 1696, 1756 & 1758

Following the Act of Settlement of 1662, (otherwise 'An Act for the better Relief of the Poor of this Kingdom') the parish of Brough under Stainmore, Westmorland, reorganised its administration, and its care of the poor. The overseers and churchwardens of the three divisions, namely the two 'Brough's' (Church and Market Brough), 'Brough Sowerby and Helbeck' (usually two separate townships, but previously one manor), and Stainmore, decided 'to divide the said Parish of Brough into Three divisions only for ...disabled indigent poor people', by deed in 16th April 1696. [16] They were to be:

> 'divided as here followeth (vizt.) the two Broughs and Helbeck with the Demaine belonging it (reputed to be afoot* of the Parish) to be one of the said Divisions: Sowerby and Helbeck Town (reputed to be another Foot of the Parish) to be another of the said Divisions. And Stainmore reputed to be two Foot of the Parish to be another of the said Divisions.'
>
> * - as written in copy.

This copy deed is an indenture tripartite between the churchwardens and overseers of the parish of Brough, Westmorland, with a memo witnessing it as a true copy of the original. It shows that in Brough parish the alternative name used for its divisions was 'foot(s)'. The likely meaning of foot, (a dialect term), was 'the lower part of a street, town, &c.' referring to the lower end of a township division.[17] Being 'two foot of the parish', Stainmore therefore paid double that of the divisions deemed to be one foot. Thus the deed goes on to mention a pensioner, John Hill of Brough who is to be paid 13 shillings by the Brough's and also by the Sowerby and Helbeck divisions, but 'the Inhabitants of Stainmore Division … Twenty six

shillings yearly.' Rights of settlement under the 1662 act defined residence according to parish, whereas the deed of 1696 localised residence still further, to mean a subdivision within the parish described. Thus in 1696 it was also agreed that the two Broughs 'shall within Twenty Days … remove [take away] the Two Children of Rich[ard]' [name in binding-'Barton'] 'deceased from Stainmore into their own Division [of Brough]… at the proper Charges of the Inhabitants thereof.' [18] Few detailed rate books survive pre *c.* 1900, but the contention was that the Stainmore foot was overgrown in population and resources and therefore needed to be trimmed. [19] Rateable values for 1752/3 valued Stainmoordale (Stainmore) township at £63/6/8 whereas Brough was only £24/15/-, Brough Sowerby £16 and Helbeck £6.[20]

The deed was disputed for lacking legal force as not 'with the consent of Two Justices one whereof is of the Quorum in or near the Division.' [21] It was Thomas Carleton who with his tenants, and shortly after purchasing Helbeck demesne in *c.* 1753/4, lodged an official appeal against the Brough's over the matter. Brough maintained however that the other divisions were not townships and the cess (rate) had to be pooled. Carleton replied that 'The Poor within the Parish are not maintained at the joint expense of the whole Parish but by 'Assessment in the different Villages where they have acquired Settlement.'[22]

The problem was resolved by another deed of 1756, now lost but quoted at length in a memo from the Tithe commissioner Mr Mathews. It did not mention the 'foot(s)' but in a tripartite indenture talked instead of the townships and amended the previous amalgamation of Sowerby and Helbeck Town (as a foot). Brough was claiming that Stainmore, like the other townships of the parish were 'no distinct Townships but that the division was for the more easy disposal of parochial rates & settlements for the benefit of the entire Parish.' Those lands

in Stainmore which had been obliged by the parish to pay their rates to Brough had extended to 700 acres. This area lay entirely within the division called north Stainmore, and abutted the settlements claiming the rate adjustment. When Brough took the cess from the lands it claimed a right to, Stainmore disputed it.[23]

Continued dispute led to another deed in 1758. Though neither deed indicated how the 'common pence throughout the Parish for the relief of the Poor' was to be achieved, the 1758 deed attempted to make the issue legally binding.[24] This copy document was dated 28th March 1758, again an indented tripartite deed, which sought to rectify the error over Brough Sowerby township by simply allowing it to make its own rate and removing it from the deed. The agreement was to be confirmed by two JP's of the County. Eighty years later however the dispute was not resolved, as 'the Stainmore people' (were) 'anxious that they should be rated to the relief of their own poor,' having lodged an appeal in the courts.[25]

The Stainmore tenants felt aggrieved at the outmoded method of settling the Brough parish rate which was open to interpretation Prior to the arrival of the Tithe commissioners the Charity commissioners gave further elucidation as to the apportionment of the rate when they stated that:

>'The parish of Brough is subdivided into three townships, each of
>which maintains its own poor 1- Market Brough and Church
>Brough 2- Brough Sowerby and Helbeck 3- Stainmore, which is
>considered as forming half of the parish and pays half of the church
>sess; each of the other townships pay a quarter of the church sess;
>Hilbeck only pays a quarter of the fourth part, which is payd by the
>township of Brough Sowerby and Hilbeck.' [26]

When the Tithe commission came to look at the case of Stainmore's boundary, they found that the issue had been removed by *mandamus* (mandatory order) into the Court of the Queens Bench where it was 'quashed on a point of form, without entering into the merits of the case.'[27] However, a note in the margin of the 1758 deed was made in the 1840s by Mr J.M. Mathews, the Commissioner, saying that according to the law they were 'Barred from altering the boundaries of Townships 13 & 14 Car. [Charles II] 2c. 21s 21 constitutes these districts separ(a)te Townships for the relief of the Poor.'[28] Consequently, excepting for the argument of 'usage', (some Stainmore tenants having been persuaded to pay direct to Brough) Mr Mathews had concluded that 'these agreements for dividing the Parish into more equal rateable proportions for the relief of the Poor cannot have the effect of changing the ancient boundaries of the Townships.' and that the courts had jurisdiction 'for settling disputed boundaries.' When the townships then missed their chance to lodge appeals, Mr Mathews was free to determine the boundary in Stainmore's favour according to the old boundary, which was then awarded on 27th September 1847.[29] He may have been relieved to have avoided further debate, which did however show that as well as having a purpose as an administrative weighting, the Stainmore 'foot' claimed a physical entity based on the township boundaries, which its inhabitants were also keen to preserve.

The 'rows'

The two 'foots' that constituted Stainmore had alternative names which were noted in 1829 as 'Argill row' for North Stainmore, and 'Mousegill row' for South Stainmore.[30] In this context 'row' appears to derive from the Old Norse '*rá'*, for a boundary (see map on p.2).[31] Argill was the name of the beck which naturally divided Stainmore into two, and served as the divisor between the north and south of the township.[32] Thus as described in 1858,

'Stainmore … has two divisions, north and south, the former embracing those parts on the northern side of the Argill beck and extending 1½ to 6 miles east of Brough, while the latter is on the south side thereof, running from 2½ to 7 miles south-east of that parent township.' The 'parent' township was 'Brough's', which was the 'head' or *caput*, where the lords' residence, the castle, and ecclesiastical centre, the church stood closely together.[33] However as the usage of the name 'row' to signify a 'division' appeared to be a borrowed meaning, originally it probably referred to the boundary (i.e. the watercourses: Argill beck and Mousegill beck) as divisors, rather than as divisions.

This reading makes Argill row the divisor between North and South Stainmore, so that Mousegill row then becomes another divisor, not South Stainmore (division) *per se*, but a divisor within South Stainmore (see map on p.2). Re-interpreted, Mousegill beck becomes a 'row' which divides 'Mousegill row' (or South Stainmore) on the north side of the Mousegill beck, from a division on the south side once known as Ewbank lordship.[34] The Ewbank family formerly governed this lordship and estate from their residence at Ewbank hall (now lost) and according to Archdeacon Walter Frederick Ewbank (1918–2014), they had 'come into Westmorland with fire and sword in the tenth century.'[35] Lady Anne Clifford told the antiquarian Thomas Machell that the Ewbank's had sold their estate to the Veteripont's and so it had descended to the Clifford family of the barony of Westmorland and Appleby castle, as their demesne land. This was consolidated when the Clifford's built their own 'New Hall' as their demesne farm, and created the adjoining Ewbank park (Old and New), in the early 1400's.[36] Prior to this, during the 13th and 14th centuries, the pasturage there was let (farmed out) as a block described as 'between Moss Gill & Beldoo'; that is between the Mousegill beck and river Belah – (the latter being the southern border of the medieval parish; see map on p.2).[37] This evidence suggests that the rows may have pre conquest origins.

It also shows that the bounds of the divisions and lordships were largely demarcated by watercourses, and hence the rows were linear divisors which extended naturally from the lower-lying ground at the 'foot' of origin, towards the mores (moors) and fells of common pasturage.[38] These demarcated areas of land were natural territories for settlement and farming.

'Row' also has a double meaning as a 'street', as may also be intended; by a continuation of the course of Argill row along the Roman road (overlain here by the A66).[39] Near the junction of the two is the late 19th century boundary marker at Blackhause. [40] For Mousegill row another extension is suggested from a recently recorded road found close to Roper castle Roman signal station, its metalled surface hidden beneath the moorland heath.[41]

On North Stainmore similar territories extended like spokes from a wheel-hub (foot) centred upon the adjoining Brough's township (see map on p.2). There, the medieval parks and township commons were established along and against Stainmore's western border (as described above).[42] Their naming affiliated them with their 'parental' settlements, and were therefore designated as: 'Brough' park, 'Sowerby' park, 'Market Brough' intack, 'Church Brough' intack, and 'Brough Sowerby' common (see map on p.2). This acknowledged their role in providing pasturage and grazing services to Brough's communities, especially from the township commons, and from seasonal agistment in the two parks, as witnessed in medieval records, such as in the year 1314 when: ('*duo parci cujus Herbagium*' were worth 100s. per year).[43] As these were along the western boundary of the North Stainmore division, they formed a large part of the 700 acres later claimed by Brough in recompense for the disputed rate inequalities.

North Stainmore's sub-headings

 As noted, the sub-headings which are found at the end of the Stainmore entries in the 1604 survey book (pages 116-120), named the lowland settlements of Netherbrough, Overbrough and Brough Sowerby, adding 'East Stainmore adhuc' to emphasise that these entries were also within Stainmore township and manor. Many were only for parcels of land held, and not for farms, tenements or cottages, suggesting that the tenants were instead residing at the named, affiliated settlements opposite to them (see map on p.2). To test this, I made searches in the separate listings for the settlements, for any matches to the names found under the subheadings.

The search results were as follows. Under the heading 'Nether brough East Stainmore adhuc', (for Market Brough in Stainmore), two areas opposite Market Brough are described. One area (where 'm' is located), has nine tenants renting land around Brough park of which only one did not appear in the 1604 survey for Nether Brough. Six of them were also named in the rental.[44]

Areas marked 'h' had seven land-holders attached to that part of Market Brough which was in Helbeck manor with land along the Swindell (Swindale) beck. This group were charged for land improvements and closes made on Stainmore in the Stainmore courts, but most of these tenants also had extant residences on Stainmore which were charged for in the Helbeck manor courts.[45] Though difficult to confirm from the surviving Helbeck manor courts, this manorial interest was documented in the Clifford books of record for *c.* 1292 when two tenements (probably at Windmore end and Swindale-head) were found to have been enclosed from the waste. On reversion of an initial lease granted for life from the Clifford manorial court, the dwellings reverted to Helbeck manor whereas the improvements to the land there

were charged in the Clifford (Stainmore) manor courts. [46] In the 1604 survey the farmsteads at Hazel Bank and Blackmoorgate are named but are not charged for their tenements. The entries only say that 'Lancelot Salkeld holdeth two closes under hesleybanke' and 'Roland Nicolson holdeth certeyne improvm[en]^{ts} at Blackmyre yeat'.[47] Nearby Swindellside is entered as 'now inhabited' which is ambivalent as to which manor it was being charged to (Clifford – Stainmore or Netherbrough, or Blenkinsop Helbeck/Netherbrough). For this analysis (and bearing these reservations in mind) I suggest that of the seven listings only one resident farm might have been charged to Stainmore. Without more detailed Helbeck manor courts any matches to that court can be suspected only from absences among the Brough (Netherbrough) listings in 1604. Regarding these 'absences', there are four Stainmore tenants not accounted for in the Clifford Netherbrough lists. Slightly later Helbeck manor courts do refer to customary holdings of Helbeck manor known to lie within Stainmore township. [48] Of the three that do match with Netherbrough two have combined burgages and tenements (and are therefore probably resident of the Clifford-owned Netherbrough manor). [49]

An extension to the east (at locations marked 'c'), is headed 'Overbrough East Stainmore adhuc' (for Church Brough) and it has three landholders.[50] Of these three, two matches appear in the Overbrough listings with messuages, and were therefore residents of Overbrough (Church Brough). The other entry had a tenement on Stainmore and was probably a resident there.

The heading 'Sowerbie East Stainmore adhuc' refers to Brough Sowerby. Some of its tenements are marked 's' on the map (p.2), and it had 14 landholders listed, including two who were resident householders at Penistone green and Dunhaw on Stainmore. The other 12 have matches in Sowerby, and were confirmed resident there from their appearance in the

rentals. In the survey they have tenements, messuages or rights in the township common (the 'cow pasture', later 'Brough Sowerby intack'.) [51] One rented the water corn mill in Sowerby. [52]

Most of the listed tenants affiliated by name to the settlements only had land and not residences on Stainmore. From the analysis perhaps 26 of the 33 landholders recorded also resided in the neighbouring townships of affiliation. If more evidence could be found from Helbeck then the completed total of tenants residing outside of Stainmore would probably be *c.* 30.

Some of the Sowerby affiliations on Stainmore marked 's' on the map (p.2) are in a group which includes Church Brough affiliated holdings ('c') at Craco on Stainmore, where they may have been sharing arable in a field of south facing plough riggs (among other land there).[53] A dyked droveway provided access from the area near to Villa Park and Brough Sowerby intack (in Brough Sowerby township), to Craco via the ford across the Powbrand sike (see map on p.2). On the way it crossed a section of the Roman road descending from Longrigg (see map on p.2).[54] This convenient and relatively short access therefore suggests post Roman usage. Together with the evidence from Ewbank lordship a minimum dating of between 6th and 10th centuries CE may then be suggested for these divisors (rows and minor rows). A deeper time profile cannot be ruled out however as will be seen on Longrigg which follows.

 Longrigg (unaffiliated)

Within north Stainmore division the area south and east of the lane along Longrigg ridge was not included in the subheadings of the 1604 survey. Why is this? It is more separated and

distant from the settlements, consequently its hillside situation created a more discreet topography. It had been a central part of an ancient dyke system of large field corrals and small paddocks around settlement sites indicative of an earlier farming system. [55] Central to the farms along this south facing ridge, overlooking Stainmoordale and South Stainmore, was a multivallate fort at Dyke House, which is classified as Romano British or Iron age in date.[56] The lane along Longrigg lies closely parallel to a long section of the Roman road, its course there confirmed by recent Lidar survey. [57]

Augill row?

There are a few references in documents to an Augill row, but as the name is so similar to Argill row it may be a mistake for 'Argill row'. This is the case with an 1851 directory as careful scrutiny does show.[58] The Augill beck however is roughly equidistant between the divisors: the Swindale and Argill becks, its deep ravine being a significant punctuation on the landscape. Also, like Longrigg, it possesses sites of prehistoric character and status. In this case most of the Brough intake (at A on the map, p.2) was dyked within a rectangular enclosure of around *c.*200 acres of scarped hillside backing onto the Augill ravine, with a promontory fort in its northwestern angle.[59] This area was on the original site of Brough hill fair, 'at Brough Intack, where it was originally held'.[60] Arguably then there are two divisors within north Stainmore which could have had an Iron age or Romano-British ancestry. A series of divisors might therefore be suggested for North Stainmore. Reading from north to south these are:

> a – between the Swindale beck and the Middleton road (B6276), an area of preferment shared with Helbeck manor in Market Brough**.**

> b - between the Middleton road and Augill beck an area of affiliation with residents of Market Brough (with possible IA/RB origins, see above)

c - between the Augill beck and Longrigg lane, an area of affiliation shared by residents of Church Brough and Brough Sowerby

d – between Longrigg lane and the Argill beck a none affiliated area of remnant lordship (with possible IA/RB origins, see above)

Why is this? Did they serve a purpose?

This may then have facilitated the investment of human resources from these communities of kith and kin within these territories. Stainmore was noted even in the early 18th century for its extended families with large numbers of children.[61] The expanded labour force could be organised for building the farmholdings necessary to exploit the well-watered pastoral productivity of the scarp and dale meadows and pastures. By the close of the medieval period they had already accomplished this, probably by a planned use of enclosures to effectively ring fence around most of the potential farm lands there for their own (township), use.[62] Grey Lodge (on OS maps pre *c.* 1940) on the northern edge of Brough intack may be an example, where a small IA/RB settlement site was expanded to control access from the moorside.[63] In places the medieval enclosures appear to lie on top of the earlier Iron age/ Romano british dyke system which raises the question as to how much the medieval field system might have been a reuse or adaptation of a more ancient one. Attempts were made by the author to tease apart these elements from field work and air photos.[64]

Within the medieval assarting which bounded much of North Stainmore prior to *c.* 1500, *c.* 577a. (234 ha.) of internal or townside commons had been created, probably by the concerted efforts of the communities involved, to the benefit of their own kith and kin, and their obligations within the wider society. This flexible system made the fullest use of the common pasturage – now of three types: moorside, townside (external, in neighbouring Stainmore)

and township (within the native township e.g. Brough Sowerby). It provided space for more fenced and walled fields to maximise the potential upland meadows' hay crop. Consequently many of the improvements in the 1604 survey might have included the addition of field and hay barns. These were often sited on the peripheral field walls of in-bye meadow, giving dual access to common summer pastures and to the barns for milking and shelter. It suggests this use of barns (on Stainmore) may be older than in the Dales where an 18th century origin for these methods were proposed.[65] The reason may be rooted in the planning which was largely a response to the resource capacity of the topography, especially the combination of accessibility and well-watered sites for buildings. Also, with or without fore thought they provided properties easily adaptable into dwellings. This happened at Hag head barn on Sowerby park pale which adjoined Sowerby common. It was used as a residence for several decades in the 18th century.[66]

Was this the full story? The minor 'rows' seem to derive their primary affiliation and function from the office of constable attached to the castle. That office derived originally from the crown. Consequently the constable's functions of watch and ward will be considered below.

Summary & discussion

The evidence for foots and rows is often confusing and needs clarification. It did not exclude off-comers. Some of the tenants listed under the sub headings were recorded as living outside the parish, such as Robert Waters with land at Hag Gap on Stainmore who lived at Outhgill in Mallerstang township.[67] Rented lands had however become chargeable for cess under the Poor Law act of 1601 so that any new tenancy added income for maintaining the poor of the township, and were perhaps unlikely to be declined.[68]

When recording the residency of tenants living in Brough parish however, those listed in north Stainmore township were further separated into their settlement divisions. Though this was prior to the establishment of the Acts of Settlement, the implication was that the corresponding rights to land and poor relief were included, and thereafter trying to apply the Act of Settlement 1662 onto the perceived operation of the 'foot' caused the problems referred to. How the 'foot' may have been originally used, is in any event unknown.

For the period under study, *c.* 1600–1850, a strict social and political hierarchy was by default the status quo. The vocabulary used in discussion may itself have informed the debate and methods. Brough sought to assert its power over its filial townships, anxious perhaps that the 'foot taketh upon him the part of the head, and commons is become a king.' [69] The tendency was to curtail any power seen to derive from the group, the common people ('commons'), and any mob-like affiliations. Stainmore was arguably in a strong economic position *vis a vis* its neighbours but that alone may have been sufficient reason to curtail its challenge to Brough's authority to administer the parish rate. This provoked the Stainmore residents to take legal action as we have seen. It may also be significant that the 'foot' was not subsequently referred to in the later deeds examined and appears to have been quietly forgotten. Why?

The name 'foot' may be Scottish dialect in origin, perhaps adopted during one of the periods of Scottish governance in Cumbria. The local topography of lowland settlements and upland farm extensions may have suggested that the use of 'foot' was appropriate. Its local usage however is otherwise unknown (to me) and comparators have not been found. The application of the name foot to Stainmore seems to have been particularly inappropriate, as by definition it was an upland township (i.e. without 'lowland' to make a 'foot'). Ostensibly

Stainmore's relationship to the Brough's might itself have been seen as a relationship to a 'foot', but if so then Brough was a foot of the parish only, and did not relate to the township. I suggest therefore that this is not amenable to analysis, and hence I suspect it to be a 'device' on the part of Brough's township in its quarrel over the cess. Therefore the use of the name was dropped in the later deeds. I think it is simply misleading.

A re-interpretation of the foot and row scenario is necessary. Stainmore's primary relationship was to Brough's township, and especially to its castle, its constable and lordly *caput*. 'Head' would then be a suitable replacement for the misapplied 'foot', and then only for Brough's township. The 'minor rows' however were specifically related to their settlements, which could then also be identified as 'foots'. This would contradict the previous application of the word to the township. For instance, Brough's township includes both Church and Market Brough, but the minor rows would divide them. In so doing the application is more characteristic of a manor, which was specifically the case with Helbeck. The question then arises as to the origins of the villages and their separate open fields. Market Brough has the appearance of an open field system whereas Church Brough used an infield/outfield system.[70] It is 'now broadly accepted that the period during which they (i.e. villages and open field systems) were developing lies between A.D. 900 and 1200'. To this I would suggest that the earlier period is appropriate in this case (see below).[71]

The strength and durability of the affiliated landscape around the castle may imply efforts to reinforce the functions of watch and ward at the centre of the honor of Brough. They were a largely invisible ingredient in the landscape history of the parish, though a well-established and resilient feature of the social and economic fabric, having survived into Tudor times. In 1604 this customary practise was well integrated alongside a growing buoyancy in the

property market derived from the custom of tenant right which added further security to the economy and promoted sales and exchange. This may have been somewhat at variance with the custom and system of preferential tenure embodied in tenant right, though it attracted many buyers.

Local difficulties and uncivil wars

As noted, the entry for a close at Swindell side has the cryptic comment 'now inhabited' added to it, but how was this decided? Perhaps by conversion to a fire-house, and/or to a year round habitation for a whole family? It may have already been a ruined barn, or disused cottage Relic foundations of torched farms were not always promptly rebuilt, though probably most were built on top of the old foundations. Abandoned sites and their names might easily be 'lost', as appears to be the case with Bretynhowe and Garefytestegh, somewhere on Stainmore.[72] As the consequences of deserting the family home were likely to be the loss of tenant right in the holding, this rarely happened, excepting under extreme duress. Stainmore became a particular target during the Scots wars of Independence. In *c.* 1258/9 the bishop of Glasgow had claimed his jurisdiction extended up to the 'Rere Croce on Stanemore' (therefore including all of Westmorland barony).[73] When 'Brough' was destroyed in 1314 and 1319, Stainmore was included, along with a 'vast booty' in cattle and people taken and driven into Scotland.[74]

For isolated families their necessary anchorage to the land was a dilemma in times of war. In Stainmore's sparsely inhabited landscape there was pity-less defence from warbands which used tactics of mobile attrition and devastation on the civilian population of northern England. For the undefended holdings on Stainmore, their cellars may have provided a desperate refuge against the Scots raids in force (the *chevauchée*). In the late 17th century the

architect and historian Thomas Machell noted their medieval appearance, and remarked that 'their under roomes are vaults'.[75] Despite the jeopardy, desertion was unthinkable without licence from the king or lord to flee for safety. Edward II's emergency provisions gave Westmorland 'respite...for all ferms...cornages..and all other debts...in consideration of the damages...of the Scots'.[76] It has been noted that 'the importance of destruction by the Scots on the border economy seems, therefore, to be borne out by the evidence of the Clifford estates.'[77] The long history of warfare in the area required sustained efforts to organise watch and ward in the defence of Brough; as after the battle of Bannockburn when Andrew de Harcla deployed his cavalry in fighting the Scots across Stainmore.[78]

To counter the fear of loss of rights to the land, there was the neighbourly reliance on help from the affiliated groups created among the land holdings. Many were close to roads connected to the settlements. At Market Brough beside the road, 'up ye Towne towards Stanemore is a great Coble stone supposed to be 100st weight w(hi)^{ch} They Calle y^e *Carle-steayne,*' (now lost).[79] Perhaps set up as a muster point for armed bands, it appears to reference the use of the Saxon *Ceorl* (OE. free peasant) obligated to provide military service and for the upkeep of defences and bridges. The english name suggests that these services were in active use pre conquest, in the defence and fortification of Brough under Saxon or Anglo-Danish control and influence. Notice however that post conquest the *Coerl's* lost their military service and status, dropping to *bordar, cottar,* or *villein* ranking.[80] It has also been noted that such 'peasant's settlements' when associated with the place name Carlton (as near Carlisle and Penrith), may be associated with royal estate centres, and that castles and towns were planted at or 'near the site of the pre-Conquest estate centres whose functions they probably replaced.'[81] It is possible however that the name 'carl stone' was simply a later, (antiquarians?) invention.

The affiliated rows nevertheless do suggest the idea of an integrated system of watch and ward. By choosing the Stainmore boundary below the fork of the main roads (to Middleton and Bowes) for the main mustering point, the referenced Carl stone would be well placed for that purpose. Recent research suggests how to identify such assembly sites using 'firstly … a systematic use of place name evidence and folklore, alongside more traditional historical and cartographical analyses, is required … key … are accessibility, distinctiveness, functionality and location.' which I suggest would be largely satisfied by the '*Carle steayne*' site.[82]

Brough castle

The Norman castle at Brough was built in stone from the outset.[83] The original stone keep was then destroyed by king William the Lion in 1174.[84] Excavation discovered the original foundations slightly skewed inside the rebuilt 12th century keep which now occupies the site.[85] The first keeps foundations have the herringbone pattern of masonry, diagnostic to the 11th century.[86] The Norman fortifications in stone may indicate a response to a previous occupation in strength and the need to secure their authority within a highly contested area. The Ewbank family tradition testified to a previous incursion (of their own) in the tenth century which gained them a pre conquest lordship on Stainmore referred to previously. Though a carl stone at Market Brough (if such it was) may have been linked to a system of watch and ward utilising the 'minor rows' around Brough, current opinion would suggest on the contrary that it was the Normans who introduced radical changes when they brought their own skilled peasantry and settlers into Cumbria to facilitate the occupation. This did no doubt have a profound impact, but there are reasons to think that a lot of the ground work may already have been made, which could help (for instance) to explain the great depth of the earthworks below the present castle.

Conclusions

The evidence derived from the *Carle steayne* and the Ewbank family story are lacking in the evidential (and documentary) support for pre conquest origins for the rows. Nevertheless, I would suggest that they may be of some 'coincidental' if not entirely persuasive, value.

The rows themselves have informed the investigation into their origin and employment. On north Stainmore their persistence within the landscape down to the 1604 survey show distinctive characteristics. These suggest an organisation rooted in the origins of the settlements that they were affiliated to, and which probably pre-dated the Norman incursion.

Yet it appears that the 'minor' rows could have been a later overlay on top of an earlier pattern. That earlier pattern is more visible in south Stainmore where the adherence to the becks and watercourses as divisors creates larger divisions which are apparently not sub-divided and are more characteristic of lordship territories. The two features of rows and 'minor' rows, may however have co-existed, with the focus upon the 'foot' or sanctuary at Brough, pointing towards a shared history reflected, rather than originating, in their later governance. The actual origins therefore need to remain an area for further research.

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3   CAS(K), WPR 23B/3/1/1.

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5   CAS(K) , WDHOTH 3/34/1.

6   Bodleian library, Special series Bodleian MS.Don.c.85, 75-77 (no 23). (references survey of 1582).

7   CAS(K), WDHOTH 3/34/2.

8   H. Charlesworth, 'The Medieval Parks of Brough under Stainmore', CW3, 18, 179-181; Historic Environment Record (HER), (Sites and Monuments Record), SMR 14329.

9   CAS(K), WDHOTH 3/34/1, 56-71. The 10 tenants of Sowerby park were – Robert Jackson, Thomas Jackson, Robert Wardell senior, John Atkinson, George Brunskell, Richard Gowling, Robert Jackson (2?), Hugh Hartley, Henry Compston, and Anthony Appulbie.

10   Charlesworth, 'The Medieval Parks', 175-179; SMR's 14329, 14327 & 14328.

11   R. Muir, The New Reading the Landscape: Fieldwork in Landscape History, (Exeter, 2010), 71.

12   SMR 3458.

13   D. Drury, et al., 'Stainmore, Cumbria: archaeological investigation on the A66 Stainmore to Banks Gate road improvement scheme', CW2, 98 (1998), 123.

14   CAS(K), WDX 753 (Market Brough Intake inclosure, 1842).

15   CAS(K), WPR 23A/1TNA, 32.4/1/1 (Church Brough Intake inclosure, 1854-5).

16   TNA, IR 18/10864.

17   A. Warrack, Chambers's Scots Dialect Dictionary: comprising the words in use from the latter part of the seventeenth century to the present day, (Edinburgh, 1930), 186.

18   CAS(C), Dlons/L12/3/8/8 (additions in brackets from original deed).

19   CAS(C), Dlons/L12/3/8/8.

20   CAS(C), Dlons/L12/3/8/7.

21   43 Eliz..c.2:s.1. (quoted in Dlons/L12/3/8/8.)

22   CAS(C), Dlons/L12/3/8/8 (paper endorsed, 'Carleton Esqr & his farmers ag[ains]t Overseers of Broughs.)

23   TNA, IR 18/10864.

24   TNA, IR 18/10864.

25   TNA, IR 18/10864, memorandum of John Mee Mathew, Commissioner, stamped 3 June (no year).

26   9th Reprt of the Commissioners for enquiring concerning Charities, 1823, 662.

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28   TNA, IR 18/10864, margin of first page of 1758 deed.

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31   R. Muir, The New Reading the Landscape: Fieldwork in Landscape History, (Exeter, 2010), 71.

32   CAS(C), DMH/10/3/2, 496, early reference to Argill Row c.1710.

33   Post Office Directory of Westmorland, 1858, 15.

34   CAS(K), DCHA/11/4/1, 396.

35   S.E. Grose (ed.), 'Nelson County Virginia Heritage, 1807-2000', (Florida, google books), 116.

36   K. Parkin, ed., Calendar of Inquisitions post mortem, Henry VI, 1422-27 (Woodbridge, 2003), 22, 306.

37   F. W. Ragg, 'The Feoffees of the Cliffords', CW2, 8 (1908), 322, 324, 326.

38   M. Gelling & Ann Cole, The Landscape of Place-names, (Stamford, 2000), 58-59 (mor, as agricultural land etc.)

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40   https://archaeologydataservice.ac.uk/archsearch/browser.xhtml (accessed 4/01/2024), Historic Parish Boundary Marker, Blackthorne Bottom Bridge. (sic. for Blackhause, O.S.).

41   SMR 15337, and attached commentary to SMR 1841.

42   SMR 14329. (re Sowerby park and environs).

43   TNA: C134/39/1; CAS (K), WDX6 (detail not in Calendars).

44   The names for 'Netherbrough' listed in the Stainmore entries are: John Blenkinsop, Thomas Atkinson, Cristofer Hodgson, Henry Rudd, Miles Robinson, Robert Spenser, John Powley, Robert Waters, Henry Shaw.

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47   CAS(K); WDHOTH 3/34/1, 117.

48   Blackett-Ord, Hilbeck, 4; ref. HM C 50 (e.g. Windmore End as part of Helbeck manor in 1655).

49   The names for Netherbrough & Helbeck listed in the Stainmore entries are: Marke Bird, Hugh Bird, Lancelot Salkeld, Anthony Saulkeld, Thomas Atkinson, Roland Nicolson, Robert Hunter.

50   The names for Overbrough listed in the Stainmore entries are: Henry Rudd elder, Michael Johnson, Henry Waller son of William.

51   CAS (K); WDHH/25, (Brough Sowerby intack enclosure award, 1810). in Brough Sowerby township.

52   The names for Sowerby listed in the Stainmore entries are: Mathew Wharton, Thomas Leadman, George Brunskale son of Peter, Richard Smith son of Mathew, Richard Smith son of Robert, Edward Guy, Robert Wardell, Robert Wardell younger, Robert Leadman son of George, Thomas Walkyn, Henry Wardell, Cuthbert Cumpston son of Richard, Cuthbert Cumpston so on Henry, Thomas Cumpston.

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63   SMR 14360

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