THE FAMILY OF SWINTON.

By Sir George R. Sitwell, Bart.

I have read with much interest Mr. Round's note on Captain Swinton's paper, and venture to reply to it, for though my knowledge of early charters is far from being equal to Mr. Round's, yet unless some one attempts the explanation he invites, we shall never get any nearer to the solution of a difficult and important problem.

At present the identification of Hernulf with Ernald *alias* Hernulf, the brother of Adam the Sheriff, is simply a matter of opinion, and Mr. Round frankly gives his own as hostile. Yet surely the probabilities appear to be in favour of Captain Swinton's theory? Let us put it in this way:—Swinton was held (on a lease for lives) under the Scottish Kings by Liulf son of Edulf and afterwards by Odard son of the said Liulf. King David granted Swinton to a certain Hernulf. Is it or is it not probable that this Hernulf is the same person as the Hernulf who is now known to have been a younger son of Odard. With all submission, it appears to me that it is. Mr. Round thinks it possible that the Embleton family took part against David in 1137, and forfeited their Scotch estates in consequence. But if he will look at charter cx, he will find that Adam son of Odard was Sheriff of Northumberland at the time when Henry, King David's son, was Earl. Stephen's charter[1] to Adam's elder brother, William son of Odard, suggests to my mind that William had supported the Empress, King David's niece. Liulf, Odard, and Adam all appear in the following of David, or his predecessor, and all the evidence we have is in favour of the Embleton family having continued in favour with King David until after the date of the charters by which Swinton was granted to Hernulf. This being so, it is more reasonable to believe that Hernulf, to whom a new lease of Swinton was granted, was the same person as Hernulf, the younger son of the former lessee, rather than that he was a stranger.

The omission in charter xij to mention Hernulf's relationship to former holders of Swinton raises a presumption that he did not derive his title from them, but hardly, I think, that he was not of the same family. And, indeed, there was a good reason for this omission. Swinton was first granted to Hernulf on a lease for two lives, and not *in hereditate*, and it was well to omit anything which could give colour to an hereditary claim. If one lessee of crown lands had been able to assert that the King could alienate in perpetuity, and had actually done so, other lessees might have followed suit. And is the omission to which I have referred more remarkable than the silence of charter iv upon the identity of the Liulf who had formerly held Swinton with the Ligulf de Bebbanburch who is a witness? Yet this latter identification will hardly, I think, be contested.

In such questions of descent, Mr. Round will never be satisfied with anything less than legal proof. That is the only safe way, and is one of

[1] Bateson's Northumberland, ij, 12.

the secrets of his success. Yet there may be such a thing as scientific confirmation of a genealogical theory. A theory may be said to be scientifically proved when facts ascertained later do not controvert it, but fall into their places as the theory would expect them to do. Modern science rests on no surer foundation. In this particular case, there have been two conflicting theories. Seventeenth century genealogists thought that Hernulf might probably be a son of Odard. Modern genealogists (I refer to another writer and not to Mr. Round) have laid it down that Hernulf cannot have been the son of Odard, because the names of Odard's sons were known, and there was no Hernulf amongst them. Since then a newly discovered charter has proved that Odard's sons had a brother called Ernald or Hernulf. I think we are on our way to scientific confirmation of the earlier theory.

Mr. Round invites an explanation of the charters, and with much diffidence I venture to offer one.

By charters xij and xiij it appears that Liulf and Odard his son had held the "land of Swinton" by a double tenure, namely, of the King *in feodo* and of the monks of Durham, by the annual payment of forty shillings. Charter xiij mentions the "service" which Odard owed to the monks, and this service may either have been the payment mentioned, or (as I suspect) suit of court.

Charter iv shews that before the foundation of the Priory of Coldingham, in 1097 or 1098, a certain Liulf had held the "town of Swinton" immediately of the King and without any payment to the parent monastery at Durham. This Liulf must be presumed to be the same person as Liulf son of Edulf. The charter states that he "*tenuit* Swinton," in the past tense, but the formula "on the day on which he was alive and dead" met with in other charters of this series relating to other persons and properties, is omitted. We can only infer that he was alive and identical with the witness Ligulf de Bebbanburch, and that his tenancy or lease had come to an end.

Liulf son of Edulf and Odard his son afterwards held in Swinton of the monks as well as of the King. But was it the same holding? Windsor Herald has suggested to me that a distinction may be drawn between the *villa* held before 1098 by Liulf and granted by the King to Coldingham, and the *terra* held after 1098 by Odard and granted by King David to Hernulf. The *villa* will, I take it, be the village of Swinton, and the *terra* "Upper" or "Little" Swinton, of which Hernulf's descendants were alone possessed in the thirteenth century. By charter xij the King indeed grants "Swinton" simply, but the monkish indorsement rightly distinguishes it as "*terra de Swinton.*" By charter xiij, the King deals with the same estate under the title of *terra de Swinton.* The Duchy of Lancaster charter is a concession by the monks of "Swinton" to William son of Odard, but the note of it is so short that we may suspect the words in the original to have been *terra de Swinton*, and more especially because the phrase "with all that of right belongs to it" resembles the wording of xij and xiij, and has no counterpart in iv. Again, it should be observed that in xiij the King grants the land of Swinton "as Odard held it most freely," *not* as Liulf held it most freely. This may indicate that Liulf had held a larger estate. I suspect that

he held, before 1097, both the *terra* and the *villa*. I think he witnessed charter iv in order to show that he acquiesced in the gift and raised no claim to the latter property. This distinction between the *terra* and *villa* seems on the whole to be borne out by x and xj. There was another claimant to the *terra*, and his name is given in cxvij.

The *terra* had certainly been held by Liulf of the King and of the monks by the payment of forty shillings to the latter. Does not this payment identify it as one of the Coldinghamshire estates from which half a mark *per* hide was enjoined to be paid in 1098? It should be noted that King David, in 1126, seems to have granted or confirmed the overlordship of these Coldinghamshire estates to the monks. I understand this to be the effect of charters xv and xvj, and that they explain the double tenure, and the suit of court which, in later times, owners of Swinton owed to the monks.

I take it, then, that Liulf had a lease of the *villa* which came to an end before 1098, but that he and his heirs continued to hold the *terra* on lease. It will be noticed that the first grant to Hernulf is merely a lease for two lives, and it may reasonably be assumed that former holders of Swinton held upon similar terms. The various grants to Coldingham by later Kings of the estates given by Edgar prove very clearly that the right of any King to alienate the possessions of the Crown from his successors was at least open to doubt. But in David's time, "fiefs," as Douglas observes, were "becoming hereditary," and we accordingly find that King granting Swinton by a second charter to Hernulf *in feudo sibi et heredibus*.