

pp. 147 *sq.* His work was much used by succeeding writers. (Octavo edition of the *Monumenta; Geschichtschreiber*, Vol. XXVII.)

HINCMAR OF RHEIMS, *De Ordine Palatii*. An explanation of the organization and functions of government as understood by one of the most active public men of the time. (Edited, with French translation, by PROU, *Bibliothèque de l'école des hautes études*, Vol. LVIII, 1885; also by KRAUSE, in *Fontes juris Germanici antiqui in usum scholarum*, 1894.)

For the literature relating to the papacy and the canon law, see close of Chapter XII, pp. 264 *sq.*

CHAPTER IX

FEUDALISM

I. THE OLDER INSTITUTIONS WHICH SERVE TO EXPLAIN FEUDALISM

The blank forms (*formulæ*) used in drawing up legal contracts are a great aid to the student of history, for they do not apply to a single case only, but indicate the habits of the time. Some examples of the formulæ illustrating the arrangements which underlay feudalism are here given.¹

A. — Grants of Immunity from the Visits of the King's Officials

We believe that it increases the great strength of our realm, if with benevolent deliberation we concede opportune benefits to certain churches, — or to certain other specified parties, — and under God's protection write them down to endure permanently. Therefore, may your Zeal know that we have seen fit upon petition to grant such a benefit, for our eternal reward, to that apostolic man, Lord —, bishop of the city of —; that in the vills belonging to the church of that lord, which he is seen to have at the present time, either by our gift or that of any one else, or which in the future godly piety shall wish to add to the possessions of that holy place, no public judge shall at any time presume to enter, for the hearing of causes or for the exaction of payments, but the prelate himself, or his successors in God's name

72. Formula for grant of immunity to a bishop.

¹ I have been greatly aided in the preparation of this chapter by Professor Cheyney's "Documents Illustrative of Feudalism." *Translations and Reprints*, Vol. IV, No. 3.

shall be able to rule over these possessions as enjoying complete immunity.

We decree, therefore, that neither you, nor your subordinates, nor your successors, nor any public judicial power shall presume at any time to enter upon the vill of the same church anywhere in our kingdom, either those granted by royal bounty, or by that of private persons, or those which shall in future be granted; either for the purpose of settling disputes, or to exact fines for any cause, or to obtain lodging, entertainment, or sureties. But whatever the treasury might expect from fines or otherwise, either from freemen, serfs, or others within the fields or boundaries of the aforesaid church, or dwelling upon its lands—this revenue we surrender, for our future welfare, in order that it may be applied to the expenses of the same church by the hand of those ruling it, forever.

And what we, in the name of God and for the remedy of our soul and that of our children after us have granted from full devotion, let not the royal sublimity itself, nor the reckless cupidity of any of the magistrates be tempted to violate. And in order that the present decree may, by the aid of God, remain inviolate now and hereafter, we have ordained that this be certified by the subscription of our hand.

73. Formula for a grant of a vill with immunity to a layman.

Therefore, may your Greatness (or Perseverance) know that we have seen fit to concede by our ready will to ———, an illustrious man, the vill named ———, situated in the district of ———, completely, with its whole proper boundary, as it has been possessed by ———, or by our treasury, or is possessed at this present time. Wherefore, by this our present command, we have decreed forever that the person aforesaid should have the above-mentioned vill, in its entirety, with the lands, houses, buildings, villeins, slaves, vineyards, woods, fields, meadows, pastures, waters or watercourses, gristmills, additions, appurtenances, including any class of men who are subjected to our treasury who dwell there; in entire immunity, and without the entrance of any one of the judges for the purpose of exacting fines

for any kind of case. He shall have, hold, and possess it in proprietary right and without expecting the entrance of any of our judges; and may with our good will leave it to his posterity, by the aid of God, or to whom he will; by our permission he shall hereafter be free to do with it what he will. And in order that this concession may be observed the more strictly, we have determined that it should be corroborated below with our own hand.

B. — The Beneficium

I, ———, in the name of God. I have settled in my mind that I ought, for the good of my soul, to make a gift of something from my possessions, which I have therefore done. And this is what I now hand over, in the district named ———, in the place named ———, all those possessions of mine which my father left me there at his death, and which, as against the claims of my brothers, or as against those of my co-heirs, legitimately fell to me in the division; together with those possessions which I was able afterward to add to them. I grant these possessions in their entirety: that is to say, the courtyard, the buildings, slaves, houses, lands cultivated and uncultivated, meadows, woods, waters, mills, etc.

These, as I have before said, with all the things adjacent or appurtenant to them, I hand over to the church, which was built in honor of St. ———, or to the monastery which is called ———, where Abbot ——— is acknowledged to rule regularly over God's flock; on these conditions, viz.: that so long as life remains in my body I shall receive from you the possessions above described as a benefice for usufruct, and the due payment I will make to you and your successors each year, that is the sum of ———. And my son shall have the same possessions for the days of his life only, and shall make the above-named payment; and if my children should survive me, they shall have the same possessions during the days of their life and shall make the same payment; and if God shall give me a son from a legitimate wife, he shall have the same possessions for the days of his life only, after the death of whom

74. Land granted to a monastery and received back by its former owner as a Beneficium for usufruct.

the same possessions with all their improvements shall return to your part to be held forever. Should it accordingly be my fate to beget sons from a legitimate marriage, these shall hold the same possessions after my death, making the above-named payment, during the time of their lives.¹ If not, however, these same possessions shall, after my death, without tergiversation of any kind, by right of your authority, revert to you, to be retained forever.

If any one, however, — which I do not believe will ever occur, — if I myself or any other person shall wish to impeach the validity of this grant, in opposition to the truth, may his deceit in no way succeed. For his bold attempt let him pay to the aforesaid monastery double the amount which his disordered rapacity has been prevented from abstracting; and, moreover, let him be liable to the royal authority for a payment of gold equal to —; moreover, let the present charter remain inviolate with all that it contains, with the witnesses below.

Done at —, publicly, those who are noted below being present, together with the remaining innumerable multitude of people.

The land given back by the church or monastery as a benefice or *precaria*.

In the name of God, I, Abbot —, with our commissioned brethren. Since it is not unknown how you, —, by the suggestion of divine exhortation, did grant to the monastery —, to the church which is known to be constructed in honor of St. —, where we, by God's authority, exercise our pastoral care, all your possessions which you appeared to have in the district named, in the vill named, which your father on his death bequeathed to you there, or which by your own labor you were able to gain there, or which as against your brother or against —, a co-heir, a just division gave you, with courtyard and buildings, gardens and orchards, with various slaves, and such and such houses, meadows, woods, lands cultivated and uncultivated, and with all the dependencies and appurtenances belonging

¹ Probably a choice was supposed to be made among these several almost identical provisions in regard to the rights of children.

to it, which it would be extremely long to enumerate, in all their completeness.

But afterwards, at your request, it has seemed proper to us to cede to you the same possessions to be held for usufruct; and you will not neglect to pay henceforth annually the due *censum*, to wit, —. And if God should give you a son by your legal wife, he shall have the same possessions for the days of his life only, and shall not presume to neglect the above-named payment; and similarly your sons which you are seen to have at present shall do for the days of their life; after the death of whom all the possessions above named shall revert to us and our successors perpetually. Moreover, if no sons shall have been begotten by you, immediately after your death, without any troublesome contention, the property shall revert to the rulers or guardians of the above-named church forever.

Nor may any one, either ourselves or our successors, succeed in a rash attempt to nullify these arrangements, but just as present circumstances call for the *precaria* in question, so may the agreement endure unchanged which we, with the consent of our brothers, have decided to corroborate.

Done at —, in the presence of — and of others, whom it is needless to enumerate. Seal of the said abbot who has ordered this *precaria* to be made.

C. — Commendation

To that magnificent Lord —, I, —. Since it is known familiarly to all how little I have whence to feed and clothe myself, I have therefore petitioned your Piety, and your good will has permitted me to hand myself over or commend myself to your guardianship, which I have thereupon done; that is to say, in this way, that you should aid and succor me as well with food as with clothing, according as I shall be able to serve you and deserve it.

And so long as I shall live I ought to provide service and honor to you, suitably to my free condition; and I shall not during my lifetime have the ability to withdraw from your

75. A Frankish formula of commendation of the seventh century.

power or guardianship, but must remain during the days of my life under your power or defense. Wherefore it is proper that if either of us shall wish to withdraw himself from these agreements, he shall pay — shillings to his companion, and this agreement shall remain unbroken.

Wherefore it is fitting that they should make or confirm between themselves two letters drawn up in the same form on this matter; which they have thus done.

76. Formal acceptance of a follower by his lord in the seventh century.

It is right that those who offer to us unbroken fidelity should be protected by our aid. And since —, a faithful one of ours, by the favor of God, coming here in our palace with his arms, has seen fit to swear trust and fidelity to us in our hand, therefore we herewith decree and command that for the future — —, above mentioned, be reckoned among the number of the antrustions [i.e. followers]. And if any one perchance should presume to kill him, let him know that he will be judged guilty of his weregild of six hundred shillings.

II. THE GRANTING OF FIEFS

77. How one who owned his land — i.e. held it as an *allod* — might change it to a fief.

To all who shall see the present letters, the Official of Auxerre, greeting in the Lord:

Let all know, that standing in our presence, William de la Forêt, knight, and Agnes, his wife, asserting firmly that they hold and possess in free allod the property noted below; namely: the arpent of vines, situated in the vineyard of Chablis, in the place which is called the Close, between the vines of William Berner, on the one side, and the vines of the late Pariot, on the other. . . . [The charter continues to describe some twenty pieces of vineyard, meadow, and arable land, certain houses, and rents in wine and grain, the property being situated apparently in six different villages.] Also their houses situated at Chablis which formerly belonged to the late Peter Venator, knight; likewise three measures of wine annually due to the aforesaid William and his wife, as is stated, in the priory of Dyem, — in short, all

the above-mentioned property which the said Agnes is said to hold directly and hereditarily, together with all other things which they possessed and held in free allod, as they claim, and still hold and possess within the boundaries of Chablis, of Chichiac, of Milli, of Ponche, of Bena, and of Chapelle, — in short, the direct and hereditary holdings of the same Agnes wherever they may be within the same boundaries, and whatsoever, by their common consent and will, after previous deliberation, they have placed altogether in the fee of the church of St. Martin of Tours, and for the future have wished to hold and possess firmly in fee from the said church.

They promise on their fealty personally offered that they hold and will hold for the future, from the said church in fee, the things aforesaid and enumerated above, with all other things which they hold and possess within the said boundaries, wherever and whatsoever they may be; and in future, by reason of the same property, will provide feudal service to the same church as they ought to provide it, just as others holding in fee are accustomed to hold and are bound to give or provide. . . .

Given A.D. 1267, Wednesday after the Ascension of the Lord.

I, Thiebault, count palatine of Troyes, make known to those present and to come, that I have given in fee to Jocelyn d'Avalon and his heirs the manor which is called Gillencourt, which is of the castellany of La Ferté sur Aube; and whatever the same Jocelyn shall be able to acquire in the same manor I have granted to him and his heirs in augmentation of that fief. I have granted, moreover, to him that in no free manor of mine will I retain men who are of this gift. The same Jocelyn, moreover, on account of this has become my liegeman, saving, however, his allegiance to Gerard d'Arcy, and to the lord duke of Burgundy and to Peter, count of Auxerre.

Done at Chouaude, by my own witness, in the year of the Incarnation of our Lord 1200, in the month of January. Given by the hand of Walter, my chancellor.

78. The count of Troyes grants a manor to a certain Jocelyn to be held as a fief (1200).

79. Record of a grant made by Abbot Faritius to Robert, a knight.

Abbot Faritius also granted to Robert, son of William Mauduit, the land of four hides in Weston which his father had held from the former's predecessor, to be held as a fief. And he should do this service for it, to wit: that whenever the church of Abingdon should perform its knight's service he should do the service of half a knight for the same church; that is to say, in castle ward, in military service beyond and on this side the sea, in giving money in proportion to the knights on the capture of the king, and in the rest of the services which the other knights of the church perform. He also did homage to the same abbot. This land previously did the service of three weeks yearly only.

80. The count of Champagne grants a fief to the bishop of Beauvais (1167).

In the name of the holy and undivided Trinity, Amen. I, Louis, by the grace of God king of the French, make known to all present as well as to come, that at Mante, in our presence, Count Henry of Champagne conceded the fief of Savigny to Bartholomew, bishop of Beauvais, and his successors. And for that fief the said bishop has made promise and engagement for one knight, and justice and service to Count Henry; and he has also agreed that the bishops who shall come after him will do likewise. In order that this may be understood and known to posterity, we have caused the present charter to be corroborated by our seal.

Done at Mante, in the year of the Incarnate Word 1167; present in our palace those whose names and seals are appended: seal of Count Thiebault, our steward; seal of Guy, the butler; seal of Matthew, the chamberlain; seal of Ralph, the constable. Given by the hand of Hugh, the chancellor.

81. Pons of Mont-Saint-Jean becomes the man of the countess of Champagne by accepting a money fief.

I, Pons of Mont-Saint-Jean, make known to all, both present and future, that since I have long been the man of my beloved Lady Blanche, countess of Champagne, for twenty pounds assigned to the fair at Bar, and since later both the countess and my dear lord have added other twenty pounds assigned to the same fair and gave me three hundred pounds in cash,— I swore by the saints that I would in good faith aid them and their heirs with my people and fortifications.

If necessary I will fight especially against Erard of Brienne and Philippa his wife, and against Adelaide, queen of Cyprus, and her heirs, and against all who would aid them; except that should the said countess or count or their people be against Milo of Noyers, my sister's husband, in his castle of Noyers or elsewhere in his lands, neither I nor my people shall be held to go thither. If, however, the said Milo or his people set upon the countess or the count or their people, we shall be held to defend them and their lands with all our might.

It is also to be known that my heir who shall hold Charniacum shall also have the fief above mentioned of forty pounds.

That all this shall be held valid, I corroborate what has here been written with the impression of my seal. Done in the year of grace 1219, in the month of June.

We, Regnault de Fauquemont, knight, lord of Bournes and of Sitter, make known to all by these presents, that we have become liegeman of the king of France, our lord, and to him have made faith and homage because of one thousand livres of Tours of income which he has given to us during our life, to be drawn from his treasury at Paris. And we have promised to him and do promise by these presents to serve him loyally and well in his wars and otherwise against all men who may live and die, in the form and manner in which a good and loyal subject ought to serve his sovereign lord. In testimony of which we have put our seal to these present letters. Given at Paris, the 15th day of June, the year 1380.

82. How a knight accepted a money fief from the king of France (1380).

III. CEREMONY OF DOING HOMAGE AND SWEARING FEALTY

Through the whole remaining part of the day those who had been previously enfeoffed by the most pious Count Charles did homage to the [new] count, taking up now again their fiefs and offices and whatever they had before rightfully and legitimately obtained. On Thursday, the seventh of April, homages were again made to the count, being completed in the following order of faith and security.

83. How the count of Flanders received the homage of his vassals (1127).

First they did their homage thus. The count asked the vassal if he were willing to become completely his man, and the other replied, "I am willing"; and with hands clasped, placed between the hands of the count, they were bound together by a kiss. Secondly, he who had done homage gave his fealty to the representative of the count in these words, "I promise on my faith that I will in future be faithful to Count William, and will observe my homage to him completely against all persons, in good faith and without deceit." And, thirdly, he took his oath to this upon the relics of the saints. Afterward the count, with a little rod which he held in his hand, gave investitures to all who by this agreement had given their security and accompanying oath.

84. The viscount of Carcassonne does homage to the abbot of St. Mary of Grasse (1110).

In the name of the Lord, I, Bernard Atton, viscount of Carcassonne, in the presence of my sons, Roger and Trencavel, and of Peter Roger of Barbazan, and William Hugo, and Raymond Mantellini, and Peter de Vitry, nobles, and of many other honorable men, who had come to the monastery of St. Mary of Grasse in honor of the festival of the august St. Mary. Since Lord Leo, abbot of the said monastery, asked me, in the presence of all those above mentioned, to acknowledge to him the fealty and homage for the castles, manors, and places which the patrons, my ancestors, held from him and his predecessors and from the said monastery as a fief, and which I ought to hold as they held, I have made to the lord abbot Leo acknowledgment and done homage as I ought to do.

Therefore, let all present and to come know that I, the said Bernard Atton, lord and viscount of Carcassonne, acknowledge verily to thee, my Lord Leo, by the grace of God abbot of St. Mary of Grasse, and to thy successors, that I hold and ought to hold as a fief, in Carcassonne, the following: that is to say, the castles of Confoles, of Léocque, of Capendes (which is otherwise known as St. Martin of Sussagues); and the manors of Mairac, of Albars, and of Musso; also, in the valley of Aquitaine, Rieux, Traverina, Héroult, Archas, Servians, Villatrites, Tansiraus, Presler, and Cornelles.

Moreover, I acknowledge that I hold from thee and from the said monastery, as a fief, the castle of Termes in Narbonne; and in Minerve, the castle of Ventaion, and the manors of Cassanollès, and of Ferral and Aiohars; and in Le Rogès, the little village of Longville; for each and all of which I render homage and fealty with hands and mouth to thee, my said Lord Abbot Leo and to thy successors; and I swear upon these four gospels of God that I will always be a faithful vassal to thee and to thy successors and to St. Mary of Grasse in all things in which a vassal is required to be faithful to his lord; and I will defend thee, my lord, and all thy successors, and the said monastery, and the monks present and to come, and the castles and manors and all your men and their possessions against all malefactors and invaders, of my own free will and at my own cost, and so shall my successors do after me; and I will give to thee power over all the castles and manors above described, in peace and in war, whenever they shall be claimed by thee or by thy successors.

Moreover, I acknowledge that, as a recognition of the above fiefs, I and my successors ought to come to the said monastery at our own expense, as often as a new abbot shall have been appointed, and there do homage and return to him the power over all the fiefs described above. And when the abbot shall mount his horse, I and my heirs, viscounts of Carcassonne, and our successors ought to hold the stirrup for the honor of the dominion of St. Mary of Grasse; and to him and all who come with him, to as many as two hundred beasts, we should make the abbot's purveyance in the borough of St. Michael of Carcassonne, the first time he enters Carcassonne, with the best fish and meat, and with eggs and cheese, honorably, according to his will, and pay the expense of shoeing the horses, and for straw and fodder as the season shall require.

And if I or my sons or their successors do not observe towards thee or thy successors each and all the conditions declared above, and should come against these things, we desire that all the aforesaid fiefs should by that very fact be

handed over to thee and to the said monastery of St. Mary of Grasse and to thy successors.

The abbot acknowledges that homage has been rendered.

I, therefore, the aforesaid Lord Leo, by the grace of God abbot of St. Mary of Grasse, receive the homage and fealty for all fiefs of castles and manors and places which are described above, in the way and with the agreements and understandings written above; and likewise I concede to thee and thy heirs and their successors, the viscounts of Carcassonne, all the castles and manors and places aforesaid, as a fief, along with this present charter. . . . And I promise by the religion of my order to thee and thy heirs and successors, viscounts of Carcassonne, that I will be a good and faithful lord concerning all those things described above. . . .

Made in the year of the Incarnation of the Lord 1110, in the reign of Louis [VI]. Seal of Bernard Atton, viscount of Carcassonne, seal of Raymond Mantellini, seal of Peter Roger of Barbazan, seal of Roger, son of the said viscount of Carcassonne, seal of Peter de Vitry, seal of Trencavel, son of the said viscount of Carcassonne, seal of William Hugo, seal of Lord Abbot Leo, who has accepted this acknowledgment of the homage of the said viscount.

And I, the monk John, have written this charter at the command of the said lord Bernard Atton, viscount of Carcassonne, and of his sons, on the day and year given above, in the presence and witness of all those named above.

85. Rules for homage and fealty established by St. Louis.

If any one should hold from a lord in fee, he ought to seek his lord within forty days, and if he does not do it within forty days, the lord may and ought to seize his fief for default of homage, and the things which should be found there he should seize without return, and yet the vassal would be obliged to pay to his lord the redemption.

When any one wishes to enter into the fealty of a lord he ought to seek him, as we have said above, and should say as follows: "Sir, I request you, as my lord, to put me in your fealty and in your homage for such and such a thing situated in your fief, which I have obtained." And he ought to say

from what man, and this one ought to be present and in the fealty of the lord; and he ought to explain whether it is by purchase, or by escheat, or by inheritance; and with his hands joined, to speak as follows: "Sir, I become your man and promise to you fealty for the future as my lord towards all men who may live or die, rendering to you such service as the fief requires, paying to you your relief, as you are the lord." And he ought to say whether for guardianship, or as an escheat, or as an inheritance, or as a purchase.

The lord should immediately reply to him, "And I receive you and take you as my man, and give you this kiss as a sign of faith, saving my right and that of others," according to the usage of the various districts.

And the lord may take the revenues and the products of the year, if the relief is not paid to him, and also money rents. But no one makes money payments for a guardianship, or for a dowry, or for a partition, or for a report of the extent of the fief, according to the usages of various districts; except in the one case where the one who holds in guardianship ought to give security to the parties that when the child shall come of age, the one who has the guardianship will do it at his own expense and at his cost and will guarantee the socage tenants for any payments. This in the case of a fief, but in villanage there is no guardianship.

Fulbert, bishop by the grace of God, to Gunther, Viscount Hubert, Roger, Bucard, Hugo the son of Hugo, Ottred, Hamelin, Hugo the son of Herbrand, and the wife of Guismand, and to all others who hold benefices of the church of St. Mary at Chartres by the gift of Bishop Reginald:

I summon you and conjure you in the name of God and St. Mary and in our own name, that ye come to us before next Easter and do your service to us or render a just account of your benefices. If you shall not do this, I will excommunicate you for your disobedience; and I will forbid you to hear the divine office, to receive the communion while you live, and to have (Christian) burial when you die. Yea, verily, I will anathematize the castle of Vindocinium and

86. How an ecclesiastical lord might punish a refractory vassal by excommunication and interdict.

the lands thereof, and the divine office shall not be celebrated there nor the dead buried. And afterwards I will give away to one man, or to many, the benefices which ye hold, and will negotiate no further with you in regard to them. May God change your hearts, my children!

IV. MUTUAL DUTIES OF VASSAL AND LORD

87. Bishop Fulbert of Chartres explains in a celebrated letter the duties of vassal and lord (1020).

To William, most glorious duke of the Aquitanians, Bishop Fulbert, the favor of his prayers:

Asked to write something concerning the form of fealty, I have noted briefly for you, on the authority of the books, the things which follow. He who swears fealty to his lord ought always to have these six things in memory: what is harmless, safe, honorable, useful, easy, practicable. *Harmless*, that is to say, that he should not injure his lord in his body; *safe*, that he should not injure him by betraying his secrets or the defenses upon which he relies for safety; *honorable*, that he should not injure him in his justice or in other matters that pertain to his honor; *useful*, that he should not injure him in his possessions; *easy and practicable*, that that good which his lord is able to do easily he make not difficult, nor that which is practicable he make not impossible to him.

Positive duties of lord and vassal.

That the faithful vassal should avoid these injuries is certainly proper, but not for this alone does he deserve his holding; for it is not sufficient to abstain from evil, unless what is good is done also. It remains, therefore, that in the same six things mentioned above he should faithfully counsel and aid his lord, if he wishes to be looked upon as worthy of his benefice and to be safe concerning the fealty which he has sworn.

The lord also ought to act toward his faithful vassal reciprocally in all these things. And if he does not do this, he will be justly considered guilty of bad faith, just as the former, if he should be detected in avoiding or consenting to the avoidance of his duties, would be perfidious and perjured.

I would have written to you at greater length, if I had not been occupied with many other things, including the rebuilding of our city and church, which was lately entirely consumed in a terrible fire; from which loss, though we could not for a while be diverted, yet by the hope of God's comfort and of yours we breathe again.

V. FEUDAL MILITARY SERVICE

In the year 1272 the bishop of Paris came to Tours at the citation of the lord king and presented himself in the king's house on the second Sunday after Easter, before Ferrario of Verneuil, knight, marshal of France, saying that he had come at the citation of the lord king prepared to fulfill his duty; who replied to him that he should come again, or send, at the first hour of the next day, because in the meanwhile he could not speak or respond to him, since Gregory of St. Martin of Tours was absent, on account of his weakness, and because, moreover, he was expecting new instructions from the king.

On the next day, and on Tuesday, the aforesaid bishop presented himself before the said marshal, saying that he had come ready for the service of the king with three knights, whose names were John of Marcey, John of Julliaco, and Adam of Blois. He said that if he was held to send more, he was ready to do what he ought; and if he had furnished more than he owed, that this should not bind either him or the church of Paris for the future.

The bishop of Troyes appeared for his see, saying that he owed two knights, whose names were Ralph and Droce of Préaux.

The bishop of Noyon was represented by Theobald of Boesseria, a knight, who acknowledged that the said bishop owed five knights and sent three knights beyond what he owed. The names of the knights are as follows: Ansold of Rancorolis, Nevelon of Rancorolis, his brother, etc. . . . They went forth to the service of the king.

88. List of men summoned under Philip III of France to perform military service (1272).

The bishop of Bayeux was represented by Thomas of Semilly, his procurator, who acknowledged that the said bishop owed ten knights for the service of the king in the army. These he sent, namely, John of Bellengreville, John of Caenchy, Richard of Rovancestre, William of Surrain, and others. . . .

John of Rouvray, a knight, lord of Yneto, appeared for himself, confessing that he owed, by reason of his holding of Rouvray, one knight, whom he brought with him, namely, John of Caim.

Fulco of Bauquancayo, a knight, appeared for the abbot of St. Ebrulf, and went forth for the said abbot, as he should, and was held to do.

The archdeacon of Cheuteville did not appear, but sent one knight, namely, Peter of Maucombe.

Reginaldus Trihan, a knight, appeared and went forth for himself.

. . . John of Rouvray, a knight, appeared for himself, saying that he owed one knight for his fief of Corbon and its appurtenances. He offered for himself John of Meler, a knight. What service he owed on his wife's part he did not know.

Robert Bertran, a squire, appeared and said that he owed the lord king two knights and a half.

. . . The abbot St. Columba at Sens appeared in person, and said he had never known his monastery to do military service by furnishing knights. The service was rendered in money, namely, eight score pounds for the army and the sum of seventeen Parisian pounds.

Hugh de Confent, knight, marshal of Champagne, appeared for the king of Navarre, and brought with him sixty knights, to do the service owed to the king.

Stephanus Mener and Adam Allutarius appeared for the city of Villeneuve-le-Roi, near Sens, and said they owed no military service to the king, unless they chose to render it out of sheer courtesy. And they would do the bidding of the lord king only on condition that they go only as far from Villeneuve as they can return thither in one day, during the sunlight or the daylight.

The representative chosen by the abbot of Ferrières appeared in person, and said that he owed no military service with horses and arms, but only the sum of seventeen pounds Parisian and his followers six score pounds, namely, sixty pounds for Ferrières and sixty for Beausse. . . .

VI. FAILURE OF FEUDALISM TO SECURE ORDER. THE TRUCE OF GOD

[In the form which feudalism had reached at the Norman Conquest,] it may be described as a complete organization of society through the medium of land tenure, in which from the king down to the lowest landowner all are bound together by obligation of service and defense: the lord to protect his vassal, the vassal to do service to his lord; the defense and service being based on and regulated by the nature and extent of the land held by the one of the other. In those states which have reached the territorial stage of development, the rights of defense and service are supplemented by the right of jurisdiction. The lord judges as well as defends his vassal; the vassal does suit as well as service to his lord. In states in which feudal government has reached its utmost growth, the political, financial, judicial, every branch of public administration is regulated by the same conditions. The central authority is a mere shadow of a name.

89. Bishop Stubbs' definition of ideal feudalism.

The general failure of feudalism to secure peace and order, indeed its tendency directly to promote disorder, is illustrated by many of the passages from the chronicles found in the following chapters (see, especially, Chapter X). The provisions of the Truce of God are eloquent of existing conditions.

Inasmuch as in our own times the Church, through its members, has been extraordinarily afflicted by tribulations and difficulties, so that tranquillity and peace were wholly

90. The Truce of God issued by a synod held at Cologne in 1083.¹

¹ This document has been preserved only in this form, in which it was communicated by the archbishop of Cologne to the bishop of Münster.

despaired of, we have endeavored with God's help to come to its aid, in the midst of its sufferings and perils. And by the advice of our faithful subjects we have at length provided this remedy, so that we might to some extent reestablish, on certain days at least, the peace which, because of our sins, we could not make enduring. Accordingly we have enacted and set forth the following:

Having called together those under us to a legally summoned council, which was held at Cologne, the chief city of our province, in the church of St. Peter, in the 1083d year of our Lord's Incarnation, in the sixth indiction, on the twelfth day before the Kalends of May, after arranging other business, we have caused to be read in public what we proposed to do in this matter. After this had been fully discussed by all, both clergy and people with God's aid reached an agreement, and we set forth in what manner and during what parts of the year the peace should be observed, namely:

That from the first day of the Advent of our Lord through Epiphany, and from the beginning of Septuagesima to the eighth day after Pentecost and through that whole day, and throughout the year on every Sunday, Friday, and Saturday, and on the fast days of the four seasons, and on the eve and the day of all the apostles, and on all days canonically set apart—or which shall in future be set apart—for fasts or feasts, this decree of peace shall be observed; so that both those who travel and those who remain at home may enjoy security and the most entire peace, so that no one may commit murder, arson, robbery, or assault, no one may injure another with a sword, club, or any kind of weapon. Let no one, however irritated by wrong, presume to carry arms, shield, sword, or lance, or any kind of armor, from the Advent of our Lord to the eighth day after Epiphany, and from Septuagesima to the eighth day after Pentecost. On the remaining days, indeed, namely, on Sundays, Fridays, apostles' days, and the vigils of the apostles, and on every day set aside, or to be set aside, for fasts or feasts, arms may be carried, but on this condition, that no injury shall be done in any way to any one.

If it shall be necessary for any one, during the period of the peace,—i.e. from the Advent of our Lord to the eighth day after Epiphany, and from Septuagesima to the eighth day after Pentecost,—to go from one bishopric into another in which the peace is not observed, he may bear arms, but on the condition that he shall not injure any one, except in self-defense if he is attacked; and when he returns into our diocese he shall immediately lay aside his arms. If it shall happen that any castle is besieged during the days which are included within the peace, the besiegers shall cease from attack unless they are set upon by the besieged and compelled to beat the latter back.

And in order that this statute of peace should not be violated by any one rashly or with impunity, a penalty was fixed by the common consent of all, namely: If a free man or noble violates it, i.e. commits homicide, or wounds any one, or is at fault in any manner whatever, he shall be expelled from his lands, without any indulgence on account of the payment of money or the intercession of friends, and his heirs shall take all his property. If he holds a fief, the lord to whom it belongs shall receive it again. Moreover, if it appear that his heirs after his expulsion have furnished him any support or aid, and if they are convicted of it, the estate shall be taken from them and revert to the king. But if they wish to clear themselves of the charge against them, they shall take oath, with twelve who are equally free or equally noble.

If a slave kills a man, he shall be beheaded; if he wounds a man, he shall lose a hand; if he does an injury in any other way with his fist or a club, or by striking with a stone, he shall be shorn and flogged. If, however, he is accused and wishes to prove his innocence, he shall clear himself by the ordeal of cold water, but he must himself be put into the water and no one else in his place. If, however, fearing the sentence decreed against him, he flees, he shall be under a perpetual excommunication; and if he is known to be in any place, letters shall be sent thither, in which it shall be announced to all that he is excommunicate, and that it is

unlawful for any one to associate with him. In the case of boys who have not yet completed their twelfth year, the hand ought not to be cut off; but only in the case of those who are twelve years or more of age. Nevertheless, if boys fight, they shall be whipped and prevented from fighting.

It is not an infringement of the peace if any one orders his delinquent slave, pupil, or any one in any way under his charge, to be chastised with rods or sticks. It is also an exception to this constitution of peace if the lord king publicly orders an expedition to attack the enemies of the kingdom, or is pleased to hold a council to judge the enemies of justice. The peace is not violated if, during the times specified, a duke, or other counts, magistrates, or their substitutes, hold courts and inflict punishment legally on thieves, robbers, and other criminals.

The statute of this noble peace is especially enacted for the safety of those engaged in feuds; but after the end of the peace they are not to dare to rob and plunder in the villages and houses, since the laws and penalties enacted before the institution of the peace are still legally valid to restrain them from crime, and, moreover, because robbers and highwaymen are excluded from this divine peace, and indeed from any peace.

If any one attempt to oppose this pious institution and is unwilling to promise peace to God with the others, or to observe it, no priest in our diocese shall presume to say a mass for him, or shall take any care for his salvation; if he is sick, no Christian shall dare to visit him; on his deathbed he shall not receive the eucharist, unless he repents. The supreme authority of the peace pledged to God and generally extolled by all will be so great that it will be observed not only in our times, but forever among our posterity, because if any one shall presume to infringe or violate it, either now or ages hence, until the end of the world, he is irrevocably excommunicated by us.

The responsibility for carrying out the above-mentioned penalties against the violators of the peace rests no more with the counts, local judges, or officials than with the whole

people in general. They are to be especially careful not to show friendship or hatred, nor to do anything contrary to justice in punishing, nor to conceal crimes, which may be hidden, but to bring them to light. No one is to receive money for the release of those taken in fault, or to attempt to aid the guilty by any favor of any kind, because whoever does this incurs the intolerable damnation of his soul; and all the faithful ought to remember that this peace has not been promised to men, but to God, and therefore must be observed so much the more rigidly and firmly. Wherefore we exhort all in Christ to guard inviolably this necessary contract of peace, and if any one hereafter presumes to violate it, let him be damned by the ban of irrevocable excommunication and by the anathema of eternal perdition. . . .

BIBLIOGRAPHY

- Origins of Feudalism:** ADAMS, *Civilization*, pp. 194-211; EMERTON, *Introduction*, Chapter XV, pp. 236-255. A. References.
- Feudal Institutions:** EMERTON, *Medieval Europe*, Chapter XIV, pp. 477-508; ADAMS, *Civilization*, pp. 211-226; *French Nation*, pp. 63-72; BÉMONT and MONOD, pp. 246-257; MASSON, *Medieval France*, pp. 3-13; MUNRO, Chapter V, pp. 40-50.
- Life of the Feudal Nobles:** MUNRO, Chapter XIII, pp. 135-147; BÉMONT and MONOD, pp. 257-267.

There is no complete and satisfactory treatment in English of the origin and development of feudalism on the continent. Older accounts, like those of Hallam and Guizot, are based, in some instances, upon theories since proved to be erroneous, and are therefore to be avoided. A description of feudal institutions in France, brief but reliable and scientific as far as it goes, may be found in SEIGNOBOS, *The Feudal Régime*, translated by DOW. For a thorough and authoritative analysis of English feudalism, see POLLOCK and MAITLAND, *History of English Law before the Time of Edward I*, 2 vols., especially Book II, "Doctrine of English Law," Chapters I and II. B. Additional reading in English.

Suggestive ideas of life in a feudal society may be gathered from the great romances of the eleventh and twelfth centuries, which, though in many cases ascribed by their authors to the time of Charlemagne, in

reality depict far more nearly the manners of the age in which they were composed and recited. Two excellent illustrations are Steele's translations of the adventures of Renaud of Montauban and Huon of Bordeaux. See *History of Western Europe*, pp. 254-599.

C. Materials
for advanced
study.

LUCHAIRE, *Manuel des institutions françaises, Period des Capétiens directs*, 1892. Part II of this volume (pp. 147-289), "Les institutions féodales," with its abundant footnotes and references, is perhaps the best guide for those wishing to make a careful study of feudal institutions.

BRUNNER, *Grundzüge der deutschen Rechtsgeschichte*, 1901, contains a brief summary of the feudal system as it appears to this distinguished expert in the field. There the reader will find plenty of references to Brunner's own valuable monographs and to the contributions of other German scholars.

The histories of law by ESMEIN, SCHRÖDER, and VIOLLET, referred to above, p. 57, are heartily to be recommended for their chapters on feudalism.

ASHLEY, *Surveys, Historical and Economic*, 1900. A series of reviews and essays dealing with recent discussions in regard to landholding in the Middle Ages.

DU CANGE, *Glossarium* (see above, p. 12) contains elaborate explanations of feudal terms and usages, with many examples drawn from the documents.

LAURIÈRE, *Glossaire du droit français* (Niort, 1882). A compendious dictionary of technical legal terms.

The sources.

The records which have been preserved of actual feudal contracts and arrangements constitute our chief source of information in regard to the system which gave rise to them. Such records were kept in the archives of the rulers and feudal lords and by the churches and monasteries. A number of collections of these documents have been printed, especially in France. A few examples only are added here; further references will be found in Luchaire's *Manuel* mentioned above.

Livre des vassaux du comté de Champagne et de Brie, edited by LONGNON, Paris, 1869; also the original Latin text in *Documents relatifs au comté de Champagne et de Brie*, 1172-1361; Tome I, 1901 (in the series of *Documents inédits*; see below p. 220). The register kept by the counts of Champagne (1172-1222), enumerating their vassals and describing what each owed in the way of feudal obligations. Longnon has prepared an admirable introduction, in which he gives a clear account of the most important information contained in the register.

Layettes du Trésor des Chartes, edited by TEULET, 3 vols., Paris, 1863-1875. A collection of the documents in the archives of the French kings, together with many from the archives of the great fiefs of Toulouse, Champagne, Valois, etc. This includes much feudal material.

Of the "Cartulaires," or collections of records found in churches and abbeys, may be mentioned:

Cartulaire de l'abbaye de Saint-Père de Chartres, edited by GUÉRARD, 2 vols., Paris, 1840. (In the *Collection de documents inédits*.) Particularly valuable for the condition of the rural population in the eleventh and twelfth centuries.

Cartulaire de l'église de Notre-Dame de Paris, edited by GUÉRARD. LONGNON, *Atlas historique de la France*, plates XI, XII, and XIII, furnishes far the best maps of feudal France.

The collections from which the illustrations contained in the present chapter were drawn contain many other important examples of feudal arrangements. See list of citations at the opening of this volume, Nos. 70-87.