

Section 1.PART IV. DOCUMENTS OF CONTINENTAL FEUDALISM

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CONTENTS	<i>Page</i>
A. CREATION OF AN <i>ANTRUSTIO</i> (600 X 650)	IV–2
B. FORM FOR A PRECARIAL LETTER AND A <i>BENEICE</i> (600 X 650)	IV–2
C. FORM FOR A GRANT OF IMMUNITY (600 X 650)	IV–3
D. FORM FOR COMMENDATION (700 X 750)	IV–3
E. CAPITULARY OF LESTINNES (743)	IV–3
F. CAPITULARY TO THE <i>MISSI</i> (806)	IV–4
G. CAPITULARIES ON THE GROWTH OF FEUDAL DEPENDENCE (805 X 829)	IV–4
H. <i>POLYPTIQUE DE L'ABBÉ IRMINON</i> (c. 826 X 829)	IV–4
I. TWO CAPITULARIES CONCERNING VASSALS (816 and 847)	IV–6
J. CAPITULARY OF KIERSY (875)	IV–6
K. HOMAGE AND FEALTY	
1. Letter of Bishop Fulbert of Chartres (1020)	IV–6
2. Charter of Homage and Fealty (1110)	IV–7
3. Homage and Fealty to the Count of Flanders (1127)	IV–8

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A. CREATION OF AN ANTRUSTIO (600 X 650)

[The following document, like several succeeding ones in this collection, comes from a Frankish formulary of the first half of the seventh century. It is a form for the use of scribes in the drawing up of legal documents, in this case for the appointment of an individual as a member of the king's *trustis* or bodyguard.

The translation is from Thatcher and McNeal, *A Source Book for Medieval History* (New York: Charles Scribner's Sons, 1905) pp. 34-43.]

It is right that those who have promised us unbroken faith should be rewarded by our aid and protection. Now since our faithful subject ___ with the will of God has come to our palace with his arms and has there sworn in our hands to keep his trust and fidelity to us, therefore we decree and command by the present writing that henceforth the said is to be numbered among our *antrustiones*. If anyone shall presume to slay him, let him know that he shall have to pay 600 *solidi* as a wergeld for him.

B. FORM FOR A PRECARIAL LETTER AND A BENEICE (600 X 650)

[The following two documents are taken from the same formulary as document A above (first half of the seventh century). The *precarium* was not exclusively associated with the Church. Whether the high incidence of it in ecclesiastical documents is a product of the fact that far more ecclesiastical than lay documents have survived or of the fact that it tended to be used by the church and not by others is currently a matter of debate.

The translation is from Thatcher and McNeal, pp. 346, 347.]

To our lord and father in Christ, the holy and apostolic bishop ___, I ___, and my wife ___. It is well known that we have given in the name of the Lord our villa of ___, situated in the county of ___, in its entirety and with all that we possessed there, by a letter of gift to the church of ___, founded in honor of ___, and that you have received it on behalf of the said church. And in response to our petition you have granted that as long as we or either of us shall live we shall hold the said villa as a benefice with the right of usufruct, with the understanding that we shall not diminish its value in any way or alienate anything that belongs to it, but shall hold it without prejudice to the ownership of the said church or bishop. Therefore we have written this precarial letter in witness that our possession shall not work any prejudice to your ownership or any injury to the said villa; but that we only have the use of it during our lives, and that after we are dead you shall immediately recover it with all the additions and improvements which we may have made, by virtue of this precarial letter, which shall be renewed every five years, and without requiring any judicial process or obtaining the consent of the heirs; and that thereafter you shall hold it forever, or do with it whatever may seem to you to be to the best interests of the said church.

* * *

I, ___, and my wife, ___, in the name of the Lord, give by this letter of gift, and transfer from our ownership to the ownership and authority of the monastery of ___, over which the venerable abbot ___ presides, and which was founded in the honor of ___ by ___ in the county of ___, the following villas situated in the county of ___, with all the lands, houses, buildings, tenants, slaves, vineyards, woods, fields, pastures, meadows, streams and all other belongings and dependencies, and all things movable and immovable which are found in the said villas now or may be added later; in order that under the protection of Christ they may be used for the support and maintenance of the monks who dwell in the aforesaid monastery. We do this on condition that as long as either of us shall live we may possess the aforesaid villas, without prejudice to the ownership of the monastery and without diminution of the value of them, except that we shall be allowed to emancipate any of the slaves that dwell on the lands for the salvation of our souls. After the death of both of us, the aforesaid villas with any additions of improvements which have been made, shall return immediately to the possession of the said monastery and the said abbot and his successors, without taking any judicial process or obtaining the consent of the heirs.

C. FORM FOR A GRANT OF IMMUNITY (600 X 650)

[This document comes from the same formulary as the previous one. In this case grants of immunity are almost exclusively associated with the church although the same powers were appropriated by secular officials and other persons in a later period.

The translation is from Thatcher and McNeal, p. 352.]

We believe that our reign will best be rendered memorable, if we bestow suitable benefits on churches (or whatever you wish to insert here), with pious purpose, and if we secure these benefits under the protection of God by putting them in writing. Therefore, be it known to you that we have granted the request of that apostolic man, the bishop of ____, for the salvation of our souls, namely, that no public official may enter the lands which his church holds now, by our gift or by the gift of anyone else, or which his church may receive in the future, for the purpose of trying cases, or collecting taxes; but that the said bishop and his successors shall hold the said lands in the name of the Lord with full immunity. We decree therefore that neither you nor any of your subordinates or successors, nor any other public official shall presume to enter the lands of the said church for the purpose of trying cases, or collecting taxes or revenues, or receiving entertainment or seizing supplies or securities. All the taxes and other revenues which the royal treasury has a right to demand from the people on the lands of the said church, whether they be freemen or slaves, Romans or barbarians, we now bestow on the said church for our future salvation, to be used by the officials of the church forever for the best interests of the church.

D. FORM FOR COMMENDATION (700 X 750)

[This document comes from a formulary about a century later in date than the one above.

The translation is from Thatcher and McNeal, pp. 343-44.]

To my great lord, ____, I, ____. Since, as was well known, I had not wherewith to feed and clothe myself, I came to you and told you my wish, to commend myself to you and to put myself under your protection. I have now done so, on the condition that you shall supply me with food and clothing as far as I shall merit by my services, and that as long as I live I shall perform such services for you as are becoming to a freeman, and shall never have the right to withdraw from your power and protection, but shall remain under them all the days of my life. It is agreed that if either of us shall try to break this compact he shall pay ____ *solidi*, and the compact shall still hold. It is also agreed that two copies of this letter shall be made and signed by us, which also has been done.

E. CAPITULARY OF LESTINNES (743)

[This capitulary, dated 743, contains the earliest known references to the *precaria verbo regis*. If the dating is correct, it comes from the brief period (741-747) when the sons of Charles Martel, Carloman and Pepin the Short, jointly ruled over the Frankish kingdom in their capacity as mayors of the two palaces.

The translation is by the author from the *Monumenta Germaniae Historica, Capitularia Regum Francorum*, Vol. I, 28.]

Also we have established, with the advice of our clergy and the Christian people, that because of threats of war and the invasions of some of the border tribes, we shall in the future, God consenting, take possession of a part of the land belonging to the Church, on precarial tenure and with a fixed rent, for the support of our army and on these conditions. From each appropriated estate one shilling, that is twelve pence, shall be paid annually to the church or monastery. But if the person granted the property should die, the Church shall recover its own property unless, necessity requiring it, the ruler should command the *precaria* be renewed and written again. Let care be taken in each case that no church or monastery whose land has been granted in *precaria* should thus suffer poverty or want. If poverty demands it, then let the whole possession be returned to the church or house of God.

F. CAPITULARY TO THE *MISSI* (806)

[This capitulary indicates some of the abuses that royal benefices were subject to and how they were already becoming absorbed into the private property of individuals. It dates from 806.

The excerpt is from Thatcher and McNeal, pp. 358–59.]

We have heard that counts and other men who hold benefices from us have improved their own property at the expense of the benefices, and have made the serfs on the benefices labor on their own land, so that our benefices are waste and those dwelling on them in many places suffer great evils. We have heard that some sell the benefices which they hold from us to other men in full ownership, and then, having received the price in the public court, they buy back the lands as allodial lands. This must not be done, for those who do this break the faith which they promised us.

G. CAPITULARIES ON THE GROWTH OF FEUDAL DEPENDENCE (805 X 829)

[The following four capitularies, dating between 805 and 829, illustrate how great men Carolingian society gradually brought lesser into subjection.

The excerpts are from Thatcher and McNeal, pp. 359–60.]

Concerning the oppression of poor freemen: that they are not to be unjustly oppressed by more powerful persons on any pretext, And forced to sell or give up their property.

* * *

Poor men complain that they are despoiled of their property, and they make this complaint equally against bishops and abbots and their agents, and against counts and their subordinates.

* * *

Freemen who have no lands of their own, but live on the land of a lord, are not to be received as witnesses, because they hold land of another; but they are to be accepted as compurgators, because they are free. Those who have land of their own, and yet live on the land of a lord, are not to be rejected as witnesses because they live on the land of a lord but their testimony shall be accepted because they have land of their own.¹

* * *

No one shall leave his senior, after he has received from him the value of a *solidus*, unless his senior attempts to kill him, to beat him with a club, to violate his wife or his daughter, or to take his hereditary possession from

H. POLYPTIQUE DE L'ABBÉ IRMINON (C. 826 X 829)

[This is an excerpt from the most famous of the early French manorial documents, a ninth-century survey of the estate of the great abbey of St. Germain near (now in) Paris. Irminon was abbot from 816–829. This document probably dates from end of his abbacy, i.e., 826 X 829. It cannot date from after 831.

The translation is by the author from the translation of B. Guérard, Vol. II (1844), pp. 6ff.]

In Palaiseau there is a demesne manse with a house and other sufficient buildings. There are six fields of arable land containing 287 *bunuarua* (992.65 acres) where 1300 *modios* (about 2250 bushels) of wheat can be sown. There are 127 *aripennos* (127 acres) of vine which provide 800 *modios* (11,088 gallons) of wine.

It has 100 *aripennos* (100 acres) of meadow which provides 150 cartloads of hay.

The woodland measures as a whole one league in circumference and can fatten 50 pigs.

¹ Note the use of witnesses in this passage. CD.

It has three mills which pay a rent of 153 *modios* (about 2580 bushels).

It has a church, carefully-constructed and completely furnished. Pertaining to it are 17 *bunuaria* (about 58 acres) of arable land and 51 *aripennos* (henceforth acres) of vine and 3 acres of meadow. However, it has a free manse (*mansum ingenuilem*) consisting of 4 *bunuaria* (13.8 acres) of arable land and 1½ acres of vine and 3 acres of meadow. There are 6 tenants who each have a *jornalem* (?) of arable land and who owe for that a days work a week, a hen and 5 eggs.

It also has a church in Gito held by the priest Warodus. Seven tenants belong to it. They work one day a week with food and owe one hen, 5 eggs and 3 *denarios*. It also demands, in gift, one horse.

Walafredus, a *colonus* and mayor, and his wife, a *colona* ..., dependents (*homines*) of St. Germain; they have 2 children. ... He holds 2 free manses having 7 *bunuaria* (about 24 acres) of arable land, 6 acres of vine and 4 of meadow. He owes for each manse a cow one year, a pig the next, 4 *denarios* for the right to use the wood, 2 *modios* of wine (almost 28 gallons) for the right to use the pasture, a ewe and a lamb. He plows 4 perches ($\frac{1}{3}$ of an acre?) for winter wheat, 2 perches for spring wheat. He owes *corvées*, cartage, manual labor, tree-felling when ordered, 3 hens and 15 eggs.

Hairmundus, a *colonus*, and his wife, a *colona* ..., dependents of St. Germain; they have 5 children. He holds one free manse having 10 *bunuaria* (33½ acres) of arable land, 2 acres of vine and 1½ acres of meadow. He owes the same (as Walafredus).

Turpius, a *colonus* of St. Germain; he has 3 children. Regenulfus, a *colonus*, and his wife, a *colona*, dependents of St. Germain; they have one child. ... These two hold a free manse having 4 *bunuaria* (13.8 acres) of arable land, 2 acres of vine and 2 of meadow. They owe the same.

* * *

Aclemandus, a *colonus*, and his wife, a *colona*, dependents of St. Germain; they have 6 children. Ermenricus, *colonus* of St. Germain; Amicus, *colonus* of St. Germain; Ratboldus, a *colonus*, and his wife, a *colona* ..., dependents of St. Germain; they have 6 children. Wineboldus, a *colonus*, and his wife, a *colona* ..., dependents of St. Germain; they have 4 children. ... These 5 hold one free manse, having 8 *bunuaria* (27½ acres) of arable land, 3 acres of vine and 2 of meadow. They owe the same. ...

Ebrulfus, a *colonus*, and his wife, a slave, ... dependents of St. Germain; they have 4 children. Emmenoldus, a slave, and his wife, a *colona*, ... dependents of St. Germain; they have 4 children. ... Teutgardis, slave of St. Germain; she has one child. ... These three hold a free manse having 4 *bunuaria* and one *antsingam* (?) of arable land, 4 acres of vine and 2 of meadow. They work 8 acres (of the lord's) vine. They owe 2 *modios* (almost 28 gallons) of wine for right of pasture and 2 *sestarios* (1½ gallons?) of mustard. Bemeharius, a *colonus*, and his wife, a *colona*, ... dependents of St. Germain; they have 5 children. He holds half a manse having 4 *bunuaria* (13.8 acres) of arable land and 136 acres of vine. He owes for half a manse.

Maurus, a slave, and his wife, a freedwoman, ... dependents of St. Germain; they have 2 children. ... Guntoldus, a *colonus* of St. Germain. These two hold one servile manse, having 2 *bunuaria* (about 7 acres) of arable land, 2½ acres of vine and 1½ of meadow. They work 8 acres (of the lord's) vine and owe 4 *modios* (about 55½ gallons) of wine for right of pasture, 2 *sestarios* (1½ gallons?) of mustard, three hens and 15 eggs; also manual labor, *corvées* and cartage.

Leodardus, freedman of St. Germain, holds a quarter of a manse, having 2 *bunuaria* (about 7 acres) of arable land and ½ acre of vine. He works 4 acres (of the lord's) vine. He owes 1 *modius* (almost 14 gallons) of wine for right of pasture, one *sestarius* ($\frac{3}{4}$ gallon) of mustard, one hen and five eggs.

Nadalfredus, a slave, and his wife, a *colona*, ... dependents of St. Germain; they have 3 children. ... Electulfs, a slave, and his wife, a *colona*, dependents of St. Germain; they have 3 children. ... Todoinus, a slave, and his wife, a *colona*, ... dependents of St. Germain. These three hold one servile manse having 1 *bunuarium* (about 2½ acres) of arable land, 1 acre of vine and ½ acre of meadow. They work 8 acres (of the lord's) vine. They owe 3 *modios* (41½ gallons) of wine for right of pasture and 3 *sestarios* (about 2 gallons) of mustard.

I. TWO CAPITULARIES CONCERNING VASSALS (816 AND 847)

[The first of these documents was issued by Louis the Pious in 816; the second by his sons Lothar, Louis and Charles in 847.

The translation is from the *Pennsylvania Translation and Reprints Series*, Vol. IV, no. 3, p. 5.]

If anyone shall wish to leave his lord and is able to prove against him one of these crimes, that is, in the first place, if the lord has wished to reduce him unjustly into servitude; in the second place, if he has taken counsel against his life; in the third place if the lord has committed adultery with the wife of his vassal, in the fourth place if he has willfully attacked him with a drawn sword; in the fifth place, if the lord has been able to bring defense to his vassal after he commended his hands to him, and has not done so; it is allowed to the vassal to leave him. If the lord has perpetrated anything against the vassal in these five points it is allowed the vassal to leave him.

* * *

We will moreover that each free man in our kingdom shall choose a lord, from us or our faithful, such a one as he wishes.

We command moreover that no man shall leave his lord without just cause, nor should any one receive him, except in such a way as was customary in the time of our predecessors.

And we wish you to know that we want to grant right to our faithful subjects and we do not wish to do anything to them against reason. Similarly we admonish you and the rest of our faithful subjects that you grant right to your men and do not act against reason toward them.

And we will that the man of each one of us in whosoever kingdom he is, shall go with his lord against the enemy, or in his other needs unless there shall have been (as may there not be) such an invasion of the kingdom as is called a *landmer*, so that the whole people of that kingdom shall go together to repel it.

J. CAPITULARY OF KIERSY (875)

[This capitulary was published by Charles the Bald († 877) just before he left France for Italy (875). It was intended to regulate the affairs of the kingdom which was to be administered by his son in his absence. It may cast light on the practice of the inheritance of office in the second half of the ninth century.

The excerpt is from Thatcher and McNeal, pp. 355–56.]

If a count whose son accompanies us shall die during our absence, our son with the advice of our faithful subjects shall appoint one of the near relatives of the deceased count to govern the county with the aid of the officials of the county and the bishop in whose diocese it is, until we are notified of the case and have an opportunity to give the son of the count his father's honors. But if the deceased count shall leave a minor son, that son shall govern the county with the aid of the officials and the bishop in whose diocese it is, until the death of the said count has been brought to our notice and we endow the son with his father's honors. But if the count shall not leave a son, our son with the advice of our faithful subjects shall appoint someone to govern the county with the aid of the officials of the county; and the bishop, until our commands in respect to it are made known. And no one shall feel aggrieved, if we give the county to another than the one who governed it up to the time of our appointment. The same procedure shall be observed in regard to our vassals; and the bishops, abbots, and counts of our kingdom, and our other faithful subjects, shall do the same toward their men.

K. HOMAGE AND FEALTY

1. Letter of Bishop Fulbert of Chartres (1020)

[Pennsylvania Translations and Reprints Series, Vol. IV, no. 3, pp. 23–24.]

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 be injurious to his lord in his body; safe, that he should not be injurious to him in his secrets or in the defenses through which he is able to be secure; honorable, that he should not be injurious to him in his justice or in other matters that pertain to his honor; useful, that he should not be injurious to him in his possessions; easy or practicable, that that good which his lord is able to do easily, be make not difficult, nor that which is practicable he make impossible to him.

However, that the faithful vassal should avoid these injuries is proper, but not for this 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 the avoidance of or the doing of or the consenting to them, 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 great fire; from which loss though we could not for a while be diverted, yet by the hope of the comfort of God and of you we breathe again.

2. Charter of Homage and Fealty (1110)

[Pennsylvania Translations and Reprints Series, Vol. IV, no. 3, pp. 18-20.]

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, to the honor of the festival of the august St. Mary; since lord Leo, abbot of the said monastery, has asked me, in the presence of all those above mentioned, to acknowledge to him the fealty and homage for the castles, manors, and pieces 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 had, I have made to the lord abbot Leo acknowledgment and 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 Leoque, of Capendes ...; and the manors of Mairac of Albars and of Musso; also, in the valley of Aquitaine, Rieux, Traverina, Herault, Archas, Servians, Villatritoies, Tansiraus, Presler, 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 Tentaion, and the manors of Cassanollles, and of Ferral and Aiohars; and in Le Roges, the little village of Longville; for each and all of which I make homage and fealty with hands and with 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, at my request and that of my successors at my own cost; and I will give to thee power over an the cashes 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 made, 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 to his will, and pay the expense of the shoeing of the horses and for straw and fodder as the season shad require.

And if I or my sons or their successors do not observe to thee or to thy successors each and all the things declared above, and should come against these things, we wish 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.

I, therefore, the aforesaid lord Leo, by the grace of God, abbot of St. Mary of Grasse, receive the homage and fealty for all the 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, divided through the alphabet. And I promise to thee and thy successors, viscounts of Carcassonne, under the religion of my order, that I will be a good and faithful lord concerning all those things described. Moreover, I, the aforesaid viscount, acknowledge that the little villages of Cannetis, Maironis, Villamagna, Aiglino, Villadasas, Villafrancos, Villadenz, Villaudriz, St. Genese, Gauart, Conguste and Mata, with the farm-house of Mathus and the chateaux of Villalauro and Claromont, with the little villages of St. Stephen of Surlac, and of Upper and Lower Agrifolio, ought to belong to the said monastery, and whoever holds anything there holds from the same monastery, as we have seen and have heard read in the privileges and charters of the monastery, and as was there written.

Made in the year of the Incarnation of the Lord 1110, in the reign of Louis. Seal of Bernard Atton, viscount of Carcassonne, seal of Raymond Mantellini, seal of Peter Roger of Barbazon, seal of Roger, 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.

3.Homage and Fealty to the Count of Flanders (1127))

[Pennsylvania Translations and Reprints Series, Vol. IV, no. 3, p. 18.]

Throughout the whole remaining part of the day those who had previously enfeoffed by the most pious count Charles did homage to the 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.

First they did their homage thus, the count asked if he was willing to become completely his man, and the other replied, "I am willing"; and with clasped hands, surrounded by 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, with a little rod which the count held in his hand, he gave investitures to all who by this agreement had given their security and homage and accompanying oath.