

UCLA

Comitatus: A Journal of Medieval and Renaissance Studies

Title

Jews in the Legal Corpus of Alfonso El Sabio

Permalink

<https://escholarship.org/uc/item/7g82w5fs>

Journal

Comitatus: A Journal of Medieval and Renaissance Studies, 18(1)

ISSN

0069-6412

Author

Simon, Larry J.

Publication Date

1987-10-01

Peer reviewed

JEWES IN THE LEGAL CORPUS OF ALFONSO EL SABIO

Larry J. Simon

Alfonso X "el Sabio" (the "Learned" or "Erudite") lived from 1221 to 1284, and ruled Castile-León from the death of his father San Fernando III in 1252. Ridiculed for his twenty-year failed attempt to have himself crowned (he succeeded in being elected) Holy Roman Emperor and reviled by his nobility, taxpayers, and son Sancho who led a civil war to dethrone him, Alfonso is justly renowned for his histories, scientific and pseudo-scientific works, poetry both sacred and profane, Arabic translations, and virtual creation of Castilian as a "language of high culture, which could handle concepts previously only discussed in the peninsula in Latin, Arabic, and Hebrew."¹ The seventh centenary of his death has occasioned a spate of celebrations and symposia, exhibitions and publications.² Two elements figure prominently in all the recent scholarship on Alfonso: (1) his legal program and successive law codes seeking to impose a very Romanized law on his realm, and (2) his fashioning himself "emperor of the three religions," his admiration for Islamic culture, and extensive use of Jewish financiers, administrators, and especially translators.³

The purpose of this present study is to examine the attitude toward Judaism and status accorded Jews in the major Alfonsine legal compilations. At least eight articles in the last decade have touched in whole or in part on this topic. Two tendencies permeate these eight studies, and both perhaps relate to the fact that, as Marie Madden observed over fifty years ago, "all who ponder over [Alfonso's] *Las Siete Partidas*, whether jurists, philosophers, or littérateurs, find it a work of exquisite and laborious erudition, and are enchanted by its eloquent, majestic style, its admirable order and wisdom, its harmonious disposal of the complicated relationships of life and its clear statement of principles." When speaking of Alfonsine legislation, first of all, most of the eight studies focus on the *Siete Partidas*, and almost exclusively on title twenty-four of the *Séptima Partida*. The problem here is that the *Siete Partidas* was never promulgated, perhaps not even completed, during Alfonso's reign, not issued until 1348, and then issued only as a supplement to existing law. Second of all, several

of these studies seek Alfonso's personal attitude toward Jews in the *Siete Partidas* and in so doing incline toward ignoring prior precedents and possible sources for particular enactments.⁴

I

The *Setenario* is the first of the four major works embodying the Alfonsine legal corpus. Critically edited by Vanderford who dated its completion to 1252 or 1253, this enigmatic treatise was never promulgated as law, consists of a numbered series of discussions that do not fit the term law (*leyes*), and is incomplete if not unfinished. Several recent commentators have suggested the *Setenario* represents the last and not the first Alfonsine work, and was a later evolved version of the *Primera Partida* and not its prototype. None of the 108 laws in the *Setenario* directly concerns Jews, and only passing and at times oblique reference is made to Judaism.⁵

The *Fuero Real*, the most important code promulgated in Alfonso's lifetime, was likely finished at Valladolid in August 1255. More extensive and systematic than earlier *fueros*, it was granted both to cities that lacked and to cities that already possessed *fueros*. Some historians believe Alfonso abrogated it following noble rebellions, but Teofilo Ruiz argues "that this was not the case in the main cities of Castile and the *Fuero Real* remained in force long after 1272." García-Gallo, moreover, has shown it to be mentioned in 1274 and cited frequently after 1293. Organized into four books, each divided into titles and laws, the first book legislates on royal and ecclesiastical matters, the second on trial procedure and personnel, the third on a wide range of civil and commercial matters, and the last book on criminal law.⁶

"Of the Jews," title two of the fourth book, contains seven laws. The first is the most interesting and ambiguous, and accordingly has occasioned the most controversy.⁷ Jews are forbidden to either read or possess books which speak against their religion in order to destroy it, and anyone having or finding such books should burn them publicly at the door of the synagogue. Jews can have and read "all of the books of their religion, as were given by Moses and by the other prophets," but they are forbidden to read or have books which knowingly speak against the Christian religion in order to destroy it. Such persons as possess the latter will find their body and their property at the mercy of the king. Jocelyn Hillgarth (citing Américo Castro rather than the original text) interprets the first part of this law as Alfonso having "extended the same protection to Jewish orthodoxy as he did to Christian dogma." Hillgarth thinks it likely that "this

measure was inspired by Alfonso's Jewish courtiers, but its enforcement by a Christian king would have been inconceivable outside the [Iberian] peninsula." Jeremy Cohen labels this a "curious interpretation," maintains that Alfonso condemned "noxious Jewish literature," and construes the second part of the law as an anti-talmudic measure.⁸ There is no evidence in the text nor in the history of Alfonso's reign to support this latter contention. The law is as likely aimed at such openly hostile writings as the *Toledot Yeshu* (Life of Jesus) which circulated widely, or such learned and more threatening polemics as Jacob ben Reuben's *Milhamot ha-Shem* (Wars of the Lord), Meir ben Simon's *Milhemet misvah* (War in the Fulfillment of a Commandment), or Jacob ben Elijah of Valencia's *Iggeret* (Epistle) against his cousin Pablo Christiani. The Karaite heresy or more likely the Maimonidean controversy that shook Iberian and southern French communities may lurk beneath the language of the first part of this law, but likewise is not clearly indicated.⁹

Law two firmly prohibits any Jew from enticing or alluring any Christian into apostasy, and establishes death and property confiscation by the king as penalty. Law three mandates ten lashes and a ten maravedis fine for any Jew blaspheming God, holy Mary, or any other saint. Law four establishes that no male or female Jew should nurse or care for the child of a Christian man or woman, nor allow his or her own child to be cared for by a Christian, and anyone so doing was to pay 50 maravedis to the crown. Law five prohibits usurious loans, and law six prohibits Jews from charging more than $33\frac{1}{3}\%$ interest on a loan or allowing accumulated interest to ever exceed the principal of the debt. In law seven observance of the Sabbath and all other holidays of the Jewish religion is protected. On these days justice is not to be meted out to Jews, and Jews are neither to be summoned nor summon anyone else to court.

Eight other enactments in various parts of the *Fuero Real* concern Jews. Neither Jews nor Christians, nor in some manuscripts Muslims as well, should obtain or sell liturgical books, vestments, or other church paraphernalia (Book I, title v, law 5). Jews, heretics, and Muslims are not to serve as legal advocates for a Christian in a case against another Christian (I.ix.4). No slave, religious, woman, insane person, heretic, Jew, Muslim, mute, deaf person, or traitor is to serve as the executor of a will (III.v.7), and no cleric or layman can make a Jew, Muslim, heretic, or anyone not a Christian a beneficiary (III.vi.16). Illegitimate children of a Christian father and Muslim or Jewish mother are to be raised by the father (III.viii.3). Parents are free to disinherit any of their children who convert to Islam or Judaism (III.ix.2), a more than superfluous enactment given

the prohibition against Muslim or Jewish beneficiaries of Christian wills and the punishment—death by fire—inflicted on any Christian daring to convert themselves or their children to Judaism or Islam (IV.i.1). A final enactment (IV.xx.2) prohibits Jews, along with a lengthy list of others, from bringing a lawsuit against anyone save one accused of wrongdoing against the king, one's lord, one's rights, or the faith of the holy church.

Two lesser legal compilations long associated with the *Fuero Real* are the *Leyes Nuevas* and the *Leyes del Estilo*, both published by the Real Academia as an appendix to its 1836 edition of the *Fuero Real*. MacDonald describes them as “nonroyal, unsystematic collections of royal decisions, judgements, and clarifications, not all by Alfonso X nor all related to the *Fuero Real*.” Repeatedly glossed in the seventeenth century and mentioned in the *Novísima Recopilación* of 1805, *El Estilo* numbers 252 laws, nine of which pertain to Jews, but are definitely post-Alfonsine as they apparently date from or near 1310. The *Leyes Nuevas*, a disparate collection, contains material from a letter on usury of 1260 to a letter of Sancho IV from 1295. Although containing authentic Alfonsine material, some of it pertaining to the Muslims and Jews, the *Leyes Nuevas* was a private compilation, not part of Alfonso's larger legal program, and is therefore beyond the scope of this present study.¹⁰

The codification known as *El Espéculo* is undoubtedly an authentic, if problematic, element of Alfonso's legal program. Procter has viewed the *Espéculo* as a later distillation of segments of the *Siete Partidas*, but scholarly consensus dates its completion to spring or summer 1255. Considerable debate exists as to the purpose and state of completion of *El Espéculo*. Craddock believes it to be a complete work, and Garcia-Gallo—in his second, or revised, hypothesis on the entire Alfonsine legal corpus—even argues that it was *El Espéculo* and not the *Fuero Real* that Alfonso granted various cities in the 1250s. Martínez Diez, editor of a new critical edition of *El Espéculo*, and also Iglesia Ferreirós, have persuasively shown it to be an incomplete work that was never finished, and never promulgated to any city of the kingdom. Book one concerns law and the Catholic faith, books two and three explain royal administration and military law and organization, and books four and five treat judicial personnel and litigation procedure. MacDonald believes that books six and seven “would have treated canon law and civil law (including contracts and inheritance).”¹¹

There is no section in *El Espéculo*, such as book IV, title ii of the *Fuero Real*, that treats the Jews separately or at any length. Three pertinent passages, however, are found in books four and five. Book IV, title vii, law 5 maintains that a witness in a court of law ought not to be a man of

another religion (such as a Jew or Muslim) or a heretic. A man such as this cannot testify against a Christian unless, of course, the Christian in question had done, was doing, or was contemplating an act against king or kingdom. A further exception is made if the evil deed was committed in a location where Christians were not found. Book V, title viii, law 35 is especially intriguing, as it permits a Christian convert from Islam to remain married to his or her Muslim spouse. In the case of a Christian convert from Judaism, however, the local prelate should admonish the person remaining a Jew to convert and if he or she refuses, then he should separate the couple. It would be suspicious for converts to remain married to Jews who "will fight to beguile them, turning them to their beliefs and taking them from ours." Jews "have the old religion, that we believe God spoke to Moses, is justified by many prophets and saints, and is the beginning and testimonial of our [religion]." Moreover, a Christian "wishing to convert a Jew . . . will not be able to do it as quickly as [with] a Muslim or Gentile."¹²

Book V, title xi, law 16 of *El Espéculo* contains an oath for use in the cases of Jews. Administered in a synagogue, in the presence of both Christians and Jews, and with hands on the Torah ("with which they pray"), the forty-plus line oath is a synopsis of Bible history and God's dealing with the Jews. By contrast the Christian oath (law 15), administered with hands on the Gospels and also on a cross or altar, and the Muslim oath (law 17), sworn at the door of a mosque if one is available or if not at some other location mandated by the judge, are only five lines and thirteen lines respectively. The Jew swearing the oath is informed that "if he knows the truth and denies it, or conceals it and does not tell it in the matter for which he was sworn, then upon him shall come all the plagues that came upon the people of Egypt, and all the curses of the law imposed against those who despise the commandments of God." In response to this and without any opposition the Jew should declare "Amen."¹³

II

The *Siete Partidas*, the most celebrated legal compilation associated with Alfonso el Sabio, was never promulgated in Alfonso's lifetime. Traditionally believed to have been initiated in 1256 and completed by 1263 or 1265, scholars now see the text as having gone "through several redactions that reflect stages—not always even—of growth and modifications before Alfonso XI promulgated the code in 1348."¹⁴ Even then the *Ordenamiento de Alcalá* established the *Siete Partidas* only as supplementary to the *Fuero*

Real and other operative legislation, a status renewed in the *Leyes de Toro* of 1505 and maintained until Spain received a Civil Code in 1889.¹⁵ Of the approximately seventy manuscripts containing one or more *Partidas* only one is thought to have issued from Alfonso's scriptorium. "Unique in intention and nature, monumental in size and scope," the 2700-plus legal essays of the *Siete Partidas* have been characterized as more "reflective historico-moral disquisitions" than legal enactments, and constituting an "encyclopedia of medieval man's institutions and values as viewed by eminent jurists and their legal codes."¹⁶ The *Primera Partida* concerns church law and religious practice; the *Segunda Partida* covers the rights and duties of rulers and their families, concluding with sections on the military and universities; the *Tercera Partida* treats judicial procedure; the *Quarta Partida*, domestic and other social and legal relationships; the *Quinta Partida*, commercial law; the *Sexta Partida*, wills and inheritance, as well as the care of orphans and minors; and lastly the *Séptima Partida* focuses on criminal and penal law, including titles pertaining to Jews (xxiv), Muslims (xxv), and heretics (xxvi).

The general feeling toward Jews in the *Siete Partidas* is that "Jews should pass their lives among Christians quietly and without disorder, practicing their own religious rites, and not speaking ill of the faith of Our Lord Jesus Christ, which Christians acknowledge" (VII.xxiv.2). The name Jew "is derived from the tribe of Judah which was nobler and more powerful than the others" (VII.xxiv.1), and the "great Christian sovereigns have always permitted them [the Jews] to live among them [Christian sovereigns]" (VII.xxiv.0). "A synagogue is a place where the Jews pray" and "for the reason that a synagogue is a place where the name of God is praised, we forbid any Christian to deface it, or remove anything from it, or take anything out of it by force. . . . Moreover, we forbid Christians to put any animal into a synagogue, or loiter in it, or place any hindrance in the way of the Jews while they are there performing their devotions according to their religion" (VII.xxiv.4).

The language used in title xxiv of the *Siete Partidas* is, however, harsher and more antagonistic than the language in the *Espéculo* and the *Fuero Real*. The prologue speaks of the Jews as insulting God's name when they "deny the marvelous and holy acts which he performed when he sent his Son, Our Lord Jesus Christ, into the world to save sinners." Law one explains that "the reason that the church, emperors, kings, and princes, permitted the Jews to dwell among them and with Christians, is because they always lived, as it were, in captivity, as it was constantly in the minds that they were descended from those who crucified Our Lord Jesus Christ."

Lest the point be lost between enactments, law three also reasserts the deicide accusation. Although distanced somewhat with "we have heard it said in some places," law two repeats the calumnious accusation that "Jews celebrated, and still celebrate Good Friday . . . [by] stealing children and fastening them to crosses, and making images of wax and crucifying them, when they cannot obtain children." The law stipulates "death in a disgraceful manner" for anyone guilty of such an action, provided the act "can be proved" and only after all witnesses are brought before the king and he "ascertains that they [the accused] are guilty."

The legislative enactments contained in title xxiv of the *Séptima Partida* have been interpreted in a surprising variety of ways and have received considerable attention. Far less attention, however, has been devoted to the legal sources utilized in the composition of this title. An item by item survey of the enactments reveals that most of the eleven laws in this title correspond to legislation contained in the nineteen chapters of book V, title vi, "Concerning Jews, Saracens, and their slaves," in the *Decretales* of Pope Gregory IX. In 1230 the Dominican Ramon de Penyafort was commissioned to compile an authoritative collection of Gregory's decretal letters along with those appearing in earlier *Compilaciones*; this new collection, known also as the *Liber Extra*, quickly superceded earlier canonical collections following its promulgation in 1234, and was available by the end of the century in Spanish vernacular translation.¹⁷ The form and format of the Alfonsine legislation in title xxiv, moreover, shows the influence of Penyafort's topical reordering of canonical material in his *Summa de Poenitentia et Matrimonio*, which commences Book I, title iv with a definition of the term "Jew," continues by enumerating basic privileges promised Jews, counterbalances this with very sharp segregation of the Jews, and concludes by considering the issue of slaves held by Jews.¹⁸ The most striking example of canonical influence on title xxiv occurs in law eleven which ordains that "all Jews male and female living in our dominions shall bear some distinguishing mark upon their heads so that people may plainly recognize [them]." Not found in the *Fuero Real* or other Alfonsine legislation, this enactment proceeds from a decree of Pope Innocent III and the Fourth Lateran Council of 1215 calling for Jews to be distinguishable by their clothes. Included in the *Decretales* (V.vi.15) and Penyafort's *Summa* (I.iv.6), this policy was nowhere systematically enforced by secular authorities in the Iberian peninsula in the thirteenth century.¹⁹

Law two forbids "any Jew to dare to leave his house or his quarter on Good Friday." Law three postulates that the "emperors, who in former times were lords of all the world, considered it fitting and right that, on

account of the treason which they [the Jews] committed in killing their lord, they should lose all said honors and privileges, so that no Jew could ever afterwards hold an honorable position, or a public office by means of which he might, in any way oppress a Christian." Law four decrees that a new synagogue "cannot be erected in any part of our dominions, except by our order," and that while a new one can be built on a site where an old one stood it "cannot be made any larger or raised to any greater height, or be painted" on penalty of being "lost by the Jews" to the "principal church of the locality where it is built." All three of these laws have their direct analogues in the *Decretales* and the *Summa*.²⁰

Law five stipulates that no one should summon a Jew into court on the Sabbath ("the day on which Jews perform their devotions, and remain quiet in their lodgings, and do not make contracts or transact any business") and that "no judge shall employ force or any constraint upon Jews" on this day unless arresting a Jew for a serious offense. Claims that Christians have against Jews and vice versa "shall be decided and determined by our judges in the district where they reside, and not by their old men." Christians must not "arrest or wrong any Jew either in his person or his property" but must bring their complaints before judges. This law is more encompassing than pertinent passages of either the *Decretales* or the *Summa*, but some corresponding legislation exists in both works.²¹ Law six dictates that "no force or compulsion shall be employed in any way against a Jew to induce him to become a Christian; but Christians should convert him to the faith of Our Lord Jesus Christ by means of the texts of the Holy Scriptures, and by kind words, for no one can love or appreciate a service which is done him by compulsion." The law seeks further to protect Christian converts from Judaism against physical reprisal by their former coreligionists, and to ensure they "possess all their property, sharing the same with their brothers, and inheriting it from their fathers and mothers and other relatives, just as if they were Jews." Christians should "honor" these converts, "no one shall dare to reproach them or their descendants, by way of insult, with having been Jews," and "they can hold all offices and dignities which other Christians can do." Once again the Alfonsine legislation is broader and more protective, but the precedents of no baptism against one's will and property protection for the converted figure in both of the canonical collections associated with Ramon de Penyafort.²²

Law seven, declaring that "where a Christian is so unfortunate as to become a Jew, we order that he shall be put to death just as if he had become a heretic, and we decree that his property shall be disposed of in the same way that we stated should be done with that of heretics," is

anomalous in title xxiv for its brevity but not lacking in civil or canonical precedent.²³ Law nine decrees death for Jews who live with Christian women, "for if Christians who commit adultery with married women deserve death on that account, much more do Jews who have sexual intercourse with Christian women, who are spiritually the wives of Our Lord Jesus Christ because of the faith and the baptism which they received in his name." Christian women are not to escape punishment but are to suffer the same penalty accorded a Christian woman who has carnal relations with a Muslim (VII.xxv.10). For a first offense a "Christian virgin" or a widow shall lose half of her property (to her father, mother, or grandfather if they are alive, or if not to the king) and for a second offense she loses all her property and her life; a married woman "shall be placed in the power of her husband who may burn her to death, or release her, or do what he pleases with her"; and lastly a "common woman who abandons herself to everyone" shall for a first offense be scourged through the town and for a second offense be put to death.

Law eight forbids Jews to employ Christian servants in their houses though not on their lands, proscribes Jews and Christians eating, drinking, or bathing together, and prohibits Christians from taking any medicine or imbibing wine made by a Jew. Law ten forbids Jews to purchase or own Christian slaves, or to convert their Muslim or pagan slaves to Judaism. If, however, a Muslim or pagan slave converts to Christianity he or she is to be freed immediately. In the *Quarta Partida* (iv.21) an exception is made to this rule in the case of a Jewish slave trader. If in the first three months a trader is attempting to sell a slave this slave converts to Christianity, the Jew is to be compensated twelve maravedis in specie or services. All of these above provisions can be found in the *Decretales* or the *Summa*, and frequently in both.²⁴

III

The more than forty references to Jews and Judaism found in books and titles of the *Siete Partidas* other than Book VII, title xxiv are conspicuously absent from most recent scholarship on Jews in the Alfonsine legal corpus. Space restraints preclude a law-by-law examination but even impressionistic evaluation indicates legislation more protective and language more conciliatory (if still harsher than that in the *Fuero Real* or *El Espéculo*) than that contained in the title "De los judíos." Reference to Jews and Jewish law is occasionally made to help validate an assertion or justify a Christian practice. Exclusion and discrimination persist, but this legislation indicates a degree of social integration and interaction between Jews and

Christians that was not found elsewhere in Europe at this time, and that defied efforts at strict segregation. A careful analysis of this legislation remains a major desideratum.

Several scholars subscribe to the opinion of one recent commentator that "an analysis of title xxiv will allow us to consider the degree to which Alfonso's fame as an enlightened, tolerant monarch is justified."²⁵ Another scholar concludes that medieval Spaniards "hated the Jews" and "Alfonso X, as a man of his age, reflects this attitude in his *Siete Partidas*."²⁶ Discerning Alfonso's personal attitude toward Jews in his law codes, as in his poetry, is a hazardous enterprise.²⁷ This is especially true when one concentrates on but one portion of Alfonso's legislation, a portion much influenced by canon law and placed in a theoretical work never promulgated—some maintain never even completed—during the king's lifetime. Discerning popular attitudes and actual thirteenth-century practice is fraught with difficulty; law codes seldom indicate the manner and extent of their enforcement, and no systematic run of judicial documents survives in Castile-León for this century. Alfonso was perforce a man of his age, and his age misprized tolerance. Modern commentators occasionally object to laws (such as *Siete Partidas* VII.xxiv.8) prohibiting Jews and Christians from eating, drinking or bathing together. The Jewish laws of *kashrut* forbid Jews from eating with Christians, and Jews were forbidden to drink wine touched by non-Jews. Both Jews and Christians were uneasy with the sacramental use by Christians of wine made by Jews, and Muslims, Christians, and Jews were well aware of the ritualistic nature of water and bathing in the others' religions.

Alfonso's legislation on the Jews—less harsh than many other contemporaneous Christian enactments—rather than contrasting with Muslim treatment of Jews, may represent to some degree an adaptation of the Islamic *dhimma* system protecting yet restricting alien religious groups. There may have been parallelism as well as adaptation; several scholars view the *dhimma* arrangement as proceeding from Byzantium and the *Justinian Code*.²⁸ Even if this is not true, Alfonsine legislation itself chose to justify at least one of its laws on blasphemy (*Siete Partidas* VII.xxviii.6) as if it were borrowing from the *dhimma* model:

Although neither Jews nor Moors should be compelled to believe in the Christian religion, nevertheless, we do not consider it proper that any of them should be permitted to offer insults to God or Holy Mary, or to any of the Saints accepted by the Church of Rome. For if the Moors in all places where they have authority forbid Christians to insult

Mohammed or to speak ill of their belief, and scourge them, do them harm in many ways, and even decapitate them, for this reason; it is much more proper that we should forbid them and others who do not believe in our religion, to speak ill of it or insult it.

Larry J. Simon, a Ph.D. Candidate in History at UCLA, is completing an archival dissertation entitled "The Majorca Church: Crusade and Ecclesiastical Reconstruction in a Western Mediterranean Kingdom, 1229–c.1300." A Fulbright Fellow to Spain 1983–4 and Charlotte W. Newcombe Fellow 1984–5, he publishes and lectures on Muslim-Christian-Jewish relations in the Middle Ages.

NOTES

Portions of this paper were read at "A Member of Another Religion in Religious Law," an international conference held in Jerusalem and Haifa, 27–30 April 1987, and sponsored by the Israel Matz Institute for Research in Jewish Law, the Faculty of Law, and the Faculty of Humanities of the Hebrew University of Jerusalem, in cooperation with the University of Haifa. The author gratefully acknowledges a UCLA History Department Conference Travel Grant which provided partial subvention of travel expenses. A specialized study entitled "Jews in the *Fuero Real* of Alfonso el Sabio" should appear in the forthcoming Magnes Press volume of studies from the conference now being edited by Alfredo M. Rabello and his colleagues in Jerusalem.

1. J. N. Hillgarth, *The Spanish Kingdoms*, vol. I (Oxford, 1976), 217. The best biography is the politically oriented Antonio Ballesteros Beretta, *Alfonso X el Sabio* (Barcelona, 1963). Cultural contributions are emphasized in John E. Keller, *Alfonso I, El Sabio* (New York, 1967) and Evelyn S. Procter, *Alfonso X of Castile, Patron of Literature and Learning* (Oxford, 1951). For bibliographical orientation there is José Sánchez Perez, *Alfonso X el Sabio* (Madrid, 1944), 347–425; Gardiner London, "Bibliografía de estudios sobre la vida y la obra de Alfonso X el Sabio," *Boletín de filología española*, 2 (1960): 18–31; and *Noticiero Alfonsí*, ed. Anthony Cárdenas, 1- (Wichita, Kansas, 1982–).

2. A sampling of publications from these events includes *The Worlds of Alfonso the Learned and James the Conqueror*, ed. Robert I. Burns, S.J. (Princeton, 1985); *Actas de las jornadas conmemorativas del VII Centenario de la muerte de Alfonso*

el Sabio (Cádiz, 1983); *Alfonso X Toledo 1984* (Toledo, 1984); *Actas del Congreso Internacional: La lengua y literatura en tiempos de Alfonso X el Sabio*, ed. Fernando Carmona and Francisco Flores (Murcia, 1985); *Estudios alfonsíes: lexicografía, lírica, estética y política de Alfonso el Sabio*, ed. José Mondéjar and Jesús Montoya (Granada, 1985); and special issues of *Thought*, Vol. 60, no. 239 (December 1985); *Revista Canadiense de Estudios Hispánicos*, Vol. 9, no. 3 (Primavera 1985); *Revista de Occidente*, 43 (Diciembre 1984); and *Romance Quarterly*, Vol. 33, no. 3 (August 1986). Papers from the Hispanic Society of America's conference on the *Cantigas de Santa Maria* will be published by the Hispanic Seminary of Medieval Studies in Madison, Wisconsin. The multi-volume acta from a seven city jamboree held in Spain, under the auspices of the Consejo Superior de Investigaciones Científicas, will be published as *Alfonso el Sabio: vida, obra, época*. Publications will continue to appear for years to come.

3. Sources of and studies on Alfonso's legal program will be cited *infra*. For Alfonso's court and Jewish translators see Gonzalo Menéndez Pidal, "Cómo trabajaron las escuelas alfonsíes," *Nueva revista de filología hispánica*, 5 (1951): 363-380; José M. Millás Vallicrosa, "El literalismo de los traductores de la corte de Alfonso el Sabio," *Al Andalus*, 1 (1933): 155-187; Evelyn S. Procter, "The Scientific Works of the Court of Alfonso X of Castile: The King and His Collaborators," *Modern Language Review* 40 (1945): 12-29; David Romano, "Le opere scientifiche di Alfonso X e l'intervento degli ebrei," *Oriente e occidente nel medioevo: filosofia e scienze*, Accademia Nazionale dei Lincei, Atti dei Convegni 13 (Roma, 1971), 677-711; and Norman Roth, "Jewish Translators at the Court of Alfonso X," *Thought*, 60 (1985): 439-455. For Jewish administrators and financiers see Roth, "Two Jewish Courtiers of Alfonso X Called Zag (Isaac)," *Sefarad*, 43 (1983): 75-85; and appropriate sections of Yitzhak Baer, *A History of the Jews in Christian Spain*, vol. I: *From the Age of Reconquest to the Fourteenth Century*, trans. Louis Schoffman (Philadelphia, 1971); and Abraham A. Neuman, *The Jews in Spain: Their Social, Political and Cultural Life during the Middle Ages*, 2 vols. (Philadelphia, 1948).

4. Christina Arbós Ayuso, "Los judíos en la literatura medieval española (siglos XIII-XVI): Los judíos y la economía, protecciones y privilegios," in *Actas de las jornadas de estudios sefardíes* (Cáceres, 1980), 141-150; Dwayne E. Carpenter, "Christian Attitudes Toward the Jewish Sabbath in Light of Medieval Spanish Legal Texts," *Proceedings of the Patristic, Mediaeval, and Renaissance Conference*, 4 (1979): 51-62; idem, "Jewish-Christian Social Relations in Alphonsine Spain: A Commentary on *Siete Partidas*, Book VII, Title xxiv, Law 8," in *Florilegium Hispanicum: Medieval and Golden Age Studies Presented to Dorothy Clotelle Clarke*, ed. John S. Geary (Madison, Wisconsin, 1983), 61-70; idem, "Minorities in Medieval Spain: The Legal Status of Jews and Muslims in the *Siete Partidas*," *Romance Quarterly*, 33 (1986): 275-287; idem, "Tolerance and Intolerance: Alfonso X's Attitude Towards the Synagogue, as Reflected in the *Siete Partidas*," *Kentucky Romance Quarterly*, 31 (1984): 31-39; Maria Fuencisla G. Casar, "El tratamiento de los judíos en los fueros de la familia Cuenca-Teruel," *Revue des*

études juives, 144 (1985): 27–37; Marjorie Ratcliffe, “Judíos y musulmanes en la jurisprudencia medieval española,” *Revista Canadiense de Estudios Hispánicos*, 9 (1985): 423–438; and David Romano, “Los judíos y Alfonso X,” *Revista de Occidente*, 43 (1984): 203–217. Casar’s study is the most wide-ranging and well-balanced of the eight; its main focus is elsewhere, however, and it mentions but briefly Alfonsine legislation. Ratcliffe quotes liberally from early thirteenth-century *fueros* but for Alfonsine enactments only the *Siete Partidas*. Romano also has a study in press entitled “Marco jurídico de la minoría judía en la Corona de Castilla de 1214 a 1350” which was presented at the II Congreso Internacional “Encuentro de las Tres Culturas” held in Toledo in 1983. Carpenter has completed “An Edition and Commentary of Alfonso the Wise’s *Siete Partidas*, Book VII, Title xxiv, ‘De los judíos’ ” for his Ph.D. Dissertation at the Graduate Theological Union, Berkeley in 1982. This is now in press as volume 115 of the University of California Publications in Modern Philology. Although narrow in focus, it promises to be a penetrating study and could make a major contribution to scholarship. The Madden quote is from *Political Theory and Law in Medieval Spain* (New York, 1930), 74–75.

5. See Alfonso el Sabio, *Setenario*, ed. Kenneth H. Vanderford (Buenos Aires, 1945). Vanderford in his introduction and Robert A. MacDonald in “Law and Politics: Alfonso’s Program of Political Reform,” in *Worlds*, ed. Burns, 174–175 both argue from internal evidence that Fernando III conceived and began the *Setenario* before passing it on to his son Alfonso. Jerry R. Craddock has written that the *Setenario* is the last of Alfonso’s works and “no more than an unfinished recasting of the preliminaries and the first four titles of the first *Partida*” (“How Many *Partidas* in the *Siete Partidas*?” in *Hispanic Studies in Honor of Alan D. Deyermond: A North American Tribute*, ed. John S. Miletich [Madison, Wisconsin, 1986], 86). Peter Linehan in “The Politics of Piety: Aspects of the Castilian Monarchy from Alfonso X to Alfonso XI,” *Revista Canadiense de Estudios Hispánicos*, 9 (Primavera 1985): 388 and 399 n. 15, and Gregory Peter Andrachuk in “Alfonso el Sabio—Courtier and Legislator” in the same journal and issue at 442 and 448–9 have expressed a similar view. Full analysis of this point, moot for our purposes here, awaits the publication in *Anuario de Historia del Derecho Español* of Craddock’s address, “The *Setenario*: Alfonso the Learned’s Final Legislative Legacy,” delivered at the Nineteenth International Congress on Medieval Studies, Kalamazoo, Michigan, 10–13 May 1984. Craddock’s long-awaited “Bibliography of the Legislative Works of Alfonso X el Sabio, King of Castile and León 1252–1284” in the Research Bibliographies and Checklist series of the London publisher Grant and Cutler, when published, will greatly facilitate research on the Alfonsine corpus.

6. Teofilo F. Ruiz, “Law, Spanish,” *Dictionary of the Middle Ages*, ed. Joseph Strayer (New York, 1986), VII, 518–524; and Alfonso García-Gallo, “Nuevas observaciones sobre la obra legislativa de Alfonso X,” *Anuario de Historia del Derecho Español* [hereafter cited as *AHDE*], 46 (1976): 609–670. García-Gallo suggests, further, that it was *El Espéculo* and not the *Fuero Real* granted various cities in the 1250s, and that the latter may not have been completed until after

Alfonso's death. This iconoclastic view, unlike García-Gallo's view on the *Siete Partidas*, has won virtually no acceptance; for a detailed critique of both García-Gallo's views see Jerry R. Craddock, "La cronología de las obras legislativas de Alfonso X el Sabio," *AHDE*, 51 (1981): 365-418. García-Gallo responds to his critics in "La obra legislativa de Alfonso X: hechos e hipótesis," *AHDE*, 54 (1984): 97-161. In general on Spanish law and the Alfonsine legal corpus see Rafael Altamira, "Spain," *Continental Legal History Series*, vol. I (London, 1912), 576-702; García-Gallo, "Aportación al estudio de los fueros," *AHDE*, 26 (1956): 387-446; idem, "Los fueros de Toledo," *AHDE*, 45 (1975): 341-488; idem, "El *Libro de las leyes* de Alfonso el Sabio: de *Espéculo* a las *Partidas*," *AHDE*, 21-22 (1951-52): 345-528; Aquilino Iglesia Ferreirós, "Alfonso X el Sabio y su obra legislativa: algunas reflexiones," *AHDE*, 50 (1980): 531-61; idem, "Alfonso X, su labor legislativa y los historiadores," *Historia, Instituciones, Documentos*, 9 (1982): 9-112; idem, "Las Cortes de Zamora de 1274 y los casos de Corte," *AHDE*, 41 (1971): 945-971; Robert A. MacDonald, "Law and Politics," *Worlds*, 150-202; idem, "Notas sobre la edición de las obras legales atribuidas a Alfonso X de Castilla," *AHDE*, 53 (1983): 721-725; idem, "Problemas políticos y derecho alfonsino considerados desde tres puntos de vista," *AHDE*, 54 (1984): 25-53; E. N. Van Kleffens, *Hispanic Law Until the End of the Middle Ages* (Edinburgh, 1968); and John Thomas Vance, *The Background of Hispanic-American Law: Legal Sources and Juridical Literature of Spain* (Washington, D.C., 1937). On the *Fuero Real* in particular see Joaquín Cerdá Ruiz-Funes, ed., "Las glosas de Arias de Balboa al *Fuero Real* de Castilla," *AHDE*, 21-22 (1951-52): 731-1141; Rafael Gibert, "El derecho municipal de León y Castilla," *AHDE*, 31 (1961): 695-753; Iglesia, "Breviario, recepción y *Fuero Real*: tres notas," *Homenaje al profesor Alfonso Otero* (Santiago de Compostela, 1981), 131-151; idem, "*Fuero Real* y *Espéculo*," *AHDE*, 52 (1982): 111-191; Gonzalo Martínez Diez, "El *Fuero Real* y el *Fuero de Soria*," *AHDE*, 39 (1969): 545-562; idem, "Los comienzos de la recepción del derecho romano en España y el *Fuero Real*," *Diritto comune e diritti locali nella storia dell' Europa Atti del Convegno di Varenna, 12-15 giugno 1979* (Milan, 1980), 253-262; and Antonio Pérez Martín, "El *Fuero Real* y Murcia," *AHDE*, 54 (1984): 55-96.

7. Cited here is the edition of the *Fuero Real* in *Opúsculos legales del rey don Alfonso el Sabio*, ed. La Real Academia de la Historia, 2 vols. (Madrid, 1836), II, 3-169; occasionally cited is *Los códigos españoles concordados y anotados*, 12 vols. (Madrid, 1847-51), I, 349-425. Like the *Siete Partidas*, but unlike the *Setenario* and *Espéculo*, the *Fuero Real* was translated into other languages of the Iberian peninsula soon after its appearance. Alfredo Pimenta has edited *Fuero Real de Alfonso X, o Sábio: versão portuguesa do século XIII* (Lisbon, 1946). Over thirty manuscripts of the *Fuero Real* survive; a modern, critical edition is sorely needed. See MacDonald, "Progress and Problems in Editing Alfonsine Juridical Texts," *La Corónica*, 6 (1977-78): 74-81; and his brief addendum 7 (1978-79): 119-120. The law in question (IV.ii.1) reads: "Defendemos que ningun judio non sea osado de leer libros ningunos que fablen en su ley e que sean contra ella para desfacerla,

nin de los tener ascondidos: et si alguno los oviere o los fallare, quemelos a la puerta de la sinagoga conceieramientre. Otrosi defendemos que non lean nin tengan libros a sabiendas que fablen en nuestra ley que sean contra ella pora desfacerla: mas otorgamos que puedan leer e tener todos los libros de su ley, asi como les fue dado por Moises e por los otros profetas: et si alguno toviere ó leyere libros contra nuestro defendimiento, así como es sobredicho, el cuerpo e el haver esté a mercet del rey."

8. Hillgarth, *Spanish Kingdoms*, I, 165; Américo Castro, *The Structure of Spanish History*, trans. Edmund L. King (Princeton, 1954), 515 and 517; Jeremy Cohen, *The Friars and the Jews: The Evolution of Medieval Anti-Judaism* (Ithaca, N.Y., 1982), 81.

9. For a brief introduction to Christian-Jewish polemic and disputation see Salo Wittmayer Baron, *A Social and Religious History of the Jews*, 2nd ed. (New York, 1965), IX, 55-134. On the Maimonidean controversy see Joseph Sarachek, *Faith and Reason: The Conflict over the Rationalism of Maimonides* (New York, 1935); and Daniel Jeremy Siler, *Maimonidean Criticism and the Maimonidean Controversy 1180-1240* (Leiden, 1965). Note in particular Daniel J. Lasker, *Jewish Philosophical Polemics Against Christianity in the Middle Ages* (New York, 1977).

10. The *Leyes del estilo* are available in *Opúsculos legales*, II, 233-352, and *Códigos españoles*, I, 301-341. The *Leyes nuevas* are in *Opúsculos legales*, II, 179-209, and *Códigos españoles*, VI, 215-231. See also José López Ortiz, "La colección conocida con el título *Leyes nuevas* y atribuida a Alfonso X el Sabio," *AHDE*, 16 (1945): 5-70.

11. MacDonald, "Law and Politics," 179. The edition is *Leyes de Alfonso X*, I: *Espéculo*, ed. Gonzalo Martínez Díez (Avila, 1985). For Craddock, García-Gallo, and Iglesia Ferreirós see citations *supra* at n. 6. Other editions of the *Espéculo* are found in *Opúsculos legales*, I, 1-474, and *Códigos españoles*, VI, 7-208. See also MacDonald's forthcoming "El *Espéculo* atribuido a Alfonso X, su edición y problemas que plantea," in *España y Europa, un pasado jurídico común*, ed. Antonio Pérez Martín (Murcia, in press) which is the proceedings from the I Simposio Internacional del Instituto de Derecho Común, Murcia, 26-28 de Mayo de 1985.

12. *Espéculo* V.viii.35: "E por ende dezimos, que aquello que dize en la ley ante desta, que pueden morar en vno marido e mugier maguer ssean de ssennas leys, que esto sse entiende de los moros e de los gentiles mas non de los iudíos. Ca los moros e los gentiles commoquier que ayan ssus creençias apartadas de nos, non an ffirmედunbre de ley que sse pueda prouar por proffetas nin por ssantos. E por ende quando la mugier o el marido ffuesse de vna destas ssectas e el otro christiano, non deuen ante auer ssospecha que los tornassen a las ssus creençias que ante auíen, pues que non an rrazones tan ffirmes por que lo pueden ffazer; e por ende non los deuen partir ssinon en la manera que diximos en esta otra ley. Mas los iudíos que an la vieia ley, que creemos que dio Dios a Moyssén e es prouado por muchas proffetas e por muchos ssantos e es la ssu ley comienço e testimonio de la nuestra, por este ayuntamiento que á la ssu ley con la nuestra sserie ssospecha que los que sse conuertiesen a la nuestra ley e quissiesen ffinçar en el casamiento primero

con los de la ssuya, que punnarien de los engannar e de los tornar a la ssu creençia e ssacarlos de la nuestra. E demás dezimos aún que ssi el que ffuese de nuestra ley quissiesse conuertir al iudío, que non lo podrie ffazer tan ayña commo al moro o al gentil. E por ende ssi alguno de la ley de los iudíos, varón o mugier, sse tornare a la nuestra ffé e ffuer casado, tenemos por bien que el perlado daquel lugar armoneste al que ffincare en la ley de los iudíos que sse torne christiano, e ssi non lo quissiere ffazer, que dallí adelante que los departa."

13. This oath is repeated virtually verbatim in *Siete Partidas* III.xi.20. Oaths such as these have a long history in Jewry law and appear to have a Jewish origin. Guido Kisch, *The Jews in Medieval Germany* (Chicago, 1949), 276: "The appeal to God, the mention of divine laws, the inclusion of the biblical punishments and curses against perjurers, and finally, the solemnity of the symbolic ceremony are, no doubt, essentially Jewish. The Germanic conception of the oath, however, was not materially different from the Jewish." These special oaths before Jews give testimony are similar to the abjuration oaths for Jewish converts to Christianity, an early example of which is preserved in the *Leges Visigothorum*, ed. Karl Zeumer, in *Monumenta Germaniae Historica*, Legum Sectio I, Legum Nationum Germanicarum I (Hannover, 1902), XII.iii.15.

14. MacDonald, "Law and Politics," 182. The first published edition of the *Siete Partidas* was produced by Alonso Díaz de Montalvo in 2 vols. (Sevilla, 1491). Gregorio López produced a new edition in 4 vols. (Salamanca, 1555) that became authoritative in Spanish courts, and remained so even after the Real Academia de la Historia issued in 3 vols (Madrid, 1807) the closest to a critical edition that is likely to appear for years to come. Many scholars have called for a new scholarly and critical edition, but no one as of yet appears to have been chosen for this enormous task. The quotations in this article from the *Siete Partidas* are from the excellent English translation done by Samuel Parsons Scott for the American Bar Association (New York, 1931).

15. Van Kleffens, *Hispanic Law*, 218-236 and 255-265.

16. Burns, "Alfonso X of Castile, the Learned: 'Stupor Mundi,'" *Thought*, 60 (1985): 379. The manuscript thought possibly to have issued from Alfonso's scriptorium has been edited by Juan Antonio Arias Bonet as *Primera Partida según el manuscrito Add. 20.787 del British Museum* (Valladolid, 1975); and studied by J. Homer Herriott in "A Thirteenth-Century Manuscript of the *Primera Partida*," *Speculum*, 13 (1938): 278-294. See also Herriott's "The Validity of the Printed Editions of the *Siete Partidas*," *Romance Philology*, 5 (1951): 165-174. Another variant manuscript has been edited by Francisco Ramos Bossini as *Primera Partida: Hispanic Society of America MS HC 397/573* (Granada, 1984); studies on it include Arias Bonet, "Nota sobre el códice neoyorkino de la primer *Partida*," *AHDE*, 42 (1972): 753-755, and Antonio García y García, "Un nuevo códice de la primera *Partida* de Alfonso X el Sabio: el MS HC 397/573 de la Hispanic Society of America," *AHDE*, 33 (1963): 267-343.

17. The *Decretales* is available in the various editions of the *Corpus iuris canonici*, the best of which is by A. Friedberg in 2 vols. (Leipzig, 1879-81). See

also *Decretales de Gregorio IX: Versión Medieval Española*, ed. Jaime M. Mans Puigarnau, 3 vols. (Barcelona, 1939-1943). For the status of Jews in medieval canon law see Walter Pakter, "De His Qui Foris Sunt: The Teachings of the Medieval Canon and Civil Lawyers Concerning the Jews," unpublished Ph.D. dissertation, Johns Hopkins University, 1974. This excellent and often-cited work has been thoroughly reworked and will soon be published in Munich. Norman Roth has an article in press entitled "Jews in Canon Law: *Decretum and Decretals*" which is "to be followed, hopefully, by articles on other canon law collections in Spain" (*Jewish Quarterly Review*, 74, no. 3 [January 1984]: 322). Roth has a work in progress seeking to "demonstrate the direct influence" of Penyafort on the *Partidas*. In general on the sources of the *Siete Partidas* see Raimundo Bidagor, S.J., "El derecho de las *Decretales* y las *Partidas* de Alfonso el Sabio de España," and Eduardo Fernández Reyatillo, "El derecho matrimonial en las *Partidas* y en las *Decretales*," in *Acta Congressus Iuridici Internationalis VII saeculo a Decretalibus Gregorii IX et XIVa Codice Iustiniano promulgatis*, 5 vols. (Rome, 1935-37), III, 297-313 and 317-384; José Giménez y Martínez de Carvajal, "El *Decreto* y las *Decretales*, fuentes de la primera *Partida* de Alfonso el Sabio," *Anthologica Annua*, 2 (1954): 239-348; idem, "San Raimundo de Peñafort y las *Partidas* de Alfonso X el Sabio," *Anthologica Annua*, 3 (1955): 201-338; and José Maldonado y Fernández del Torco, "Sobre la relación entre el derecho de las *Decretales* y el de las *Partidas* en materia matrimonial," *AHDE*, 15 (1944): 589-643. Very little has been written about non-canonical sources, or about *Partidas* other than the first and fourth.

18. See *Summa Sti. Raymundi de Peniafort de poenitentia, et matrimonio, cum glossis Ioannis de Friburgo* (Rome, 1603; rpt. Farnborough, England, 1967); and the new, critical editions of the *Summa de iure canonico*, *Summa de poenitentia*, and *Summa de matrimonio* edited by Xaverio Ochoa and Aloisio Diez in the series "Universa Bibliotheca Iuris" (Rome, 1975-78). Carpenter has noted the similarities in the opening definitions in his "Edition and Commentary," 131.

19. Fernando III obtained on 20 March 1219 from Pope Honorius III a special exemption not to enforce the decree of the Fourth Lateran Council. The text is published and translated by Solomon Grayzel, *The Church and the Jews in the XIIIth Century: A Study of their Relations during the years 1198-1254, Based on the Papal Letters and Conciliar Decrees of the Period* (Philadelphia, 1933), 150-1. Grayzel notes that although Gregory IX sought to enforce the Jewish badge in Spain, "in large measure, however, the Jews still escaped it" (64).

20. Compare law 2 with *Decretales* V.vi.4 and 15, and *Summa* I.iv.3; law 3 with *Decretales* V.vi.16 and 18, and *Summa* I.iv.3; and law 4 with *Decretales* V.vi.3 and 8, and *Summa* I.iv.3. Space restraints unfortunately preclude lengthy quotes, or correlating and printing the relevant passages in parallel columns. The general and substantive analysis of content presented here does not seek, in any case, to establish direct textual dependence, though neither does it exclude the possibility.

21. *Decretales* V.vi.9 and *Summa* I.iv.3.

22. *Decretales* V.vi.5 and 9, and *Summa* I.iv.2 and 3.

23. *Leges Visigothorum* XII.ii.17 prescribes death for Christians converting to Judaism. The earlier *Codex Theodosianus* prescribes punishments (XVI.viii.1) and confiscation of property (XVI.viii.7); see *Theodosiani Libri XVI cum Constitutionibus Sirmondianis et Leges Novellae and Theodosianus Pertinentes*, ed. T. Mommsen and P. M. Meyer (Berlin, 1905).

24. For law 8 see *Decretales* V.vi.5, 8, and 13; and *Summa* I.iv.3. For the provisions of law 8 allowing Christians to work on lands owned by Jews see *Decretales* V.vi.2 and *Summa* I.iv.8.

25. Carpenter, "Edition and Commentary," 3.

26. Ratcliffe, "Judíos y musulmanes," 436.

27. See Albert I. Bagby, "The Jew in the *Cántigas* of Alfonso X, el Sabio," *Speculum*, 46 (1971): 670-688; idem, "Alfonso X, el Sabio, compara moros y judíos," *Romanische Forschungen* 82 (1970): 578-583; and criticism by Joseph Snow, *The Poetry of Alfonso X, el Sabio: A Critical Bibliography* (London, 1977), 100, 102-3. See also Vikki Hatton and Angus MacKay, "Anti-Semitism in the *Cántigas de Santa Maria*," *Bulletin of Hispanic Studies*, 61 (1983): 189-199; and John E. Keller and Richard P. Kinkade, *Iconography in Medieval Spanish Literature* (Lexington, Kentucky, 1984), 6-40 and 105-107.

28. Joseph Schacht, "Droit byzantin et droit musulman," *Oriente ed occidente nel medio evo*, Convegno di scienze morali, storiche e filologiche, 27 maggio-lugugno 1956, Accademia Nazionale dei Lincei, Atti dei Convegni 12 (Rome, 1957), 197-218.