

ON THE *ORDENAMIENTO DE ZAMORA*, 1274<sup>1</sup>

SOBRE EL ORDENAMIENTO DE ZAMORA, 1274

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**ABSTRACT:** The so-called *Ordenamiento de Zamora* of 1274 has received scant critical attention, but it prompts several questions: (1) is the extant text an official *Ordenamiento* of the royal court; (2) was the date affixed by the royal chancery; (3) was it enacted in the Cortes at Zamora; (4) what is the substance of the text? The *Ordenamiento* is incomplete as it lacks the proper introduction characteristic of authentic royal documents and the customary chancery dating formula. Apart from the inscription, no other document speaks of the Cortes of Zamora and the text makes no reference to the Cortes or to the presence of representatives of municipalities ordinarily summoned to the Cortes. In order to facilitate the prompt resolution of lawsuits, the *Ordenamiento* focused on four topics: 1. Advocates; 2. Judges; 3. Scribes; and 4. The King. It also listed the *casos de corte* that belonged exclusively to royal jurisdiction.

**KEYWORDS:** Alfonso X; *Ordenamiento*; Royal Court; Cortes, Justice.

**RESUMEN:** El llamado Ordenamiento de Zamora de 1274 ha recibido escasa atención crítica, pero plantea varias preguntas: (1) ¿es el texto existente un ordenamiento oficial de la corte real? (2) ¿fue la fecha fijada por la cancillería real? (3) ¿fue decretado en las Cortes de Zamora? (4) ¿cuál es la sustancia del texto? El Ordenamiento es incompleto ya que carece de la introducción característica de los auténticos documentos reales y de la fórmula acostumbrada empleada por la cancillería para fechar tales documentos. Aparte de la inscripción, ningún otro documento habla de las Cortes de Zamora y el texto no hace referencia a las Cortes ni a la presencia de representantes de los concejos ordinariamente convocados a las Cortes. Con el fin de facilitar la pronta resolución de los pleitos, el Ordenamiento se centró en cuatro temas: 1. Abogados; 2. Alcaldes; 3. Escribanos; y 4. El Rey. También enumeró los casos de corte que pertenecían exclusivamente a la jurisdicción real.

**PALABRAS CLAVE:** Alfonso X; Ordenamiento; Corte Real; Cortes, Justicia.

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1. Abbreviations Used: *AHDE* = *Anuario de Historia de Derecho Español*; *BRAH* = *Boletín de la Real Academia de la Historia*; *CLC* = *Cortes de los antiguos reinos de León y Castilla*; *HID* = *Historia, Instituciones, Documentos*; *MHE* = *Memorial Histórico Español*.

The text commonly known as the *Ordenamiento* of Zamora<sup>2</sup> has been cited by many authors, who usually repeat without challenge what Francisco Martínez Marina said about it in the early nineteenth century.<sup>3</sup> Aside from the study of Aquilino Iglesia Ferreirós,<sup>4</sup> the *Ordenamiento* has received scant critical attention. The document prompts several questions: (1) is the extant text an official *Ordenamiento* of the royal court; (2) was the date affixed by the royal chancery; (3) was it enacted in the Cortes at Zamora; (4) what is the substance of the text? Let me respond to these questions.

### 1. IS THIS AN AUTHENTIC, OFFICIAL *ORDENAMIENTO*?

Preserved in a sixteenth-century manuscript collection of *Ordenanzas Reales* in El Escorial (Z ij 6),<sup>5</sup> and published in the *Colección de las Cortes de los antiguos reinos de Castilla y León*, this text bears the following inscription:

SIGUENSE LAS LEYS E ORDENAMIENTOS QUEL REY DON ALONSO DECIMO LLAMADO SABIO FIZO E ORDENÓ PARA ABREVIAR LOS PLEITOS EN LAS CORTES QUE TUVO EN ZAMORA CON ACUERDO DE LOS DEL SU REGNO EN EL ANNO DEL SENNOR DE MILL E DOZIENTOS E SETENTA E QUATRO ANNOS DELA ERA DE CESAR DE MILL E TREZIENTOS E DOZE QUE FUE ENEL VEYNTE E DOS ANNOS DEL SU REGNADO: LAS QUALES COMIENZAN EN ESTA GUIZA:

Another copy of the text now held in the Biblioteca de la Universidad Complutense de Madrid, written in the eighteenth or early nineteenth century, was taken from the manuscript in the Escorial. The copy bears the title “*El Ordenamiento de las cortes de Zamora de 1274. (Sacose de la Real Biblioteca del Escorial Let. H plut. 2 numo. 6).*” The identification number probably was Z ii 6 as in the version cited above. The introductory paragraph quoted above is omitted entirely.

The paragraph cited tells us that *leyes* and *ordenamientos* were enacted in the Cortes held by the king at Zamora with the consent of the people of his realm in the Year of the Lord 1274 or the Era of Caesar 1312, the twenty-second year of his reign. How accurate that statement is remains to be seen. King Alfonso was never called “*décimo*” during his reign. That fact and the date “*el anno del sennor*”

2. CLC 1:87-94, no. 16.

3. Martínez Marina, 1966.

4. Iglesia Ferreirós 1971, pp. 945-971.

5. The text is contained in a copy of the 15th or 16th century entitled *Ordenamientos y leyes hechos por los reyes de Castilla Alfonso el Sabio, Sancho IV, Fernando IV, Alfonso XI, Pedro I, Enrique II, y Enrique IV. Consulta de Felipe II a los Teólogos sobre la venta de los vasallos de las iglesias*, fols. 1r-6r y 7r-12v. [S]iguense las leyes [et] ordenamientos que el rey don alonso decimo llamado Sabio fizo [et] ordeno para abreujar los pleitos en las cortes que tubo en çamora con acuerdo de los del su regno en el anno del Sennor de myll [et] dozientos y setenta [et] quatro annos... See <http://rbme.patrimonionacional.es/Busqueda-en-Catalogo.aspx?id=25>.

indicate that this paragraph was not written by anyone in the court of Alfonso X where documents were dated according to the era of Caesar. The custom of dating documents according to the era of Caesar was replaced by the year of the Lord in 1384 during the reign of Juan I. Therefore, this paragraph was probably written by a copyist of a later century and cannot be accepted as contemporary evidence of the actions taken by the king and his court. Obviously it is not part of the text of the *Ordenamiento*.

The *Leyes del estilo* (ley 91), an anonymous compendium of the practice of the royal court compiled in 1310, also referred to the *Ordenamiento de Zamora*: “*Otrosi en el ordenamiento delas cosas que ouo establecido el rey don Alfonso en Çamora en el mes de Julio enla era de mill et trezientos et doze años se contiene que dize assi.*” The text that follows concerns the *casos de corte* treated in ley 46 of the *Ordenamiento* of Zamora.<sup>6</sup> The *Leyes del estilo* simply mention “*el rey don Alfonso,*” and say nothing of the Cortes or of the “year of the Lord.”

When we turn to the text of the *Ordenamiento* of Zamora we notice that it is entirely lacking the salutation and royal intitulation that one would expect to find in a law enacted by the king. Instead, the opening paragraph relates that in June 1274, the unnamed king, intent on facilitating the prompt resolution of lawsuits, gave the prelates, religious, magnates, and judges of Castile and León, who were with him at Zamora, a written statement setting forth the reasons why pleas were not resolved more quickly, and asked their advice. After taking counsel among themselves, each group, the prelates, religious, nobles, and judges, submitted written proposals. Although the king had not asked them to do so, the scribes and advocates also submitted written opinions. After reviewing those texts, the king declared his decision: “*E el Rey vistos todos los escritos de los consejos que le davan sobresto, porque ellos le rogaron que dixiese y lo que toviese por bien dixo asi.*” The document then focused on four areas: 1. Advocates; 2. Judges; 3. Scribes; and 4. the King. The language introducing each law included phrases such as: “*otrossi que;*” “*otrossi acuerda el Rey;*” “*otrossi tiene el Rey por bien;*” “*e tiene el Rey por bien;*” “*otrossi manda el Rey.*” In effect, the king confirmed or accepted the proposals presented to him. The concluding paragraph tells us that this was an *Ordenamiento* made “*por mandado del sobredicho Rey don Alfonso,*” although his name was not previously mentioned.

The inscription beginning *Siguense*, and also the final paragraph, and the *Leyes del estilo* describe this document as an *Ordenamiento*. Both Robert MacDonald and José Sánchez-Arcilla Bernal pointed out, however, that Alfonso X did not use that word to describe his legislative enactments.<sup>7</sup> In the *Espéculo* (1,1,1), the king declared that “*estas leyes sson posturas e establecimientos e ffueros,*” but said nothing of *ordenamientos*. On the other hand, he referred to the “*ordenamientos de los Ssantos Padres*” in the *Espéculo* (1,3,5), and also declared that “*Valedero no deue seer el iuyzio que ffuere dado contra el ordenamiento destas leys*” (*Espé-*

6. *Leyes del estilo*, in *Opúsculos legales* 1836, vol. II, pp. 235-352.

7. MacDonald 1995, pp. 1-2; Sánchez-Arcilla Bernal 2008-2009, pp. 81-123.

culo 5,13,15). The first reference to an *ordenamiento* that I have encountered in a royal document appears in a charter granted to the Mesta in 1278. Referring to fines incurred, the king stated that the *maravedís* “*en este ordenamiento*” should be *de la buena moneda*. He went on to say that “*esta mi carta de ordenamiento*” should be valid forever.<sup>8</sup> Three years later, in a privilege granted to the merchants, he referred to customs duties set forth in “*nuestro ordenamiento*.”<sup>9</sup> Thus the term seems to have come into use in the king’s closing years.

One would expect that an *ordenamiento* would follow the chancery style for privileges or for *cuadernos* of the Cortes. Numerous privileges drawn up by the royal scribe, Millán Pérez de Aellón, or at his direction, exemplify that style. After the salutation (“*Sepan quantos este privilegio vieren et oyeren*”), the king, listing his kingdoms, granted a *fuero* or some other benefit. In the dispositive clauses he often used the phrases, “*mando*,” “*mandamos*,” “*otrossi mandamos*,” or “*otrossi mandamos et defendemos*” and usually concluded: “*Et mandamos et defendemos que ninguno non sea osado de ir contra este privilegio para quebrantarlo, nin para minguarlo en ninguna cosa . . . Et por que esto sea firme et estable mandamos sellar este privilegio con nuestro sello de plomo*.” Following the date, the king confirmed the document: “*otorgamos este privilegio et confirmamoslo*.” Finally, the scribe usually noted that he wrote the document “*por mandado del Rey*.”<sup>10</sup>

One might also compare the *Ordenamiento de Zamora* to the *cuadernos* of the Cortes of 1252, 1258, and 1261, the royal privilege granted to the towns of Extremadura in 1264, and the economic regulations enacted at Jerez in 1268. In the *cuaderno* of the Cortes of Seville in 1252 the king, after identifying himself by name and listing his various realms, extended his greeting to the city to whom the *cuaderno* was issued. After noting the grievances of his people, he enacted - “*toue por bien*” - certain *posturas* with the counsel and consent of his uncle, his brothers, the bishops, magnates, knights, and orders and good men of the towns and other good men who were with him. Each of the forty-five *posturas* begins with the word “*mando*” or “*otrossi mando*.” In the concluding *postura* the king stated: “*Et mando que todas estas cosas sobredichas que sean tenudas et que dure esta postura quanto yo touiere por bien*.” The date reads: “*Fecha la carta en Seuilla el Rey la mando. XII. dias de Octubre: escriuiola Sancho fernandez en Era de Mill. et Dozientos et Nonaenta Annos*.”<sup>11</sup>

The *cuadernos* given to Astorga on 5 February and Santiago de Compostela on 15 February 1253 begin in the same manner, but the first twenty four *posturas* are written in the third person. In the eighth *postura*, in what seems to be an addition to the original text, we find the words “*otrossi mandamos*” and “*mando*.” *Posturas*

8. *MHE* vol. I, pp. 333-335, no 148 (22 September 1278).

9. *MHE* vol. II, pp. 29-31, no. 179 (13 February 1281).

10. Many examples of this style can be seen in the royal privileges in the first volume of *MHE*. Also see Kleine 2015.

11. Gross 1985, pp. 98-99; García Ramila 1945, pp. 204-22; Ballesteros 1911, pp. 114-43; Procter 1980, pp. 273-284, no. 4; Sáez 1990, pp. 33-46, no. 1; Argüello 1852, pp. 29-34.

twenty-six to seventy-two are essentially the same as those in the Castilian *cuadernos* and we again find the words “mando,” and “otrossi mando” and the final command: “*Et mando que todas estas cosas sobredichas que sean tenudas et que dure esta postura quanto yo tuuvier por bien.*” The *cuaderno* issued to Escalona on 27 February 1253 follows the Castilian model.<sup>12</sup>

The *cuaderno* published in the Cortes of Valladolid in 1258 is somewhat different. After identifying himself and his kingdoms and sending his greeting to Burgos, the king stated that he had taken counsel and consent with his brothers, the archbishops, bishops, magnates of Castile and León, and the good men of the towns of Castile, Extremadura, and León concerning their grievances. What they set down, he agreed to uphold: “*lo que ellos pusieron otorgue yo de lo tener e de lo fazer e guardar por todos mios Regnos.*” The following laws ask the king to accept or command something: “*touieron por bien que el rey;*” “*que vista el Rey como touiere por bien;*” “*que mande el Rey;*” “*otrossi piden mercet al rey;*” and so forth. In the final law, the king declared: “*Et yo sobredicho Rey D. Alfonso mandamos que todas estas posturas sobredichas que las tengades et que las guardedes.*” The *cuaderno* was dated in Valladolid “*por mandado del Rey martes XV dias andados de enero. Johan ffernandes de Segouia la escriuio en Era de mil doszientos e nouenta e seys annos.*”<sup>13</sup>

The *cuaderno* of the Cortes of Seville issued to the *concejos* of the diocese of Astorga in 1261 also begins with the king’s greeting. After he asked the counsel of the towns concerning the *fecho de Africa*, they asked him to correct certain grievances. He in turn sought consent, and set down his decisión: “*Et sobresto oviemos nuestro acuerdo e catamos aquellas cosas que se mejor podrien tener, e que serien servicio de dios e de nos, e a pro de todos communal miente. Et pusimos las desta guisa.*” In several of the laws he declared: “*otrossi pusimos.*” He concluded: “*queremos e tenemos por bien e mandamos que todas estas cosas sobredichas que se tengan e se guarden en todas guisas e defendemos que ninguno non sea osado de passar contra ellas en ninguna cosa.*” The date was in the usual form.<sup>14</sup>

In 1264, the king, on the request of Queen Violante, the archbishop of Seville and other bishops, the magnates, and the masters of the Military Orders who were with him, granted this privilege to the Extremaduran towns. In each of its eighteen laws he used the language of command - “*tenemos por bien et mandamos;*” “*tenemoslo por bien et mandamos;*” “*mandamos;*” “*damosles et otorgámosles;*” “*mandamos et defendemos.*” At the end he commanded that this document be sealed with his royal seal and declared that it was recorded in Seville “*por nuestro mandado martes, quince dias andados del mes de abril, en era de mill et trescientos et dos annos.*” Following that, he confirmed the privilege: “*otorgamos este privilegio et confirmámoslo.*” The bishops and nobles confirming it were listed. Finally, the scribe stated that he had written the text: “*Yo Johan Pérez de Burgos*

12. Rodríguez Díez 1909, pp. 698-713; López Ferreiro 1895, pp. 347-72; Procter 1980, pp. 273-284, no. 4.

13. García Ramila 1945, pp. 224-235; *CLC* vol. I, pp. 54-63; Sáez 1956, pp. 18-29, no. 8.

14. González Jiménez 1998, pp. 295-311; Rodríguez Díez 1909, pp. 715-720.

*lo escribí por mandado de Millán Pérez de Aellón, en el anno doceno que el rey don Alfonso regnó.*"<sup>15</sup>

Similarly, at Jerez in 1268, after consulting with merchants, he regulated certain economic matters: "*Et posimos la en la guisa que veredes eneste escrito.*" He concluded by commanding everyone to observe "*estas cosas e posturas.*" The date reads: "*Fecho el libro en Seuilla por mandado del Rey miercoles treynta dias de jullio era de mill e tresientos e seys annos. Yo Pero Gomes escriuano de Garcia Domingues notario del Rey en Andalusia lo fis escriuir.*"<sup>16</sup>

In reviewing the above, it is apparent that the text of the so-called *Ordenamiento* of Zamora is incomplete. As already noted, it lacks a proper introduction such as we find in royal privileges and the *cuadernos* of the Cortes, namely, the salutation, royal name, titles, and greeting. The introductory paragraph tells us that the king sought counsel at Zamora in June, "*en la era de mill e trezientos e doze annos,*" but ley 48 mentioned that the king and his *alcaldes* came to agreement on "*Viernes veynte dias de jullio.*" However, the typical chancery dating formula noting the place and date of composition and the name of the scribe and the one who instructed him to write it is missing. Instead, the concluding paragraph in this text reads as follows:

*E este ordenamiento fue fecho por mandado del sobredicho Rey don Alfonso, anno susodicho, que fue diez e nueve annos despues que el fuero castellano fue dado por este Rey don Alonso a los de Burgos en Valladolid, a veynte e cinco dias andados del mes de Agosto, era de mill e dozientos e noventa e tres annos, en el anno que don Odoarte, que fue primogenito heredero del Rey Enrique de Inglaterra, rescebio caballeria en Burgos del Rey don Alonso el sobredicho.*

Other than that paragraph, the *Ordenamiento* never identified the king by name. It is difficult to say why a connection should be made between the so-called *Ordenamiento* of Zamora and the *Fuero real* given to Burgos nineteen years before in August 1255 and Alfonso X's knighting of Prince Edward in November 1254 when he married the king's sister. The emphasis on the concession of the *Fuero real* to Burgos and the knighting of Prince Edward in that city seems to suggest that whoever prepared this document had a close connection to the *cabeza de Castilla*.

However that may be, I do not believe that the introductory statement (*Siguense*) already mentioned and this final paragraph were part of the original text of the *Ordenamiento*. Omitting those elements, we are left with a fragment of a memorandum recording the discussion and agreement reached by the king and his court concerning the processing of pleas. For want of a better term we may describe this text as an *Ordenamiento*, provided that we recognize that it is incomplete, and has

15. Iglesia Ferreirós 1983, pp. 455-521; Procter 1980, pp. 286-291, no. 7 (15 April 1264); Palacio 1888-1943, vol. I, pp. 95-102 (27 Abril 1264); Ubieto Arteta 1959, pp. 60-65, no. 21 (29 Abril 1264).

16. *CLC* vol. I, pp.64-85.

neither the proper introduction characteristic of authentic royal documents nor the customary chancery dating formula. In my opinion, the complete text was lost and we have only a fragment of the original.

## 2. WAS THE *ORDENAMIENTO* PROMULGATED IN THE CORTES OF ZAMORA?

The inscription (*Siguense*) in the manuscript containing the *Ordenamiento* in El Escorial tells us that it was promulgated in the Cortes of Zamora. It was also published in the *Cortes de los antiguos reinos de Castilla y León*. Nevertheless, we should ask, first, whether the king convoked the Cortes at Zamora? A quarter of a century ago Gonzalo Martínez Díez denied the existence of the Cortes of Zamora.<sup>17</sup> He remarked that it was unlikely that the king, having celebrated the Cortes of Burgos in March 1274, would convoke the Cortes again at Zamora in July. Moreover, he affirmed that the so-called *Ordenamiento* was not the work of the Cortes, but rather a draft or *minuta* prepared by the officials of the royal court.

As noted above, ley 91 of the *Leyes del estilo*, dated in 1310, referring to the *Ordenamiento* of Zamora, did not mention the Cortes. Nor does the *Crónica de Alfonso X*, written in the fourteenth century, allude to the Cortes of Zamora.<sup>18</sup> During his residence at Zamora from 5 June to 27 July 1274, the king issued numerous charters, at least 21, but none of them are *cuadernos* of the Cortes nor do they state that the king had convened the Cortes. The king attended to certain things concerning the archbishopric of Seville and complaints against Talavera; he confirmed privileges granted by Alfonso IX to the monastery of Vega, and one of Alfonso VII to Roa; he responded to a petition of the Dominican friars of Salamanca; he ordered that the rights of the chapter of Albelda, and of the churches of Astorga and Cuenca should be respected. Each of these charters is *sui generis*, since each refers to particular questions concerning each church, monastery, or town.<sup>19</sup> None of them has the general character that would be expected of a law enacted in the Cortes. Only two charters deal with the general issue of royal taxes. The king exempted the clergy of the bishopric of Leon, on 2 July, from the payment “of this *servicio* which they now give me, which is as much as two *monedas*.” On 24 July he informed the municipal council of Burgos that tributes should be levied as they were in the reigns of Alfonso VIII and Fernando III. Both charters refer to the concession by the Cortes de Burgos in March 1274 of two *servicios* during the current year.<sup>20</sup>

Thus, apart from the inscription of the *Ordenamiento*, we do not have any document that speaks of the Cortes of Zamora. As has been shown above, the text of the *Ordenamiento* makes no reference to the Cortes or to the presence or participa-

17. Martínez Díez 1991, pp. 151-153.

18. González Jiménez 1998, Murcia.

19. González Jiménez and Carmona Ruiz 2012, pp. 484-487, nos. 2670-91.

20. Ruiz Asencio and Martín Fuertes 1994, no. 2339; González Díez 1984, p. 128, no. 43.

tion of the representatives of municipalities ordinarily summoned to the Cortes.<sup>21</sup> On the contrary, the text reads: “*alos perlados e alos religiosos e a los ricos omes e alos alcaldes, tambien de Castilla como de León, que eran conel en Zamora*”. The text does not say that they were with him in the Cortes de Zamora. In addition, the *alcaldes* were not *personeros* or representatives sent by the municipalities to an assembly of the Cortes. On the contrary, the king asked the counsel of the bishops, religious, and magnates who formed the royal court, and the professional persons responsible for the administration of justice: the royal *alcaldes* of Castile and León appointed by the king, and the advocates and scribes, who were also named by him. They discussed “*las cosas porque se enbargavan los pleitos porque se non libran ayna, ni como devian*”. To deal with judicial proceedings, the king consulted his court, his *alcaldes*, and scribes who dispensed justice in the municipalities, and with the advocates who represented plaintiffs and defendants.

I do not believe that the *Ordenamiento* is evidence of an assembly of the Cortes. I do not think that the king summoned the Cortes to Zamora or that he promulgated the *Ordenamiento* in the Cortes. On the contrary, I believe that this was a meeting of the royal court that was broadened by including the participation of royal *alcaldes*, scribes, and advocates. The *Ordenamiento* regulated the judicial process in the royal court and in the courts of the realm presided over by royal *alcaldes*.

### 3. WHAT IS THE CONTENT OF THE *ORDENAMIENTO* OF ZAMORA?

It is time to study the content of the *Ordenamiento*. In order to facilitate the prompt resolution of lawsuits, the *Ordenamiento* focused on four topics: 1. Advocates; 2. Judges; 3. Scribes; and 4. The King. The *Ordenamiento*, in addition, listed the *casos de corte*, that is, cases that belonged exclusively to royal jurisdiction.<sup>22</sup> Let us see what the *Ordenamiento* says about each topic.

#### 3.1. The Advocates

The *Ordenamiento* begins by speaking about the advocates. The king confirmed that there were some places that were not accustomed to using advocates. On the other hand, he declared that in the kingdoms of León and Toledo, and in Andalucía, and in the towns that have “*libros del Rey*” they had to use advocates “*porque lo manda el fuero*.” In the kingdom of León, only laymen could function as advocates. Clerics were excluded, except in their own lawsuits or those of their churches (ley 1). There was concern that clerical advocates would introduce ar-

21. Procter 1980, pp. 137-138; O'Callaghan 1989a, pp. 114-117, 158-161; O'Callaghan 1989b, pp. 128-131, 175-177; O'Callaghan 1993, pp. 31-37, 42-45, 83-85, 218-223; O'Callaghan 1999, pp. 56-58, 67-70, 116-119, 264-267. Ayala Martínez and Villalba Ruiz de Toledo 1990, pp. 244-247, believe that the king summoned the Cortes of Zamora in 1274.

22. *CLC*, vol. I, pp. 87-94, no.16; Iglesia Ferreirós 1971, pp. 945-971.

guments derived from canon law. In León, Toledo, and Andalucía, the Visigothic Code, now translated as the *Fuero Juzgo*, was used. Undoubtedly, when speaking of the “*libros del Rey*,” the king referred to the *Fuero real* that he had given to the towns of Castile and Extremadura. It is evident that, although the king, in the Cortes of Burgos of 1272, promised to confirm the *fueros* of the municipalities, he had not annulled the *Fuero real*. Advocates had to argue their lawsuits according to the *fuero* or law of the land where they lived, and someone from another land was prohibited from acting as a judge or an advocate in Castile or León (leyes 9, 16).

In great lawsuits and those involving great men, litigants had to speak for themselves and could not employ advocates, or seek their advice, unless, due to some diminution of their capacity or condition, they could not do so and would need an advocate (ley 11). No advocate should take a lawsuit, unless he was prepared to argue it before the judge (ley 2). With the desire to open the courts so that the poor would obtain justice, the king promised to appoint two notable advocates, good men who feared God, to act in lawsuits of the poor, especially the poorest, who could not pay the advocates. If it was discovered that someone claimed to be poor in order to avoid paying an advocate, he would be fined double the cost, half payable to the king and half to the advocate (ley 3).

When the advocates were in the presence of the judge, they should stand and “*non razonen los pleitos bravamente contra los alcaldes ni contra la parte*.” Before the lawsuit began, the advocate had to swear that he would not act maliciously and that he would do everything so that the case could be resolved “*bien e derechamente e ayna*.” The judge could demand this oath of the advocates at any stage of the suit (ley 4). This was the oath of *manquadra*. If advocates swore falsely, they would be condemned as “*malos y falsos*” and excluded henceforth from the office of advocates and could not act as witnesses, or judges, or in any other office. They would also be fined twice the amount involved in the lawsuit and, as perjurers, would be subject to confiscation and exile (ley 5). The same penalty would apply to an advocate who offered his help and advice to both parties and accepted payment from them (ley 6). Other fines would be imposed if the advocate prolonged the procedure unnecessarily. If he were absent without a legitimate excuse, he would have to pay the expenses of both parties (ley 7).

No advocate should lodge with the judge or share with him what he earned from the lawsuit, under pain of 100 *maravedís*. If he did so, he could not act in a lawsuit in the future (ley 8). In addition, the advocate ought to swear that he would not tell a witness what to say, under penalty of 100 *maravedís* and loss of the right to function as an advocate in future (ley 10). He should also swear that he would not offer an argument that he knew to be false or that did not benefit his client (ley 12). In the hope of reducing unnecessary litigation, the advocate, who believed that a judge’s decision was correct, should swear that he would not advise his client to enter an appeal (ley 13). If the parties wished to resolve their controversy by agreement, the advocate should not dissuade them from doing so. Once a criminal case was filed in court, it could not be interrupted by a private agreement (ley 15).

As compensation for their work, both the *Espéculo* (4,9,8-9) and the *Fuero real* (1,9,1,5) assigned an advocate the twentieth part of the value of the lawsuit. The *Ordenamiento* also cited that number, but established a maximum payment of 100 *maravedís*. If the value was uncertain, the judge, after consultation with other judges, would determine fair compensation. Whatever the fee, the advocate was obliged to serve until the lawsuit was resolved (ley 14). Recognizing that an advocate should be paid according to the nature of the lawsuit and his own learning, the *Partidas* (3,6,14) also limited his salary to 100 *maravedís*. In 1280, for example, the king ordered the city of Burgos to pay Pedro Antolínez, advocate for the city, his salary for four years at the annual rate of 100 *maravedís*.<sup>23</sup>

### 3.2. Judges

After discussing the advocates, the *Ordenamiento* considered the judges of the royal court (*alcaldes de la corte*) fixing a certain number for three principal geographical areas: nine from Castile, six from Extremadura, and eight from León, or twenty-three in all. All would be laymen. The Castilian judges would alternate, three at a time, serving for three months each year. Judges should not hold court in a church or cemetery; the king should assign them lodging in the towns and places where he resided so they could adjudicate lawsuits. As the *Fuero Juzgo* continued in use in the kingdom of León, one of the Leonese judges had to be a knight familiar with “*el Fuero del libro y la antigua costunbre*” and should always be in the royal household. Where customary in the kingdom of León and Galicia, there should be knights (*juezes e alcaldes cavalleros*) who knew how to judge in accordance with the law and who were not criminals. The daily horarium began at mass at matins (about 6 a.m.) and, in the summer, concluded at the mass at tierce (about 9 a.m.), but in the winter at midday (leyes 17, 35).

Before hearing a case the judge should require the advocates to swear that they would not maliciously prolong the proceedings. After considering the arguments proposed by each party, the judge should render his decision on the third day at the latest, so that cases could be settled as quickly as possible (ley 21). Once a judge began to hear a case he was expected to conclude it before taking up another (ley 22). If he failed, without a legitimate excuse, to appear in court, he had to pay the costs to the parties (ley 23). No judge (including a judge of appeals) should allow an advocate or a litigant to reside with him, nor should he allow one advocate to plead his case privately without hearing the other. He should also hear lawsuits in the accustomed place (ley 24). If he attempted to hear more pleas in a day than he could, he had to pay daily costs to the plaintiff for the delay. In addition, lawsuits should not be prolonged, but should be completed “*lo más ayna que pudieren*” (ley 25). A judge who began to hear a case should not hand it off to another; but if that were necessary, he should provide the judge who replaced him with all the documentation so that earlier proceedings would not have to be repeated (ley 26).

23. González Díez 1984, pp. 102-103, no. 102 (15 April 1280).

Judges were admonished to hear cases well and gently; neither they nor the scribes ought to participate in offensive exchanges with the litigants. If they did so they would be punished as the king, taking account of the words and the people against whom they were spoken, saw fit (ley 28). Judges were expected to settle cases by themselves and not trouble the king unless they had a question for him (ley 29). Six huntsmen (*monteros*) and two porters (*porteros*) from the royal household were charged with maintaining order and removing those with no business before the court and arresting anyone if need be (ley 30). On Fridays and Saturdays the judges heard charges against prisoners, but were forbidden to use torture on Fridays. If the king wished, he would adjudicate such cases (ley 32). Petitions unrelated to the administration of justice that were brought before the judges should be remitted to the Confraternity of Santa María de España for presentation to the king (ley 31). Fines levied in the *casos de corte* were to be directed to the Order for the “*fecho del mar*” (ley 47).<sup>24</sup>

Reiterating the decrees of the Cortes of Valladolid in 1258 and Seville in 1261, the *Ordenamiento* of Zamora forbade a judge to accept a loan, money, clothes, animals, or anything else for himself or for his relations. If movable property was involved, he would be fined double the value; if it were landed property the king would seize it for the royal domain. This applied to all other judges, notaries, and advocates (ley 33). If a judge accepted a loan or a gift of money from an advocate or a litigant, he would have to repay twice the amount and pay a fine of 100 *maravedís* for each instance to the king. The king had to pay the salaries of the judges and otherwise support them so they could serve him (ley 34).

The law recognized the right to appeal from the sentence pronounced by a judge. Therefore, the king determined that there must be three “*omnes buenos entendidos e sabidores delos fueros*” to hear “*las alzadas de toda la tierra*” and scribes assigned to record the process. If the three judges could not agree, they should summon other judges to help them with their advice (ley 19). If they still could not agree, in the kingdom of León, the Extremaduras, Toledo, and Andalucía, the suit should be referred to the king. The process of appeal was more complicated in Castile. The appeal could be carried from the judges of the towns to the *adelantados* of the district and from them to the king’s judges and from them to the *adelantados mayores* of Castile or to those holding their place, and from them to the king (ley 20). Before starting the appeal, the judges had to require the advocates to swear that they did not make the appeal maliciously to prolong the litigation. Within three days of closing arguments, the judges had to pronounce sentence on the appeal (ley 21).

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24. Alfonso X founded the Military Order of Santa María de España in 1273. Torres Fontes 1981, pp. 794-821; Torres Fontes 1977, pp. 75-118.

### 3.3. Scribes

Royal scribes who had to compose authentic charters recording judicial procedure and the sentences pronounced by judges had a very important responsibility. On each Sunday the scribes, who should be laymen, should obtain from the chancery sufficient parchment for their work during the following week. In case of delay, the person responsible would have to pay double his salary to the king and the expenses of the litigants (ley 41). Every day, before a suit began, they had to give the judge all the documents relevant to the cases to be heard (ley 39).

In the morning, in consultation with the judge, the scribe should draw up notes of the charters to be written. After the midday meal, the scribe should compose the charters, and, at night, after the judge signed them, present them to the notary for review. The official record would be issued on the next day so that the litigants would not suffer any delay (ley 36). A scribe was forbidden to issue any charter without the order of the king or a judge. If a scribe was unavailable, he had to pay the litigants between 2 and 5 *sueldos* of the *moneda nueva* for every day's absence. These rules also applied to the notaries and registrars who copied the record into the royal registers (ley 37). Scribes had to write charters with their own hands and should not sign charters written by others (ley 38).

Fees charged by the chancery for sealing royal charters were set down in a book made by the court in Palencia in the year that Prince Edward of England married the king's sister Leonor. If the sealer asked for more, he would have to pay the litigants and the king a fine of 50 *maravedís*. A scribe who accepted money or any gift for the issuance of a royal charter without authorization would lose his office and suffer a double fine (ley 40). The book made by the court in Palencia can be dated between November 1254 when Edward and Leonor's marriage was celebrated in Burgos and May-June 1255 when the king resided in Palencia. Most scholars, following Martínez Marina, have assumed that the book was the *Espéculo* which established a schedule of fees for sealing charters (4,13,4). However, the *Ordenamiento* of Zamora referred only to a book and not to a book of laws, a *Libro de las leyes*, as the *Espéculo* was commonly called. I believe that it is more likely that while the royal court was at Palencia it was decided that the list of chancery fees (and perhaps other related materials) should be recorded in a separate book for easy reference. If that were the case, then the book mentioned would not be the *Espéculo*, but rather a book of fees excerpted from it.

### 3.4. The King

Traditionally, the king was expected to preside over his court, but as the number of cases increased, the burden on him also grew. In response to the request of the Cortes of Valladolid in 1258 (ley 8) and Seville in 1261 (ley 17), he pledged to sit in judgment three days a week. In 1274 he promised to do so until the midday meal on Mondays, Wednesdays, and Fridays. No one was to disturb him with other business during that time (ley 42). He expected the *alcaldes* appearing before him

to set forth the issues in dispute without engaging in stubborn disputations (ley 43). Only those *alcaldes* whom he summoned to assist him should appear; the others would attend to lawsuits presented to them (ley 44). Should anyone delay the proceedings, the king would take action against him (ley 45).

Following this, the *Ordenamiento* identified certain *casos de corte* or cases that always belonged to the jurisdiction of the royal court (ley 46): certain death (*muerte segura*) resulting from a challenge between nobles; rape (*mujer forzada*); violation of a truce between nobles (*tregua quebrantada*); breach of security (*salvo quebrantado*); arson (*casa quemada*); disruption of highways (*camino quebrantado*); treason (*traición*) to the king or the kingdom; perfidy among nobles (*aleve*); and the defiance of one noble by another (*riepto*). The *Leyes del estilo* (ley 91) had the same list. The *Espéculo* (4,2,12) had previously listed the same cases with the addition of counterfeiting the king's coinage, his seal, or his charters. The king repeated that list in his charter to Valladolid in 1258. The *Partidas* (3,3,5) added the cases of known thieves, the debasement of gold, silver and other metals; lawsuits against a powerful individual on behalf of an orphan, or a poor or wretched person who could not obtain justice otherwise. As these cases touched royal sovereignty, the king had to punish them. In 1279 the king reminded the *alcaldes* of Burgos that they did not have jurisdiction over these issues. Aquilino Iglesia Ferreirós affirmed that the predecessors of Alfonso X reserved some of these cases (disruption of roads, rape, thievery, and homicide) in their concessions of immunity. The addition of the cases of orphans and the poor in the *Partidas* goes back to Roman law and reflected Alfonso X's new status as emperor.

#### 4. CONCLUSION

Now let me summarize my conclusions concerning this text.

1. I believe that the document described as the *Ordenamiento* of Zamora is a fragment of a memorandum intended to facilitate judicial proceedings in the royal court. Intent on accomplishing that goal, the king presented a written statement to the bishops, magnates, and *alcaldes* of Castile and León in his court. In response, they submitted their ideas. The scribes and advocates who customarily functioned in the royal tribunal also offered their suggestions, though initially the king did not ask them to do so. He then accepted and confirmed the proposals presented to him.

2. The document as we have it is incomplete and is wrongly described as an *Ordenamiento*. The document lacks the salutation and intitulation customarily found in royal charters, privileges, and *cuadernos* of the Cortes. Also missing is the dating formula employed by the royal chancery, that is, the date and place of composition and the name of the scribe who drew up the document.

3. Neither the introductory paragraph beginning *Siguense las leys* nor the concluding paragraph beginning *E deste ordenamiento* were part of the original document. They are additions made by a later copyist or editor. It is noteworthy that the name of King Alfonso appears only in that final paragraph.

4. Although the introductory and final paragraphs describe the document as an *ordenamiento*, Alfonso X ordinarily did not use that word to refer to his laws. However, in two charters given to the merchants in 1278 and 1281 he did describe both documents as *ordenamientos*. Nevertheless, given the incomplete character of the text under discussion I do not believe that it is accurate to speak of the *Ordenamiento* of Zamora. With that caveat, however, I believe that for ease of reference one may continue to cite it as such.

5. I do not believe that this document was promulgated in the Cortes of Zamora. I know of no evidence that the king convened the Cortes there in 1274. The text of the document says nothing about the Cortes nor is there any mention of the presence of *personeros* representing the cities and towns. Nor does the document have the character of a *cuaderno* issued at the conclusion of the Cortes.

6. In my judgment, Alfonso X, perhaps prompted by complaints made in the Cortes of Burgos in the fall of 1272, decided to undertake a review of the structure and proceedings of the royal court so that justice might be more speedily delivered to litigants. He evidently delineated his own views in writing and took counsel with the bishops and magnates resident in his court and the professionals responsible for the daily functioning of the royal tribunal. The so-called *Ordenamiento* of Zamora is an incomplete fragment setting forth the king's decisions for the reform of the royal tribunal.

## BIBLIOGRAPHY

- Argüello, Vicente (1852), "Memoria sobre las monedas de Alfonso el sabio," *Memorias de la Real Academia de la Historia*, 8, pp. 29-34.
- Ayala Martínez, Carlos de, and Villalba Ruiz de Toledo, Francisco Javier (1990), "Las cortes bajo el reinado de Alfonso X," *Las Cortes de Castilla y León, 1188-1988*, Valladolid, vol. I, pp. 239-279.
- Ballesteros, Antonio (1911), "Las Cortes de 1252," *Anales de la junta para ampliación de estudios e investigaciones científicas*, 3, pp. 114-143.
- García Ramila, Ismael (1945), "Ordenamientos de posturas y otros capítulos generales otorgados a la ciudad de Burgos por el Rey Alfonso X," *Hispania*, 5, pp. 179-235, 385-439.
- González Díez, Emiliano (1984), *Colección diplomática del concejo de Burgos (884-1369)*, Burgos.
- González Jiménez, Manuel (1998), "Cortes de Sevilla de 1261," *HID*, 25, pp. 295-311.
- González Jiménez, Manuel (ed.) (1998), *Crónica de Alfonso X según el Ms. II/2777 de la Biblioteca del Palacio Real (Madrid)*, Murcia.
- González Jiménez, Manuel, and Carmona Ruiz, María Antonia (2012), *Documentación e Itinerario de Alfonso X el Sabio*, Sevilla.

- Gross, Georg (1985), "Las Cortes de 1252. Ordenamiento otorgado al consejo de Burgos en las Cortes celebradas en Sevilla el 12 de Octubre de 1252 (según el original)," *BRAH*, 182, pp. 95-114.
- Iglesia Ferreirós, Aquilino (1971), "Las Cortes de Zamora de 1274 y los casos de corte," *AHDE*, 41, pp. 945-971.
- Iglesia Ferreirós, Aquilino (1983), "El privilegio general concedido a las Extremaduras en 1264 por Alfonso X. Edición del ejemplar enviado a Peñafiel el 15 de abril de 1264," *AHDE*, 53, pp. 455-521.
- Kleine, Marina (2015), *La Cancillería Real de Alfonso X: Actores y prácticas en la producción documental*. Sevilla.
- Leyes del estilo*, in *Opúsculos legales del rey Don Alfonso el Sabio: publicados y cotejados con varios códices antiguos por la Real Academia de la Historia* (1836), Madrid, vol. II, pp. 235-352.
- López Ferreiro, Antonio (1895), *Fueros municipales de Santiago y de su tierra* Santiago de Compostela.
- MacDonald, Robert A. (1995), *Libro de las Tahurerías. A Special Code of Law, Concerning Gambling, Drawn Up by Maestro Roldán at the Command of Alfonso X of Castile*, Madison.
- Martínez Díez, Gonzalo (1991), "Cortes y ordenamientos de Alfonso X el Sabio (1252-1274)," *Annals of the Archive of "Ferran Valls i Taberner's Library": Studies in the History of Political Thought, Political and Moral Philosophy, Business and Medical Ethics, Public Health and Juridical literature*, 11-12, pp. 123-168.
- Martínez Marina, Francisco (1966), *Ensayo histórico-crítico sobre la legislación y principales cuerpos legales de los reinos de León y Castilla, especialmente sobre el Código de las Siete Partidas de don Alonso el Sabio*, in *Obras escogidas de don Francisco Martínez Marina*, ed. José Martínez Cardos, *BAE*, vol. CXCIV, Madrid.
- O'Callaghan, Joseph F. (1989 a), *The Cortes of Castile-León, 1188-1350*, Philadelphia.
- O'Callaghan, Joseph F. (1989 b), *Las Cortes de Castilla y León, 1188-1350*, traducido por Carlos Herrero Quiros, Valladolid.
- O'Callaghan, Joseph F. (1993), *The Learned King: The Reign of Alfonso X of Castile*, Philadelphia.
- O'Callaghan, Joseph F. (1999), *El Rey Sabio: El Reinado de Alfonso X de Castilla*, traducido por Manuel González Jiménez, Sevilla.
- Palacio, Timoteo Domingo (1888-1943), *Documentos del Archivo General de la villa de Madrid*, 6 vols., Madrid.
- Procter, Evelyn S. (1980), *Curia and Cortes in León and Castile, 1072-1295*, Cambridge.
- Rodríguez Díez, Matías (1909), *Historia de la ciudad de Astorga*, 2d ed., Astorga.
- Ruiz Asencio, José Manuel, and Martín Fuertes, José Antonio (1994), *Colección documental del Archivo de la catedral de León, IX (1270-1300)*, León.

- Sáez, Carlos (1990), *Los pergaminos del Archivo municipal de Alcalá de Henares: La Carpeta I*, Alcalá de Henares.
- Sáez, Emilio (1956), *Colección diplomática de Sepúlveda*, Segovia.
- Sánchez-Arcilla Bernal, José (2008-2009), "La 'teoría de la ley' en la obra legislativa de Alfonso X el Sabio," *Alcanate*, 6, pp. 81-123.
- Torres Fontes, Juan (1977), "La Orden de Santa María de España," *Miscelánea Medieval Murciana*, 3, pp. 75-118.
- Torres Fontes, Juan (1981), "La Orden de Santa María de España," *Anuario de Estudios Medievales*, 11, pp. 794-821.
- Ubieto Arteta, Antonio (1959), *Colección diplomática de Cuéllar*, Segovia.

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