

# THE REGULATIONS OF JAMES I CONCERNING THE JEWISH MONEYLENDERS: A PRELIMINARY REPORT

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## ABSTRACT

The discourse of the stereotype of the usurers of the Jews in the 13<sup>th</sup> century has been constructed without prior heuristic work on the relevant legislation. This article enumerates the constitutions and statutes dictated by James I regarding the usurers, and the usurers of the Jews, between 1228 and 1251, from shortly before to shortly after the conquest of the kingdoms of Majorca and Valencia. Surprisingly, there are fourteen of these, not included in any directory. The statutes are described in chronological order, the date and the territorial scope are established, along with the best copies and the prints that have made them accessible. Numerous confusions and defective interpretations are also corrected, and citations from non-existent statutes are reported.

## KEY WORDS

James I of Aragon, Legislation, Usurers, Usurers of Jews, Documentation.

## CAPITALIA VERBA

Iacobus I Aragoniae, Leges, Faeneratio, Iudaicae faenerationes, Documenta.

The notes that follow demonstrate many of the shortcomings that we experience in the field of history. Our predecessors did not strive for the publication of documents and directories, in a positivist manner, and we stumble through documentary sources. Hence, what should, by now, be only small gaps of information appear, in several major themes, as a sea of ignorance. Wanting to understand the significance of James I's regulations on Jewish usury, I have found a number of such gaps, and it appears to me useful to edit and present them here.<sup>1</sup>

The usury of the Jews is a theme so overdone and threadbare that one might imagine it would have been clarified years ago, at least in its legislative aspect. Not so. Francesc de Bofarull, in his well-known study of James I and the Jews —the preface to the publication of 168 inedited documents— touches on the question of usury but mentions summarily only two statutes enacted in December of 1228 and 31 March, 1229. Once reported, he adds: “other decrees on usury exist, and they appear in various works.”<sup>2</sup> By his words it remains clear that Bofarull did not remember the other statutes to which he alludes, nor did he bother to determine which registers contained them. Years later, the notary Arcadi Garcia devoted a monograph to the loans of the Jews of Vic during the fourteenth century. During the introduction, where he purports to present the legislation then in force, he disposes of the question with a single footnote which states: “The precepts are not cited because they are universally known;”<sup>3</sup> something that was not at all true. He then immediately gives proof that he himself did not know what they were.

Thus it stands today. Now, motivated by the eighth centenary of the birth of James I, I would like to clarify what the statutes say about Jewish usury, when they were published, which ones are still available, and where we can read them in print today. I have found that the preceding studies spew almost inextricable confusion, inaccuracies, omissions and errors.

## 1. Documentation

According to my research, the regulations of James I concerning usury, both Jewish and non-Jewish, are those indicated below, identified by the appropriate date. The regulations identified by capital letters are regulations that I consider major, those identified by lower case are minor, and those that are missing or erroneous are identified with the number “0” .

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1. Abbreviations: ACA, Arxiu de la Corona d'Aragó; AHCB, Arxiu Històric de la Ciutat de Barcelona.

2. *Otros decretos sobre la usura se dictaron, y constan en varias obras* (Bofarull y Sans, Francisco de Asís. “Jaime I y los judíos”. *Congrés d'Història de la Corona d'Aragó dedicat al rey en Jaume y a la seua època*. Barcelona: Ajuntament de Barcelona, 1913: II, 852).

3. *No se citan los preceptos por ser universalmente conocidos* (García, Arcadio. “Los intereses en los préstamos de los judíos de Vich durante la primera mitad del siglo XIV”. *Ausa*, 4 (1961-1963): 248).



### [0: Tarragona, 1218/1220]

According to David Romano, between 1218 and 1220, there was supposedly a council in Tarragona that set the limit of interest for the Jews at 20%; afterward this was reproduced in a statute of James I from 1228. Still, according to Romano, the council was held “in the presence of, or at the suggestion of, or was presided over by James I.”<sup>4</sup>

Since the monarch had still not reached thirteen years of age, and there remains no evidence that a council in Tarragona from these years occupied itself with interest rates for the Jews, we can relegate the information of David Romano to the realm of fantasy.

### [0: Tarragona, 1224]

A constitution passed by James I in 1224 has never existed. It is a lamentable error of the *Constitucions de Catalunya* that it was printed in the edition from 1588-1589 and continued in the edition of 1704. The error was discovered by the French historian Brutails,<sup>5</sup> but one hundred and ninety years later historians like Josep Maria Pons i Guri, Arcadi Garcia and his followers still fall victim to the mistake.<sup>6</sup> We must emend the faulty date and place the constitution in the year 1234 of the Incarnation. I will speak about this in a moment under: [D: Tarragona, 07.02.1235 (Enc. 1234)].

### 1.1. [A: Barcelona, 22.12.1228]

James I enacted his first statute concerning the loans of the Jews and their usury. The law was passed in a *cort general* held in Barcelona with the bishops and magnates of Catalonia in attendance, but without the bishops and magnates of Aragon. It contains the date of the eleventh of the Calends of January, 1228 AD. It does not need to be changed to 1227 as some have stated.

4. *en presència o sota la presidència o a suggeriment de James I* (Romano, David. “Els jueus de Girona als segles XII-XIII”, *Simposi Mossé ben Nahman i el seu temps*. Girona: Ajuntament de Girona, 1994: 57, nota 111).

5. *Partie de la constitution de 1234 a été publiée dans les Constitucions de Catalunya*, t. iii, liv. iv, tit. vi, art. 1, sous la date de 1224, ce qui est une erreur d'impression (Brutails, Jean-Auguste. *Étude sur la condition des populations rurales du Roussillon au Moyen Âge*. Paris: Imprimerie Nationale, 1891: 79).

6. Pons i Guri, Josep Maria. *Recull d'estudis d'història jurídica catalana*. Barcelona: Fundació Noguera, 2006: IV, 213; *Furs de València*, eds. Germà Colon, Arcadi Garcia. Barcelona: Barcino, 1983: IV, 95, nota 5. Among those who repeated the error of 1224 is: Romano, David. “El estatuto de Huesca (1307) sobre la usura judía”, *XV Congreso de Historia de la Corona de Aragón. El poder real en la Corona de Aragón (Siglos XIV-XVI)*. *Actas*. (Jaca, 20-25 septiembre, 1993). Saragossa: Diputación General de Aragón. Departamento de Educación y Cultura, 1996: I/V, 262, nota 25.



During these *corts* in Barcelona, James I issued at least five solemn documents.<sup>7</sup> The statute dealing with usury was promulgated one day after recognizing the bishops of Catalonia and ratifying the Peace and Truce, valid from *Salses* to the *Cinca*.<sup>8</sup> Then, the day after issuing the law, the king signed a promise to divide the spoils of the conquest of Mallorca between those who accompanied him and then, on the third day, the king donated the churches of Mallorca to the bishop of Barcelona.

The statute dedicates six chapters to the Jews and their loans, and eight to the *veguers* of the royal land in Catalonia. The declaration argues (*perpetuis temporibus inviolabiliter stadiums*) that the sovereign must ensure the good of his kingdom in perpetuity. The monarch establishes that the Jews of his land can not charge a higher rate of interest than twenty percent per year, whatever the capital or the duration of the loan (*Judei terre nostre non recipiant pro usuris nisi xx solidos pro centena in anno, et secundum hanc format fiat computatiom ad minus tempus vel maius, et ad quantitatem maiorem vel minorem*). Furthermore, the king declares the oaths given by the Jews invalid when they denounce unpaid debts; he orders the Jews to respect the priority of women's dowries when Jews reclaim debts from their husbands; and he decrees that if Jews allow two years to pass without legally demanding a debt, or a judge does not establish the quantity of interest, the lender cannot claim interest exceeding twice the equity borrowed. Beyond the question of loans, he stipulates that the Jews cannot hold public office (*officia publica non presumant aliquatenus exercere*), specifying that they cannot be judges or execute sentences over people, either Christians or Jews (*videlicet, officium iudicandi vel justiciandi homines vel puniendi, vel etiam sententias exequendi*), neither can Jews maintain Christians females in their homes.

The surrounding context and wording of this statute shows that its geographic reach was Catalonia. It was constrained to the limits of the dioceses and the territory of the royal domain governed by the *veguers*. It is no wonder, then, that it has not been found copied in Aragonese Episcopal cartularies. King Peter the Great, in the *corts* of Barcelona held in 1283-1284, confirmed the statute literally, together with other constitutions of his predecessors, revalidating them all within Catalonia (*intra limites Cathalonie*). We will discuss this confirmation below.

Taken from a pair of compilations of Catalan constitutions preserved in Paris, the statute was printed in the appendix of the *Marca Hispanica*, number 507.<sup>9</sup> Found in the *Llibre Verd* in Girona, it was printed in 1877 in a publication rarely consulted by scholars.<sup>10</sup> Found in another pair of compilations conserved in the library of the

7. *Documentos de Jaime I de Aragón. 1. 1216-1236*, eds. Ambrosio Huici Miranda, María Desamparados Cabanes Pecourt. Valencia: Anubar ediciones, 1976: 205-218 (docs. n° 110-114).

8. Translator's Note: The phrase, *de Salses al Cinca*, is meant to denote the borders of Catalonia. The castle town of Salses, nowadays in France, was the last medieval Catalan castle on the Northern border, and the river Cinca helped form the sometimes disputed boundary between Catalonia and Aragon in this time period.

9. Marca, Petro de. *Marca hispanica sive limes hispanicus, hoc est, geographica et historica descriptio Cataloniae, Ruscinonis et circumjacentium populorum*. Paris: Franciscum Muguët, 1688: col. 1415-1416.

10. Grahit, Emili. "Llibre Vert del cabildo de la catedral de Gerona". *Revista històrica*, 4 (1877): 118-119; 366-367. We should note that the editor is incorrect when he says that "this document should not be



*Escorial*, it was printed by Fidel Fita and Benvingut Oliver in the first volume of the *Cortes de los antiguos reinos de Aragón y de Valencia y Principado de Cataluña*.<sup>11</sup> Without indicating a specific source, it was reproduced by Huici-Cabanes in number 112.<sup>12</sup> The first part of the statute translated into Catalan was printed in the *Constitucions de Catalunya* in 1588-1589 and again in 1704, relegated to the volume of “superfluous and repealed” statutes (third volume, book I, title V, articles 2 and 7).

Although it ought to be done, a hypothetical critical edition of the 1228 statute is not easily prepared because there are notable variants between the texts. The majority of the copies that I have been able to locate are derived from the affirmation of Peter the Great, given more than half a century later than the authorization. This is the text in the *Llibre Verd* of Barcelona (vol. I, f. 79r-80r). I do not know where we might find a reliable contemporary copy.

### 1.2. [b: Lleida, 31.03.1229]

The question of usurious loans was as tangled for the men and women of the thirteenth century as it is for us today. The bishop of Girona, more sensible than others, requested a circular to clarify several points on the opaque legality of usury. James I complied with the prelate’s requests, added to the papal legate’s, and three months after the *corts* of Barcelona the king issued a provision on the matter. The statement is dated in Lleida the day before Calends, April, 1229.

The provision is addressed to the *veguers*, mayors (*batlles*), judges, notaries, and Jews in the counties of Girona and Besalú. It excludes the county of Empúries within the diocese of Girona as it was not the king’s land. The statement orders the notaries to draw up the loan instruments at the rate of twenty percent and not at the rate of one *puges* per *diner* or at any other rate (*faciatis instrumenta usuraria ad rationem de centum xx, et non ad rationem pugesimalium vel alio modo*). It also prevents them from adding the interest to the initial capital. This is all under penalty for the offender, be they judge, notary or Jew, of a fine of double the amount stipulated and the loss of the loan on the part of the Jewish lender. Incidentally, the king also insisted on the other provisions issued at the *corts* of Barcelona, all of which also interested the bishop of Girona.

The expression, *ad rationem pugesimalium*, that king Jaume used in this provision remains unexplained up to today. It is not difficult to find: the contemporary *Costums de Lleida*, edited by Guillem Botet, shed light on the question. Guillem Botet, when

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confused, now published for the first time, with those that can be read under numbers DII, DVI, and DVII of the appendix of *Marca Hispanica*,” (no debe confundirse este documento, que por primera vez se publica, con los que se leen en los números DII, DVI y DVII del apéndice de la *Marca Hispanica*) (Grahit, Emili. “Llibre Vert del cabildo de la catedral de Gerona”...: 118-119; 366-367). It is the same number 507 of: Marca, Petro de. *Marca hispanica sive limes hispanicus*...: col. 1415-1416 (doc. n° 507).

11. “Cortes de Cataluña”, *Cortes de los antiguos reinos de Aragón y de Valencia y Principado de Cataluña*. Madrid: Real Academia de la Historia, 1896: I/1, 120-122, first part including the years 1064 to 1327.

12. *Documentos de Jaime I de Aragón*. 1...: 211-213 (doc. n° 112).



the theme touches on usury, says that it is prohibited to charge interest on *diners* at a rate of *pugeses*. Since the *pugeses* is one quarter of a *diner*, we can infer that in both cases it is saying that an interest rate of 25% is prohibited.<sup>13</sup>

Scholarship has recognized this royal provision since 1850 when it was printed in the *Viage literario* of Jaume Villanueva.<sup>14</sup> Enric-Claudi Girbal, without saying where he found it, reproduces the provision in his history of the Jews of Girona.<sup>15</sup> Fita and Oliver also published it in a footnote on page 122 of volume one of the *Actes de Corts Catalanes*, even though it was not a document issued in a *cort*.<sup>16</sup> Huici-Cabanes reproduces it as number 117.<sup>17</sup> I do not know of any other ancient copy than that which Villanueva found in some unidentified ecclesiastical archive of Girona.

It is clear that the provision was intended for the counties of Girona and Besalú, which formed part of the bishopric of Girona, and was valid only within that territory. Most historians attach this provision of 1229 to the statute from the previous year, as if it were complementary. This leads to incorrect assertions. The provision does not have the same importance as the statute of 1228 and did not have as wide a scope.

### **[0: Lleida, 13.04.1229]**

This is a document that has not been found anywhere. José Amador de los Ríos mentions it, surely from his own confusion.<sup>18</sup> He attributes to it the same content as the provision that we have just described [b: Lleida, 31.03.1229]. However, he says that the statute was issued, “on the Ides of April, 1229, in the city of Lleida.” The error must have come from poorly taken or interpreted notes because he says that the document was published in volume 13 of the *Viage literario* of Jaume Villanueva, which is true, as well as in the appendix of the *Marca Hispanica*, which is not.

### **1.3. [C: Barcelona, 30.11.1230]**

This is a solemn document, endorsed by the noble royal advisors, together with the archbishop of Tarragona and the bishops of Barcelona and Girona as witnesses.

13. *Nemo percipiat usuram (...), et denarios ad rationem pugesalium: Costumbres de Lérida*, ed. Pilar Loscertales de Valdeavellano. Barcelona: Universidad de Barcelona. Facultad de Derecho, 1946: 46, article 83. For a more recent edition with a Catalan translation, see: *Els Costums de Lleida*. Lleida: Ajuntament de Lleida, without date (1997): 81r (image), 95 (transcription), 137 (translation).

14. Villanueva, Jaume. *Viage literario a las iglesias de España*. Madrid: Imprenta Real, 1852: XIII, 316-317.

15. The monograph of Girbal, published in 1870 (Girbal, Enrique Claudio. *Los judíos en Gerona*. Girona: Imprenta de Gerardo Cumané, 1870: 65), has been reproduced as: Girbal, Enrique Claudio. “Los judíos en Gerona”, *Per a un història de la Girona jueva*, David Romano, dir. Girona: Ajuntament de Girona, 1988: I, 91, the provision is on page 91.

16. “Cortes de Cataluña”...: I/1, 122.

17. *Documentos de Jaime I de Aragón*. I...: 221-222 (doc. nº 117).

18. Amador de los Ríos, José. *Historia social, política y religiosa de los judíos de España y Portugal*. Madrid: Aguilar, 1973: 214.



In it, James I confirms in general terms the Peace and Truce established at the *cort* of Barcelona (from 1228) on the one hand, and the statute concerning usury on the other. It is dated the day before Calends, December, 1230.

Confirming what had been expressly sanctioned two years previously, in 1228, the king formulates two provisions: the first for loans in general and the second for the loans of the Jews (a distinction that had not existed prior to this case). Concerning loans in general, the document prohibits notaries from drawing up loan instruments with a higher rate of interest than 20%, forcing them to clearly separate the capital and the interest (*mandantes tabellionibus ut non faciant instrumenta usuraria nisi ad rationem de centum xxi, et quod non misceant, set dividant sortem ab usuris*); For the Jews, it states that they cannot charge more than 20% (*et quod judei non recipiant ultra xxi pro singulis centum solidis*).

The 20% mentioned in the text should be annual, but, as the documents does not specify, it could be interpreted by someone to refer to a 20% maximum of the total of the loan, or in extreme cases, to a 20% monthly interest. Curiously, as if attempting to divert attention from the loans, the king then tangentially states that draft animals cannot be seized for a debt, and promises that he will not grant *guiatges*<sup>19</sup> belonging to monasteries or knights (*homes propis*), without the consent of their masters.

There is no need to discuss whether this brief new statute, which nominally ratifies the statute of 1228, but does not say so explicitly, should be considered general throughout all the lands of James I or only particular to Catalonia. It is as Catalan as the confirmed Peace and Truce. It exists in only one original on vellum, conserved in the *Arxiu Capitular de Girona*, and in a copy in the *Llibre Verd* of the chapter of Girona; the year 1877 was printed in the "*Revista històrica*," already cited.<sup>20</sup> Stating that he took the text from the parchment original, Jaume Marquès printed the document in his monograph on the Jews of Girona in the thirteenth century.<sup>21</sup> Huici-Cabanes reproduced it as number 143.<sup>22</sup>

### **[0: Tarragona, 18.03.1233]**

This is a phantom document. Jaume Marquès mentions it without giving a reference. He says that it is a privilege by which, under pain of death and all posses-

19. A letter from the king granting a person free passage through the realm stopping any judicial proceeding against him.

20. Grahit, Emili. "Llibre Vert...": 368-369.

21. Marquès Casanovas, Jaume. "Judíos de Gerona en el siglo XIII". *Annals de l'Institut d'Estudis Gironins*, 25/1 (1979): 294; Marquès Casanovas, Jaume. "Judíos de Gerona en el siglo XIII", *Per a un història de la Girona jueva*, David Romano, dir. Girona: Ajuntament de Girona, 1988: II, 480, the royal confirmation is on page 480.

22. *Documentos de Jaime I de Aragón*. I...: 259 (doc. n° 143).





sions, the Jews are obligated to surrender the loan instrument when they receive the repayment, or swear before a judge or notary that they lost it.<sup>23</sup>

The document cannot be from the date attributed by Jaume Marquès because James I was not in Tarragona on that day. I have not found it anywhere and it is difficult to believe that a royal document would impose the death penalty and the confiscation of goods on a Jew who retained the loan letter after the loan had been satisfied. One particular existing provision of James I could, if badly interpreted, have given rise to this imaginary one. It is a provision in favor of the men (*homes propis*) of the monastery of *Cornellà de Conflent*, in which the king orders the Jews to return the debt letters when they have been satisfied; however, the date does not correspond to that assigned by Jaume Marquès, it is not a provision with broad scope, and the penalty imposed on the offenders is a fine of one hundred *morabatins*.<sup>24</sup>

### **[0: Tarragona, 07.02.1234 (Enc. 1233)]**

This is an incorrectly dated document based on a copy printed in the *Marca Hispanica*.<sup>25</sup> The document is from the following year from that which is listed: MC-CXXXIII; this should be MCCXXXIII. I will discuss this shortly in the section: **[D: Tarragona, 07.02.1235 (Enc. 1234)]**.

### **[0: Tarragona, 17.05.1234]**

This document is dated with an incorrect year and month. The archivist Pròsper de Bofarull is responsible for the error; he printed the document in volume six of the *Colección de documentos inéditos del Archivo de la Corona de Aragón*.<sup>26</sup> The clear and explicit date from the document published by Pròsper de Bofarull is: Tarragona, 16<sup>th</sup> of the Calends of April, 1234 AD. I will indicate where this belongs in the section: **[E: Tarragona, 17.03.1235 (Enc. 1234)]**.

### **1.4. [D: Tarragona, 07.02.1235 (Enc. 1234)]**

During the celebration of a synod or ecclesiastical parliament at the metropolitan see, with all of the bishops of the province *Tarraconense* in attendance, James I

23. Marquès Casanovas, Jaume. "Judíos de Gerona en el siglo XIII". *Annals...*: 288-289; Marquès Casanovas, Jaume. "Judíos de Gerona en el siglo XIII", *Per a un història...*: II, 474-475.

24. This is a provision dated, Osca, 23.05.1268. It was published by Francesc de Bofarull in the collection of documents cited in Bofarull y Sans, Francisco de Asís. "Jaime I y los judíos"...: II, 889-890 (doc. n° 67).

25. Marca, Petro de. *Marca hispanica sive limes hispanicus...*: col. 1425-1427 (doc. n° 511).

26. *Colección de documentos inéditos del Archivo de la Corona de Aragón*, 6, *Procesos de las antiguas Cortes y Parlamentos de Cataluña, Aragón y Valencia*, ed. Próspero de Bofarull y Mascaró. Barcelona: Establecimiento Litográfico y Tipográfico de José Eusebio Monfort, 1850: 104-111.





reiterated the statute or constitution concerning usury, including a new constitution. It is dated in Tarragona, 7<sup>th</sup> of the Ides of February, 1234 AD. It contains regulations on religious matters such as the inquisition, the persecution and punishment of heretics, the possession of sacred books in the vernacular, and the liberty to transfer goods to the church, among other rules, for a total of 24 chapters.

Among them, in a brief item, the document newly regulates the rate of loans allowed for Jewish moneylenders, but not for all. Referring explicitly to the Jews of Catalonia and Aragon, the document excludes Jews from Majorca or Montpellier. The statute continues to set the rate at 20% (without stating that it is an annual rate), and it reiterates the prohibition on adding interest to the capital (*Item statuimus quod iudei non recipiant ultra viginti de centena, et quod non misceant usuram cum sorte; et tam in Cathalonia quam in Aragonia precipimus observari*). In another section, the king adds that any contract of sale (either from a Jew or non-Jew) that is stipulated with the fraud of usury is invalid, and that it must be considered usurious (without explaining how one might determine a fraud of usury).

For reasons that we cannot guess, the constitution was not included as such in the *Furs d'Aragó*, redacted by a bishop, nor are any Aragonese copies known. It is found copied among the Catalan constitutions, along with more general provisions like the Peace and Truce, in the *Llibre Verd* of Barcelona.<sup>27</sup> It can be found printed in the *Marca Hispanica*, number 511, with the incorrect year;<sup>28</sup> it was reproduced without correcting the year by Tejada.<sup>29</sup> With the correct year, it was printed in the *Corts Catalanes*,<sup>30</sup> and in the critical edition of the Peace and Truce of Catalonia, prepared by Gener Gonzalvo.<sup>31</sup> Huici-Cabanes reproduced it as number 212.<sup>32</sup>

The articles of the constitution, translated into Catalan, entered the official compilations printed in 1588-1589 and 1704; however, it did not enter completely, but rather in difficult to reconstruct pieces. The initial genealogy of the book should have been compiled, from James I, as the constitutions issued “in Tarragona, in the year MCCXXXIII.” However, the items concerning Jewish usury were relegated to the volume of the “superfluous and repealed” (*superflues i derogades*), as they had become obsolete by the time the constitutions were printed (Third volume, book IV, Title VI, article 1).<sup>33</sup> It was printed with the unfortunate typographical error in the lead article with the year “1224” in place of “1234 AD,” in addition to omitting the regional understanding from Aragon.

27. AHC.B. Fons Municipal. Llibre Verd, I/1, f. 80r-81r.

28. Marca, Petro de. *Marca hispanica sive limes hispanicus ...*: 1425-1427 (doc. n° 511).

29. *Colección de cánones y de todos los concilios de la Iglesia de España y de América: en latín y castellano*, ed. Juan Tejada y Ramiro. Madrid: Imprenta de Pedro Montero, 1859: III, 362-366.

30. “Cortes de Cataluña”...: I/1, 123-127.

31. *Les Constitucions de Pau i Treva de Catalunya. (Segles XI-XIII)*, ed. Gener Gonzalvo i Bou. Barcelona: Generalitat de Catalunya. Departament de Justícia, 1994: 174-181 (doc. n° 27).

32. *Documentos de Jaime I de Aragón. I...*: 349 (doc. n° 212).

33. *Constitucions y altres drets de Catalunya: compilats en virtut del capitol de cort LXXXII de las Corts del rey Philip IV*. Barcelona: Departament de Justícia de la Generalitat de Catalunya, 1995: III, book IV, title VI, article 1.



### 1.5. [E: Tarragona, 17.03.1235 (Enc. 1234)]

A few weeks later, still during the assembly of Tarragona, under the *Cort general*, James I gave his approval to a series of rules inscribed in formal documents as a constitution. The document begins with a reiterated confirmation of the Peace and Truce and continues with diverse and disparate regulations concerning challenges, the diet of the court, luxury clothing, the price of grain, etc.

When speaking of usury, the monarch again distinguishes between those making loans in general and those loans made by Jews. For those who make loans in general, the regulations distinguish interest rates according to whether the loan was made in gold coin or in silver (*moneda d'or o en sous de plata*). Loans, says the monarch, cannot exceed 15% per year in gold or 12% per year in silver (*Nullus debitor teneatur solvere suo creditori, nomine usurarum, nisi xv aureos pro c in anno, et xii solidos pro centum, et non plures*). For the Jews in particular, under the maximum penalty of death and loss of goods, the new constitution established the interest rate at 20% per year (*Judei vero, accipiant pro c solidis viginti in anno, et non plures*).

An original of this constitution, dated in Tarragona the 16<sup>th</sup> of the Calends of April, 1234 AD, is preserved in the *Arxiu de la Corona d'Aragó*.<sup>34</sup> Without mentioning a previous publication, it was printed by Pròsper de Bofarull, in volume VI of the *Colección de documentos inéditos del Archivo de la Corona de Aragón*, with the incorrect date of the 17<sup>th</sup> of May, 1234.<sup>35</sup>

Indeed, the constitution, taken from a compilation conserved in Paris, had been printed in the appendix of *Marca Hispanica*.<sup>36</sup> It was reproduced in the *Cortes de Catalunyaña*,<sup>37</sup> and again by Huici-Cabanes as number 217.<sup>38</sup> Gener Gonzalvo published a critical edition of the text, as number 28 in his compilation,<sup>39</sup> with an error when transcribing "XII kalendas aprilis" in place of "XVI kalendas aprilis," which is how the original document reads. The *Constitucions de Catalunyaña* printed and translated the section referring to the Peace and Truce (volume I, book X, title XI, chapter XI),<sup>40</sup> but, without explanation, it omits the articles of this particular constitution. The *Furs d'Aragó* ignores this constitution as well as all the provisions discussed thus far.

34. ACA. Cancellaria. Pergamins de James I, 633.

35. *Procesos de las antiguas cortes y parlamentos de Cataluña, Aragón y Valencia, custodiados en el archivo general de la Corona de Aragón*, ed. Próspero de Bofarull y Mascaró. Barcelona: Establecimiento litográfico y tipográfico de Don José Eusebio Monfort, 1850: 104-111.

36. Marca, Petro de. *Marca hispanica sive limes hispanicus...*: col. 1428-1433 (doc. n° 513).

37. "Cortes de Catalunyaña"...: I/1, 127-133.

38. *Documentos de Jaime I de Aragón. 1...*: 357-361 (doc. n° 217).

39. *Les Constitucions de Pau i Treva de Catalunya...*: 182-191 (doc. n° 28).

40. *Constitucions y altres drets de Catalunyaña...*: I, 498-502.



### 1.6. [F: Girona, 25.02.1241 (Enc. 1240)]

This is a constitution dedicated exclusively to the loans of Jews. It is the most solemn of all and ultimately became the definitive constitution where it was applied, but it was not applied in all the territories that were subject to the monarch.

First, it must be said that the constitution changes much with regard to the previous constitutions. From the preamble, the text thunders against the insatiable avarice of the Jews and their immoderate usury; even while admitting that the utility, necessity and Christian favor recommends granting the Jews license to lend money (with interest).

The first innovation of the constitution is that James I addresses it to all of his subjects (*universis terrarum ac regnorum subjectis*). He declares it expressly applicable to the Jews of all of his domains, into which had already been integrated the kingdoms of Majorca and Valencia. (Afterwards, we will see that the *Furs de València* and the legal codes of Majorca do not include this constitution.)

Another innovation is the change in the interest rate from the 20% that until then the monarch had consented to as the maximum for the loans from the Jews. The change went unnoticed by José Amador de los Ríos, followed by many with great fidelity.<sup>41</sup> Then, the king determined that the interest on capital loaned by the Jews could not exceed four *diners* per *lliura* per month (*quatuor denarios in mense pro qualibet libra denariorum, nec ultra istum modum alias*); thus, the maximum is 1.666% per month (4 *diners* over the 240 that make up a *lliura*).

The rate is not the same as before. With great surprise and confusion for many, the king then establishes that the new monthly interest is not applicable to the annual rates. Notwithstanding that it is possible to multiply the monthly rate by twelve (which would be 19.999%), rather he expressly determines that at the end of a year, the interest cannot exceed one sixth of the capital (*peccunia mutuata in uno anno in sexta tantum parte augmentetur*). The maximum annual percentage, then, remains fixed at 16.666% (100: 6 = 16.666), as if the year had ten months or, more precisely, determining that the “months” of the Jewish loans had five weeks.

We can speak of confusion since there are Aragonese versions that modify, not to say manipulate, this constitution. Some versions, like that of the *Vidal mayor*, change the *sexta parte* annual rate set by the king to a *quinta parte*, making it maintain the 20% annual rate.<sup>42</sup> Other Aragonese versions, such as that conserved at

41. “The interest rate for the Jews of 20 percent was established by the constitution of 1234, granted in the cited *corts* of Tarragona and copied almost to the letter and published in the *corts* of Girona of 1240.” *Por constitución de 1234 otorgada en las citadas cortes de Tarragona, y repetida casi al pie de la letra en otra publicada en las de Gerona de 1240, se había establecido el 20 por 100 de usura para los judíos* (Amador de los Ríos, José. *Historia social...*: 222, note 7). This good man must not have understood his own notes. On page 226, when he announces that he will dedicate an appendix to his transcription of the oath and curses, he correctly states that the text was finalized at the court in Girona in 1241; but when he published the text in appendix III, page 902, he said that it was from the court in Barcelona in 1228.

42. *Vidal mayor*. Edición, introducción y notas al manuscrito, eds. María de los Desamparados Cabanes Pecourt, Asunción Blasco Martínez, Pilar Pueyo Colomina. Saragossa: Certeza, 1996: 188, book V (doc. n° 232). Gunnar Tilander, an expert on the *furs d’Aragó*, noticed the discrepancy between the versions and sup-



*Miravete de la Sierra*, claim that the king stated that the new rate is the same as the old “by reason that IIII *diners* for a *lliura* per month, that is to say XX *sueldos* of capital per IIII *diners* of interest each month, or C *sueldos* of capital for XX *sueldos* of interest in a year.”<sup>43</sup>

To lay this confusion to rest, it should be noted, for those who do not know, that the power of a monarch in the thirteenth century extended to the regulation of the length of a month — a power that James I exercised. The year has twelve months and the week seven days. These are amounts that cannot be changed. However, the months are not equal among themselves and they do not have the same number of weeks or days. From the testimony of Fra Matfré Ermengol we know that the moneylenders had introduced the abusive practice of rounding months down to four weeks, allowing them to count thirteen months per year and add a month of interest.<sup>44</sup> James I opposed this abuse head-on. Abandoning the traditional yearly count, which was no longer practiced, he determined the monthly rate and lengthened the months to five weeks for the calculation of the yearly rate.<sup>45</sup>

As far as I know, no historian has yet tried to explain the motive of the change in interest rates on Jewish loans ordered by the constitution of 1241. Neither has anyone remarked on the apparent anomaly of determining an annual rate of interest that is not the monthly rate multiplied by twelve, and further that both rates are expressed with difference mathematical operations. The large majority of modern historians, being puzzled, have pretended that they did not notice these problems or the different between versions. Using phrases copied amongst themselves, they assure us that the allowed rate of interest for Jewish loans was always the

ported the version in *Vidal mayor*. According to Tilander, the “sixth” (*sexta*) is a mistake and should say “fifth” (*quinta*): *Los Fueros de Aragón, según el manuscrito 458 de la Biblioteca Nacional de Madrid*, ed. Gunnar Tilander. Lund: C. W. K. Gleerup, 1937: 96. However, the manuscript that he transcribed, which is in Aragonese, says “sixth part” (*sexta part*), not fifth.

43. *a razón de IIII dineros por una livra en el mes, ço es asaber, xx sueldos de capdal por IIII dineros de logro en el mes, o c sueldos de capdal por xx sueldos de logro en un anno* (*Los Fueros de Aragón, según el ms. del Archivo Municipal de Miravete de la Sierra (Teruel)*), ed. Antonio Gargallo Moya. Saragossa: Anubar, 1992: 113-114; also announced on 87).

44. “A month is written in IIII ways. The first way is the natural month; the second is the lunar month, and the third is the month of the usurer, and the last is called common (...). The third type of month is called the month of interest by the usurer, since he loans his money at four *diners* per *liura* per month, he, for those who have borrowed from him, counts four weeks in one month; and he does this to deceive them because by this count, there would be thirteen months in the year. And thus this month is called the month of usurers.” (*Un mes és escrit en IIII maneres. La I<sup>a</sup> manera és dit mes natural; e l'altra manera és dit mes lunar, e l'altre mes és dit mes d'usurer, e l'altre mes és dit comú (...). La terça manera del mes és dit d'usurés per ço com l'usurer, com liura sos diners a IIII diners per liura a 1 mes, comta, a aquells qui an pres d'ell, IIII setmanes per 1 mes; e fa-ho per tal que ls engan en açò, cor, a aquest comte aytal, auria XIII meses en l'any. E aquest mes aytal és dit mes dels usurers*) (Ermengaud, Matfré. *Breviari d'Amor: manuscrit valencia del segle XV* (Biblioteca Nacional de Madrid), ed. Antoni Ferrando i Francés. Valencia: Vicent García, 1980: 59a).

45. The *Costums de Lleida* that mention usury also count ten months in a year. They prohibit interest rates above twenty percent in gold per year, and two percent per month: “Nemo percipiat usuram de auro nisi de centum aureis viginti in anno, vel in mense duos” (*Costumbres de Lérida...*: 46, article 83).



same because four *diners per lliura* per month was equivalent to 20% per year.<sup>46</sup> However, some historians —uncritically adopting an erroneous statement of Antoni de Capmany that was accepted by Francesc de Bofarull<sup>47</sup>— claim that in 1241, the interest rate for Jews was set at 18% annual. I have not found this mistake pointed out by anyone, possibly, among other reasons, because Capmany himself refers to Tomàs Mieres, a jurist from the 15<sup>th</sup> century who historians have not bothered to consult.<sup>48</sup>

It is not at all clear that the 1241 constitution maintained the earlier annual rate of 20% expressed with a different computation, nor that it was changed to 18%. The old rate was abolished. We have evidence of the abolishment of the earlier rate in the fact, unnoticed by any historian, that after 1241, there is no further reference to an *annual* interest rate. Documents after 1241 do not mention any other interest rate than the four *diners per lliura* per month. On the rare occasion that they do refer to the 20% yearly rate, the monarch says that it is *obsolete* (*cotum nostrum olim a nobis statutum ad rationem centum pro viginti*).<sup>49</sup> However, the clearest evidence for the effort to abolish the old rate, also unnoticed by historians, appears in the text of the 1241 constitution itself when it refers to retroactive effects and forces lenders to apply the rate of four *diners per lliura* per month to past contracts (*tam in preteritis quam in futuribus contractis*). This is something that the constitution would not do or say, evidently, if the rate continued to be the “same as always”.

Aware of the change in rate, the writer took care to make the rate applicable to all classes of loans. Specifically, the requirement for the application of the new rate if the quantity loaned was small or large, if the term of repayment was short or long, with or without a document of remittance (*albaran*), with or without collateral, whether the item pawned was computed as interest or not computed. The document also returned to the absolute prohibition on interest being added to the capital of the loan, as it says that the Jews are accustomed to do (*sicut facere consueverunt*), demanding usury out of the interest.

One final innovation determined by the new constitution, an innovation with highly disturbing social consequences, is the obligation imposed on the Jewish moneylenders to swear every year in the presence of a *veguer* or magistrate that they are observing the interest rate set by the king. The notaries, for their part, must draw up a

46. “In the Crown of Aragon (...), in the *corts* of Barcelona in 1228, James I fixed the limit at 20%, a limit that would never be modified in that nation.” (*En la Corona de Aragón (...), en las Cortes de Barcelona de 1228, Jaime I fijó el límite en el 20 %, límite que jamás sería modificado en esa nación* (Romano, David. “El estatuto de Huesca (1307)...”: I/V, 262).

47. Bofarull y Sans, Francisco de Asís. “Jaime I y los judíos”...: II, 851-852.

48. “What would be the prize money when that monarch, in 1240, fixed the legal interest at 18% (...)?” (*¿Cuál sería el premio del dinero, cuando aquel monarca, en el año 1240 (sic), fijó el interés legal al diez y ocho por ciento (...)?* (Capmany i de Monpalau, Antoni de. *Memorias históricas sobre la Marina, Comercio y Artes de la antigua ciudad de Barcelona*. Barcelona: Cámara Oficial de Comercio y Navegación de Barcelona, 1961: I, 387). Francesc de Bofarull, endorsed the words of Capmany, as if he had taken them from Mieres. Mieres limits himself to noting that the rate of interest determined by James I is four *diners per lliura* per month, Bofarull y Sans, Francisco de Asís. “Jaime I y los judíos”...: II, 851-852.

49. ACA. Cancelleria. Registre 16, f. 157r, dated Barcelona, 24.04.1269, published by Bofarull y Sans, Francisco de Asís. “Jaime I y los judíos”...: II, 900 (doc. nº 84).



list of the Jews that have taken the oath and must not authorize loans given by Jews who have not sworn. Also, the borrower must swear that the contract is free from fraud and machination. At the foot of every contract there must be two witnesses who are familiar with the contracting parties and who have knowledge of the transaction.

The king says that the oath of the Jewish moneylenders must be on the Law of Moses by the Ten Commandments and also with the customary formulas and curses in the oaths of the Jews of Barcelona (*alias solemnitates et maledictiones que secundum consuetudinem Barchinone specificari consueverunt in juramentis judeorum*). Therefore, in part as an annex to the provisions on usury, in a document without date, or containing various dates from the month of February, 1241 (which are best ignored because several seem to contain copy errors), James I sent out from Girona the text of the oaths of the Jews to all the cities of his realm, along with the terrible curses that it contained.

This is what he announced and maintained that he did, at least in part. The text of the circular sent to the royal officials of Catalonia and Aragon is conserved in the appendix of the *Furs de Terol*<sup>50</sup> and reproduced by Huici-Cabanes as number 325.<sup>51</sup> In it, the king ordered his officials to publish the constitution and copy it into the books of his *corts*. The particular letter sent to the Justice of Valencia, with which was sent the text of the oath, was printed in the *Aureum Opus*,<sup>52</sup> and reproduced by Huici-Cabanes as number 324.<sup>53</sup> In fact, the constitution of 1241 and the oath and curses are found, either together or separate, in a number of official and unofficial legal codes, for example: the *Liber Regum*,<sup>54</sup> the collection of books of privileges from the city and kingdom of Valencia known as the *Aureum Opus*,<sup>55</sup> the book of privileges of Perpignan,<sup>56</sup> the *Llibre Verd* of the chapter of Girona,<sup>57</sup> etc. The *Llibre Verd* from the city of Barcelona contains a copy in the volume I.<sup>58</sup>

The “definitive” character of the constitution of 1241 is beyond doubt. For Catalonia, the constitution and the oath entered the official compilation of constitutions and the successive editions where it can be found translated into Catalan. The two

50. Caruana Gómez de Barreda, Jaime. “Las adiciones al Fuero de Teruel”. *Anuario de Historia del Derecho Español*, 25 (1955): 685.

51. *Documentos de Jaime I de Aragón. II. 1237-1250*, eds. Ambrosio Huici Miranda, María Desamparados Cabanes Pecourt, ed. Valencia: Anubar, 1976: 98-99 (doc. n° 325).

52. *Aureum opus regalium privilegiorum civitatis et regni Valentie cum historia cristianissimi Regis Jacobi ipsius primi conquistatoris*. Valencia: Didaci de Gumiel, 1515: f. 5r-6r (doc. Jacobi primi n° 14).

53. *Documentos de Jaime I de Aragón. II...*: 94-98 (doc. n° 324).

54. Serrano y Sanz, Manuel. “Cronicón villarensis (Liber regum)”. *Boletín de la Real Academia Española*, 6 (1919): 192-220; Serrano y Sanz, Manuel. “Cronicón villarensis (Liber regum)”. *Boletín de la Real Academia Española*, 8 (1921): 367-382.

55. *Liber privilegiorum civitatis et regni Valentie. I. James I (1236-1276)*, ed. Josepa Cortés. Valencia: Universitat de València, 2001: 105-113 (doc. n° 11, 12).

56. *Privilèges et titres relatifs aux franchises, institutions et propriétés communales de Roussillon et de Cerdagne depuis le XIe jusqu'à l'an 1660*, ed. Julien Bernard Alart. Perpignan: Charles Latrobe, 1874: 158.

57. The oath that he had on hand was published by Marquès Casanovas, Jaume. “Judíos de Gerona en el siglo XIII”. *Annals...*: 295-298; Marquès Casanovas, Jaume. “Judíos de Gerona en el siglo XIII”, *Per a un història...*: II, 481-484.

58. AHCB. Fons Municipal. *Llibre Verd*, I, f. 82v-86v.





documents are in the volume of superfluous constitutions, separated because one is considered a constitution and the other is considered a “law” (*usatge*).<sup>59</sup> For Aragon, the charters (*furs*) promulgated in 1247 include the constitution of 1241 verbatim, and, even in the fourteenth century, Peter the Ceremonious expressly confirmed the document (book IV, *De usuris*). Both the constitution and the oath often appear in the successive copies, translations and editions of the *Furs d’Aragó*, which need not be specified at this time.<sup>60</sup>

For further clarity, we should note two particularities in relation to the constitution of 1241. The first is that the oath of the Jews with its curses was not composed expressly for the moneylenders as the oath that the king then commanded them to give. Nor did it remain linked exclusively to moneylenders. According to the words of the king, the oath and its curses was already in use in the courts of Barcelona when it occurred that the Jews had to take an oath. Without relation to the moneylenders, the oath is found in all the editions of the official version of the *Usatges de Barcelona*, namely *Usatge* 171.<sup>61</sup> Thus, through this route—as an obligatory text for when Jews must take an oath—the text entered the *Costums de Tortosa*,<sup>62</sup> and the legal codes of Majorca.<sup>63</sup> As we have seen, the *Furs d’Aragó* incorporates the oath and curses both equally unconnected to the moneylenders. The *Furs de Valencia* state explicitly that the normative text for the oath of moneylenders can be used for any oath of a Jew (rúbrica LXII, *De testibus*, 7).

The second, more important, observation is that the constitution and the text of the oath had a second phase of expansion in Catalonia when they were confirmed by Pere the Great at the *cort* of Barcelona in 1283-1284. The confirmation was made with a specific document that reproduced the two texts together with the first statute on usury from 1228, and with still other constitutions from earlier monarchs. (The problem of the simultaneous confirmation of two constitutions on usury—that of 1228 and that of 1241, which are in disagreement with each other—has not been addressed by anyone and is not easy to explain.)

The best copy of the confirmation of Pere the Great, presumably because it served as the exemplar, should be the one found in the *Arxiu de la Corona d’Aragó*.<sup>64</sup> It is dated in Barcelona, the 6<sup>th</sup> of the Calends of January, 1283 AD. At least two originals are known, both with the hanging seals of King Peter and Prince Alfonso (now missing); they contain neither a final date nor the testimony of confirmation. One is found in the *Arxiu de la Corona d’Aragó*; coming from the monastic documents, today

59. *Constitucions y altres drets de Catalunya...*: III, book I, title V, chapter 1 (6-9); III, book IV, title VI, chapter 2 (48-50).

60. For further information, consult: *Los Fueros de Aragón, según el manuscrito 458 de la Biblioteca Nacional de Madrid...*: 66 (doc. n° 138).

61. *Usatges de Barcelona*, ed. Josep Rovira i Ermengol. Barcelona: Barcino, 1933: 255-263.

62. *Costums de Tortosa*, ed. Jesús Massip i Fonollosa. Barcelona: Fundació Noguera, 1996: 525-528.

63. Taking an example from the book of *Franqueses*, Antoni Pons published it in: Pons, Antoni. *Los judíos del reino de Mallorca durante los siglos XIII y XIV*. Palma (Majorca): Miquel Font, 1984: 202-208.

64. ACA. Cancelleria. Registre 47, f. 69v-74r.





it is cataloged as *Cancelleria, Pergamins de Pere II*.<sup>65</sup> The other is found in the municipal archive of Barcelona.<sup>66</sup> The confirmation of the two statutes of James I, including the Latin version of the oath, was published in the *Llibre Verd* of Manresa.<sup>67</sup>

In review —*pro memoria*— a critical edition of the constitution of 1241, as such, has not been attempted by any of the numerous historians who have filled pages writing about the loans of the Jews. Lamentably, the text offered by Huici-Cabanes as number 323 contains printing errors.<sup>68</sup> The copy in the *Marca Hispanica*,<sup>69</sup> was republished in the *Corts Catalanes*,<sup>70</sup> without comparing it to any other copy. The edition of Josepa Cortés covers only the territory of Valencia.<sup>71</sup> The small discrepancy of dates in the copies should be clarified. The majority are dated the 5<sup>th</sup> of the Calends of March, 1240 AD, and some, such as the copy published in the *Marca Hispanica*, say the 4<sup>th</sup>. The copy found in *Registre 47* in the *Arxiu de la Corona d'Aragó*, and others that seem to hold equal authority such as the manuscript Ripoll 32 from the same archive,<sup>72</sup> are dated the 5<sup>th</sup> of the Calends of March, which is the 25<sup>th</sup> of February; this is the date we have assigned. To denounce further errors of historians, we find the claims of Bofarull to be fantastical when he asserts that the constitution of 1241 confirmed (sic) that the loans of the Jews could not last longer than five years.<sup>73</sup> This claim is absolutely false, because there is no document from the time of James I that hints at a proscription or time limit on Jewish loans. On the contrary: the document that we cited in note 49, which is from 1269, resolves questions for loans made prior to 1241. Also, to end this long commentary, we should note that legions of authors fail to convert the year of the Incarnation, and thus refer to this constitution as if it were composed in 1240; this is a reef that we are accustomed to avoiding.

### 1.7. [g: Montpellier, 23.05.1241]

Proceeding further, the Jewish subterfuge used to evade the legal restrictions on usury was quite varied. The most common method was the duplication of contracts (*debitoris*), by which they hid the usury of the first loan, giving it in the form of a second loan. The retroactive effect that James I had given to the constitution of

65. ACA. Cancelleria. Pergamins de Pere II. Apèndix, núm. 3.

66. Mañé i Mas, Maria Cinta. *Catàleg dels pergamins municipals de Barcelona. 1. Anys 885-1334*. Barcelona: Arxiu Històric de la Ciutat, 2005: 86 (doc. n° 102).

67. *El Llibre Verd de Manresa (1218-1902)*, ed. Marc Torras i Serra. Barcelona: Fundació Noguera, 1996: 35-56 (doc. n° 4).

68. *Documentos de Jaime I de Aragón. II...*: 90-93 (doc. n° 323).

69. Marca, Petro de. *Marca hispanica sive limes hispanicus...*: col. 1433-1436 (doc. n° 514).

70. "Cortes de Cataluña"...: I/1, 133-137.

71. *Liber privilegiorum civitatis et regni Valencie. I...*: 66 (doc. n° 11).

72. ACA. Manuscrits Ripoll. *Registre 32*, f. 39r-40r.

73. "The duration of the loan is limited to five years, which was confirmed in the ordinance given in Girona on the 25<sup>th</sup> of February, 1241." (*La duración del préstamo se limita al plazo de cinco años, lo que fue confirmado en la ordenanza dada en Gerona en 25 de febrero del año 1241*): Bofarull y Sans, Francisco de Asís. "Jaime I y los judíos"...: II, 852.



1241 (*ad preterita negocia has constituciones nostras extendimus*, he had said), complicated even further these deceptive practices. The judge and court of Girona did not take long to raise in the royal court the consideration of both cases that had been submitted: the duplication of contracts (*debitoris*), complicated by the transfer of credit. The monarch responded with the indicated document and resolved the case unfavorably for the Jewish moneylenders.

Taking the case from a compilation conserved in Paris, the royal resolution destined for the Girona tribunals is printed in the *Marca Hispanica*,<sup>74</sup> and reproduced by Huici-Cabanes<sup>75</sup>. There is a copy in the *Llibre Verd* of Barcelona,<sup>76</sup> that presents the document as a circular addressed to all the royal officials of Catalonia, not only to the judge and court of Girona that first brought the consideration of the case, thus giving the document broader validity.

### 1.8. [h: Barcelona, 11.11.1241]

This did not suffice. James I reproduced the resolution of 23 May, that very same year for his officials from the kingdom of Valencia. He also added rules for individual cases concerning loans between Christians, between Christians and Jews and between Jews and Saracens, valid for the entire kingdom of Valencia. The provision is found copied in all the codices in the group of privileges of the city and kingdom.<sup>77</sup> It was printed in the *Aureum Opus*,<sup>78</sup> and is reproduced by Huici-Cabanes.<sup>79</sup>

### 1.9. [I: València, 13.07.1242]

With another brief and solemn document, known as a *pragmatica*, James I closed the general question of usury. He ordered that no magistrate of Aragon, Catalonia or Valencia should force any Christian to pay usury to any other Christian and that whoever held collateral was forced to return it applying the stated rate of interest for the Jews. (The document is difficult to interpret because it seems to admit the existence of usurious loans between Christians in the private sphere. However, they are not recognized in the legal sphere.)

Taken from a manuscript preserved in Paris, the document is published in the *Marca Hispanica*,<sup>80</sup> and reproduced by Huici-Cabanes.<sup>81</sup> It was not printed in the *Aureum Opus*. It is only found in three books of privileges of the city and kingdom of Valen-

74. Marca, Petro de. *Marca hispanica sive limes hispanicus...*: col. 1436-1437 (doc. n° 515).

75. *Documentos de Jaime I de Aragón. II...*: 102-103 (doc. n° 328).

76. AHCB. Fons Municipal. *Llibre Verd*, I/1, f. 86v-87r.

77. *Liber privilegiorum civitatis et regni Valencie. I...*: 116-119 (doc. n° 14).

78. *Aureum opus regalium privilegiorum...*: f. 4r-5v (doc. Jacobi primi n° 13).

79. *Documentos de Jaime I de Aragón. II...*: 113-114 (doc. n° 337).

80. Marca, Petro de. *Marca hispanica sive limes hispanicus...*: col. 1437 (doc. n° 516).

81. *Documentos de Jaime I de Aragón. II...*: 102-103 (doc. n° 328).



cia.<sup>82</sup> With one textual variation, which removes mention of the interest rate of the Jews, the pronouncement entered the *Furs d'Aragó* (book IV, *De usuris*). From there, it was encapsulated erroneously in the modern editions as if it were a right (*fur*) promulgated at the court of Osca in 1247.<sup>83</sup> It is also in the *Vidal mayor*,<sup>84</sup> with the incorrect year of 1243. Stripped of the introduction (*exordi*) and the closing formulas (*eschatocol*), it was translated into Catalan and printed in the *Constitucions de Catalunya* (second volume, book IV, title VI).<sup>85</sup> It was printed with the correct year but the wrong day: it says the 3<sup>rd</sup> of the Calends of July when it is the 3<sup>rd</sup> of the Ides of July.

### 1.10. [j: Army on Xàtiva, 23.05.1244]

There still remain more questions to be resolved. Apparently based on a complaint from the Jews of Aragon, James I issued a circular to the officials of that kingdom clarifying that, in case of a dispute between a Christian debtor and a Jewish creditor concerning the satisfaction of a debt, proof by witnesses was necessary only for contracts issued prior to the declaring of the constitution (of 1241), and not for those issued later. The king said that the oath given by the notaries and the parties, previous to the stipulation of the contract, assuring that there would be no foul play made the further proof of testimonies unnecessary.

The circular is unedited and I think that it has not been cited by anyone. It was reproduced by King Peter III in a confirmation in Saragossa, dated the 5<sup>th</sup> of July, 1338. It is found copied in the *Arxiu de la Corona d'Aragó*.<sup>86</sup>

### 1.11. [K: Osca, 1247]

Six years after the “definitive” constitution on usury, James I promulgated the *Furs d'Aragó* in a *cort general*. As is known, the *Furs* was promulgated as a block.

The *Furs* give legislation concerning both usury in general and the usury of the Jews.

Regarding usury in general, the work twice decrees that the interest can never exceed the capital (*Nullum debitum potest crescere in usuris postquam fuerit duplicatum. Nullus homo cuiuscumque conditionis existere dignoscatur, aliquid exigere possit nomine*

82. *Liber privilegiorum civitatis et regni Valencie. I...*: 119- 120 (doc. n° 15).

83. *Fueros, observancias y actos de corte del reino de Aragón: nueva y completísima edición que comprende además del texto oficial íntegro, las Ordinaciones de la Casa Real de Aragón / precedida de un discurso sobre la legislación foral de Aragón*, eds. Pascual Savall y Dronda, Santiago Penen y Debesa. Saragossa: Establecimiento Tipográfico de Francisco Castro y Bosque, 1866: I, 204.

84. *Vidal mayor...*: 187, book V (doc. n° 233).

85. *Constitucions y altres drets de Catalunya...*: vol. II, book IV, title VI, chapter 1 (114).

86. ACA. Cancelleria. Registre 864, f. 71r.



*usurarum ex quo sors fuerit duplicata*). It also reproduces the *pragmatica* [I: Valencia, 13.07.1242], with the variations that we have already noted.<sup>87</sup>

Regarding the usury of the Jews, the *Furs d'Aragó* reproduce the “definitive” constitution [F: Girona, 25.02.1241 (Enc. 1240)], without any additions (book IV, *De usuris*). Separately, the text contains the formula for the ordinary oath of the Jews and the curses (book VIII, *De sacramento judeorum; Hec sunt maledictiones*).<sup>88</sup>

### 1.12. [L: Valencia, 05.07.1249]

The kingdom of Majorca retained part of the legislation promulgated on the mainland.

James I does not mention Jewish usury in his first concession of uses, customs and freedoms (*usos, costums i franqueses*) to the inhabitants of the island kingdom on the first of March, 1231. In the charter granted to the Jews of Majorca on the 11<sup>th</sup> of July, 1231, the king mentions collateral, the oath for debts, and the validation of interest stipulated in debt letters, but he does not assign a rate of interest. Later, on the 3<sup>rd</sup> of the Nones of July, 1249, from Valencia, the king conceded five special privileges to the inhabitants of Majorca: That the acting royal officials could not acquire real estate; that the men of Majorca did not have to be redeemed from the old lords of Catalonia; that they were not required to litigate outside the island; that they could hold a market on Saturday; and that they were not obligated to pay more than four *diners* per *lliura* per month in interest on a Jewish loan in accordance with the constitution of 1241 (*non teneamini solvere judeis, pro usuris, nisi quatuor denarios pro libra in mense*). The privilege was printed by Lecoy de la Marche, taken from a collection of authorized privileges.<sup>89</sup> Huici-Cabanes reproduce it<sup>90</sup> and indicate another edition.<sup>91</sup>

### 1.13. [M: Valencia, 1249]

On a disputed date that we note only as an approximation, James I promulgated the *Furs de València*.

87. *Fueros, observancias y actos de corte del reino de Aragón...*: II, book IV, 105, 107; I: book IV, 204, respectively.

88. *Fueros, observancias y actos de corte del reino de Aragón...*: II: book IV, 105-107; II: book VIII, 112-113, respectively. The *Vidal mayor*, that does not have royal sanction, has translations of both decrees (llibre V, 18, 19), but omits the oath.

89. Lecoy de la Marche, Albert. *Les Relations politiques de la France avec le Royaume de Majorque*. Paris: E. Leroux, 1892: I, 416-417.

90. *Documentos de Jaime I de Aragón. II...*: 308 (doc. n° 498).

91. The edition is from Aguiló, Estanislau de Kostka. “Antichs privilegis y franqueses del regne de Mallorca, X á XVI”. *Boletín de la Sociedad arqueológica lulliana*, 160 (1893): 109-110, with a bilingual text, but without critical apparatus. Villanueva, Jaume. *Viage literario, a las iglesias de España*. Madrid: Imprenta Real, 1852: 22, 300-301, had published an old Catalan version of the privilege with the incorrect date of 6 July.



Regarding usury, the *Furs de València*, contrary to those of Aragon, do not distinguish between loans in general and those from Jews. Nor do they integrate the preceding provisions (section LXVII, *De usuris*, 1).<sup>92</sup> The *Furs* determine the rate of interest as four *diners* per *lliura* per month, regardless of any prior agreement established by the parties —an addition that has not been found before. The rate of interest applied to Christians, Jews and Saracens, making it general (*Christiani, judei, sarraceni non accipiant pro usuris nisi tantum IIII<sup>or</sup> denarios in mense de xx solidis, licet habuerint certa pignora vel pacta aliter inita*). It is absolutely prohibited that the interest exceed the capital. If it became the case that the interest equaled the capital, the lender became obliged to cancel the contract, return the collateral and the letters and absolve the guarantors. If I am not mistaken, this does not coincide with what James I sanctioned in the *pragmatica* of 1242, issued in Valencia.

### 1.14. [N: Lleida, 20.08.1251]

Among the diverse privileges given to the judges, elites, and the university (*jurats, prohoms i universitat*) of Majorca, James I granted, in their favor, the same things that he had issued in the *Furs de València*: that no Christian, Jew or Saracen would be able to receive interest beyond four *diners* per *lliura* per month, regardless of what the parties might have agreed to, and that the moment that the interest equaled the capital, the lender was obligated to return the letters and collateral and absolve the guarantors. However, the king then added, incongruously, that the statute (of 1241) should be observed in all other cases (?).

The new privilege for Majorca was dated in Lleida, the 13<sup>th</sup> of the Calends of September, 1251. It was published by Lecoy de la Marche from an authorized copy,<sup>93</sup> and reproduced by Huici-Cabanes.<sup>94</sup>

## 2. Conclusion

The catalog of the general documents concerning usury issued by James I ends here. I omitted descriptions of those that were issued in relation particularly to Jewish loans, of which there are dozens. Some of them are important, such as the confiscation of all the Jewish loans in Aragon under the pretext of having violated

92. *Fori antiqui Valentiae*, ed. Manuel Dualde Serrano. Madrid-Valencia: Consejo Superior de Investigaciones Científicas- Instituto Jerónimo Zurita, Escuela de Estudios Medievales, 1950-1967: 99-100. In the modern edition, the *fur* can be found in book four, rubric XIV.

93. Lecoy de la Marche, Albert. *Les Relations politiques...*: 420-421. A bilingual edition was published in: Aguiló, Estanislau de Kostka. "Antichs privilegis y franquesses del regne de Mallorca, X á XVI". *Boletín de la Sociedad arqueológica lulliana*, 169 (1894): 261-262.

94. *Documentos de Jaime I de Aragón. III. 1251-1257*, ed. Ambrosio Huici Miranda, María Desamparados Cabanes Pecourt. Saragossa: Anubar ediciones, 1976: 42-43 (doc. n° 576).



the interest rate cap.<sup>95</sup> I have at no time tried to interpret the problems of usury in the times of James I, but rather I have only interpreted the texts containing general prescriptions. I believe that there are no more. The full panorama remains to be completed, pointing out the great dispersion of sources, the majority without a critical edition.

1. The *Usatges* of Barcelona and the *Costums* of Tortosa ignore, in this sense, Jewish usury. The *Costums* of Lleida and the *Furs* of Terol mention it in different contexts and, as makes sense for their chronology, do not reference the royal dispositions we have listed.
2. The *Furs* of Aragon from 1247 contain legislation on usury, both in general and for the Jews. As we have indicated concerning usury in general, with the exception of a pair of original *furs*, they reproduce the *pragmatica* [I: València, 13.07.1242]. Concerning the Jews, they reproduce the definitive constitution [F: Girona, 25.02.1241 (Enc. 1240)] and, separately, the oath with its curses.
3. The early *Furs* of Valencia applies one rubric to usury (LXVII), using its own formulation for the interest cap, presented as general. The rubric does not speak of the oath and its curses because the oath was already established under the rubric for testimonies (LXII).
4. The official compilation of the *Constitucions de Catalunya*, in its final edition of 1704, contains the following texts, all translated, amongst the superfluous constitutions of the third volume: the first statute [A: Barcelona, 22.12.1228], divided into chapters; one item of the constitution [D: Tarragona, 07.02.1235 (Enc. 1234)] (with the 1224 error); the constitution [F: Girona, 25.02.1241 (Enc. 1240)]; and the text of the oath of the Jews, announced as an *Usatge*, although the table of contents refers to it as “In Girona, year MCCXXXII.” The second volume includes the *pragmatica* on usury in general [I: València, 13.07.1242].<sup>96</sup>
5. The *Aureum Opus*, with the pompous name of the privileges of the city and kingdom, transcribes parchments conserved in the *Sala de València*. It transcribes the definitive constitution [F: Girona, 25.02.1241 (Enc. 1240)] (doc. n° 11); the royal letter to the justice containing the text of the oath of the Jews (doc. n° 14); and one of the resolutions of the practical cases [h: Barcelona, 11.11.1241] (doc. n° 13).<sup>97</sup>
6. Its parallel text, the *Llibre Verd* of the city of Barcelona, still unedited today, copied five statutes and provisions in the first volume: [A: Barcelona, 22.12.1228]; [D: Tarragona, 07.02.1235 (Enc. 1234)]; [E: Tarragona, 17.03.1235 (Enc. 1234)]; [F: Girona, 25.02.1241 (Enc. 1240)], with the text of the oath; and [g: Montpeller, 23.05.1241].<sup>98</sup>

95. This document is rarely cited. It is dated, Zaragoza, 06.10.1254. It can be found in *Documentos de Jaime I de Aragón. III...*: 156-157 (doc. n° 665).

96. *Constitucions y altres drets de Catalunya...*: III, 9-10; III, 48; III, 48-50; 6-9; II, 114.

97. *Liber privilegiorum civitatis et regni Valencie. I...*: 105-113, 116-120 (docs. n° 11, 13 and 14. In the edition of Josepa Cortés, the numbers are 11, 12, 14 and 15).

98. AHCB. Fons Municipal. Llibre Verd, I/1, f. 79r-80r; 80r-81r; 81r-82r; 82v-86v; 86v-87r.





7. In the kingdom of Majorca, James I encapsulated the question of Jewish usury, on the one side, with the privilege [**L**: València, 05.07.1249], echoing the constitution of 1241; and he encapsulated the question of usury in general, on the other, with a second privilege [**N**: Lleida, 20.08.1251], a reproduction corresponding to the *Fur* of Valencia.

8. The modern erudite compilations that have followed their authors' own criteria.

The appendix of the *Marca Hispanica* contains six printed statutes and provisions: [**A**: Barcelona, 22.12.1228]; [**D**: Tarragona, 07.02.1235 (Enc. 1234)] (with the incorrect year, 1233); [**E**: Tarragona, 17.03.1235 (Enc. 1234)]; [**F**: Girona, 25.02.1241 (Enc. 1240)] (with the date of the 26th of February and without the text of the oath); [**g**: Montpellier, 23.05.1241]; and [**I**: Valencia, 13.07.1242].<sup>99</sup>

The editors of the *Cortes de los antiguos reinos de Aragón y de Valencia y Principado de Cataluña* had the intention of publishing only those texts considered *corts* of Catalonia. Without discussing the relevance of this criteria, we will clarify for ourselves that there can be found four published constitutions on usury, plus one extra provision. We find: [**A**: Barcelona, 22.12.1228] (page 120-122, printed as the “Cortes de Barcelona de 1228”); [**D**: Tarragona, 07.02.1235 (Enc. 1234)] (page 123-127, as the “Parlamento eclesiástico de Tarragona de 1235”); [**E**: Tarragona, 17.03.1235 (Enc. 1234)] (page 127-133, as the “Cortes de Tarragona de 1235”); and [**F**: Girona, 25.02.1241 (Enc. 1240)] (page 133-137, as the “Cortes de Gerona en 1241”, taken from the *Marca Hispanica*, dated the 26th of February and without the text of the oath). The extra text, as a footnote to page 122, publishes the provision [**b**: Lleida, 31.03.1229], according to the transcription of Jaume Villanueva, which is not a document given in court.<sup>100</sup>

Joaquim Miret worked quickly. For his important itinerary of James I, he reviewed an enormous quantity of material, but the references to the documents are not as clear and complete as we would like. When mentioning the statutes [**A**: Barcelona, 22.12.1228] (page 74-75), and [**D**: Tarragona, 07.02.1235 (Enc. 1234)], he forgot to mention that they discuss usury (!). When he notes the constitution [**E**: Tarragona, 17.03.1235 (Enc. 1234)], he also does not mention usury, nor state that it had been published in volume VI of the *Colección de documentos inéditos del Archivo de la Corona de Aragón*, and in the *Cortes de los antiguos reinos de Aragón y de Valencia y Principado de Cataluña*.<sup>101</sup>

The archivist Jean Régné intended to give a summary or *Regesta* of all the known royal documents from the reign of James I that refer to Jews. He compiled seven statutes and provisions on usury: [**A**: Barcelona, 22.12.1228]; [**b**: Lleida, 31.03.1229]; [**D**: Tarragona, 07.02.1235 (Enc. 1234)]; [**E**: Tarragona, 17.03.1235 (Enc. 1234)]; [**F**: Girona, 25.02.1241 (Enc. 1240)] (with the date of 26 February);

99. Marca, Petro de. *Marca hispanica sive limes hispanicus*...: col. 1415-1416 (doc. n° 507); col. 1425-1427 (doc. n° 511); 1428-1433 (doc. n° 513); 1433-1436 (doc. n° 514); 1436-1437 (doc. n° 515); 1437 (doc. n° 516).

100. “Cortes de Cataluña”...: 120-122; 123-127; 127-133; 133-137; 122.

101. Miret i Sans, Joaquim. *Itinerari de James I, el Conqueridor*. Barcelona: Institut d'Estudis Catalans, 1918: 74-75; 116-117; 117.





[**L**: Valencia, 05.07.1249] (with the date of 6 July); and [**N**: Lleida, 20.08.1251]. He ignored or omitted all of the others.<sup>102</sup>

Gener Gonzalvo produced critical editions of the two constitutions of the Peace and Truce that contained items concerning usury. They are these two: [**D**: Tarragona, 07.02.1235 (Enc. 1234)], and [**E**: Tarragona, 17.03.1235 (Enc. 1234)].<sup>103</sup>

Huici-Cabanes reproduced all the constitutions and provisions except those from the *Furs* of both Aragon and Valencia, and without the last inedited provision [**j**: Exèrcit de Xàtiva, 23.05.1244]. The copies are always taken from some previous publication, often referenced unclearly. Neithes add any commentaries, nor do they discuss dates, errors, corrections or variants, demonstrating more good will than expertise.

### 3. Epilogue

We have concluded. James I proved to be a veteran conqueror of the lands of infidels, but he left behind a chaos of documents that denounces him as a lousy legislator. With the present report, I believe I have given some order to the legislative texts, not all of them about Jews, concerning usury. Hopefully, the privileged mind capable of elaborating them into a coherent historical narrative will appear soon.

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102. Régné, Jean. *History of the Jews in Aragon. Regesta and Documents 1213-1327*, eds. Yom Tov Assis, Adam Gruzman. Jerusalem: The Magnes Press, The Hebrew University, 1978: 1-2 (doc. n° 4); 2 (doc. n° 5); 3 (doc. n° 9); 3 (doc. n° 10); 5 (doc. n° 28); 8 (doc. n° 37); 9 (doc. n° 45).

103. *Les Constitucions de Pau i Treva de Catalunya...*: 174-181 (doc. n° 27); 183-191 (doc. n° 28).

