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The Oath *More Judaico*
Two Early Modern Jewish Oaths
from Wrocław and Świdnica and Their
Comparison with Medieval Jewish Oaths

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On November 14, 1738, the names of three Jews were recorded in the Wrocław Book of Oaths¹. This happened because a few months earlier, Emperor Charles VI had issued a patent regulating their position within the Christian community and their relations with the inhabitants of the Lower Silesian metropolis². Each of these three Jews of Wrocław took on the position of the so-called “Schames”, an official who was entrusted with supervising compliance with the aforementioned imperial provisions and with maintaining relations with the Christian municipality. According to widely acknowledged custom, they pledged an oath when they

¹ State Archive in Wrocław (Archiwum Państwowe we Wrocławiu, hereinafter: APW), Akta miasta Wrocławia (hereinafter: AMW), sig. no. 898, *Novus hic Iuramentorum Liber*, pag. 384–386, „Eid vor die Juden Schames“; Those three Jews were Löbel Marcus, Samuel Barack, and Jacob Simon. On April 24, 1741, another Jew named Sebastian Hirsch took the oath.

² Bernhard Brilling addressed the issue of Jewish legislation in Wrocław in detail at this crucial time, i.e. during the Prussian-Austrian conflict; B. Brilling, *Friedrich der Grosse und der Waad Arba Arazoth: ein Kapitel aus der Geschichte der Juden in Breslau im 18. Jahrhundert*, „Theokratia“ 1970, vol. 1 [1967–1969], 1970, pp. 97–143.

took this office – like many other officials that were under the authority and control of the city council or the monarch’s authorized representative. However, this was by no means a standard situation. The swearers were non-believers, Jews, and their oath had to be modified for this purpose. At the same time, it cannot be said that this was a unique, hitherto non-existent situation. The phenomenon of the Jewish oath, i.e. the oath sworn “more judaico” (“according to the Jewish custom”), had appeared much earlier. The oldest evidence of *juramentum judeorum* dates back to the early Middle Ages (Visigoths, Franks, Byzantium)³.

The aim of the study is to present two early modern oaths preserved in the collections (books of oaths) from the cities of the so-called Magdeburg legal district – namely of Wrocław and Świdnica – and their analysis in the context of the development of the Jewish oath (*juramentum judeorum, sacramentum Hebreorum, Judeneid*)⁴ in Central Europe. Based on a comparison of the text of the two mentioned oaths with the medieval ones, an attempt will be made to follow the continuity of the phenomenon and the changes in the mutual relations between the Jewish minority and the Christian majority reflected in the texts of these oaths.

In the Central European context, the issue of the Jewish oath is a relatively well-discussed topic – especially for the German lands⁵. Particular attention has been paid to medieval oaths from

³ See G. Kisch, *A Fourteenth-century Jewry Oath of South Germany*, “Speculum” 15, no. 3 (Jul., 1940), pp. 331–337.

⁴ *Ibidem*.

⁵ The issue of the Jewish oath in German law has already addressed in detail in Z. Frankel, *Die Eidleistung der Juden in theologischer und historischer Beziehung*, Dresden–Leipzig 1840. A chapter on the Jewish oath formed part of the work of J.C. Ulrich, *Sammlung jüdischer Geschichten: welche sich mit diesem Volk in dem XIII. und folgenden Jahrhunderten bis auf MDCCLX. in der Schweiz von Zeit zugetragen. Zur Beleuchtung der allgemeinen Historie dieser Nation herausgegeben*, Basel 1768, pp. 71–78. Nevertheless, it is not the purpose of this study to provide a complete list of works dealing with the Jewish oath. We will therefore mention only the most influential ones (from the perspective of the research presented here). G. Kisch, *A Fourteenth-century Jewry Oath...: the author devotes himself to the form of late medieval Jewish oaths in southern German cities*. He also addresses the issue of Christian legislation related to the Jewish community in his other works. The work of Kisch was followed by A. Schmidt, “so dir got helfe”. *Die Judeneide* [in:] U. Schulze, *Juden in der deutschen Literatur des Mittelalters: Religiöse Konzepte – Feindbilder – Rechtfertigungen*, Niemeyer, Tübingen 2002, pp. 87–105. The Jewish oath in the context of the coexistence of Jews and Christians is also addressed by: M. Toch, *Macht und Machtausübung in der jüdischen Gemeinde des*

German cities. In the urban environment of the European Middle Ages, the oath was not only utilized in many different situations and was part of social life, but the Jewish and Christian communities also met here in situations where the oath was required of both parties. These situations most often arose as a result of litigation, where one of the quarreling parties (and/or witnesses) was of Jewish descent and religion. It is not surprising, therefore, that although the medieval urban environment knows a number of types of oaths, when it comes to Jewish oaths, we usually come across records of judicial oaths⁶. The Jew was obliged to take an oath in precisely defined situations, whether the dispute was heard in a municipal court or a Christian court of another instance⁷. The oath served not only as a guarantee of a true testimony, but also as evidence. The institution of the oath was a significant type of communication because of its overlap with the transcendent sphere.

Mittelalters [in:] M. Konradt, R.Ch. Schwinges, *Juden in ihrer Umwelt: Akkulturation des Judentums in Antike und Mittelalter*, Schwabe, Basel 2009, pp. 137–155; *Fear, terror and its alternatives: the case of medieval Jews*, in: Sabaté, Flocel, Por política, terror social: Reunió científica XV Curs d'Estiu Comtat d'Urgell celebrat a Balaguer els dies 30 de juny i 1 i 2 de juliol 2010, Pagès, Lleida 2013, pp. 67–75. The Jewish oath and related rituals, in general, and the formula of the oath from Frankfurt am Main from the end of the 14th century, in particular, are mentioned by J.R. Marcus, M. Saperstein, *The Jews in Christian Europe: A Source Book, 315–1791*, Hebrew Union College Press, 2015, pp. 161–162 (first published in 1938). The form of the Jewish oath is briefly analysed by A. Scheiber, *A Medieval Form of Jewish Oath*, “Journal of Jewish Studies” 1974, vol. 25, pp. 181–182. The question of the authorship of Jewish oaths is addressed by W.J. Pakter, *Did the canonists prescribe a Jewry-oath?*, “Bulletin of Medieval Canon Law” Ser. NS, 1976, vol. 6 (1976), pp. 81–86. Medieval Jewish oaths are also analysed by J. Ziegler, *Reflections on the Jewry Oath in the Middle Ages*, “Studies in Church History” 1992, vol. 29, pp. 209–220; and A. Linder, *The Jewry-Oath in Christian Europe* [in:] *Jews in Early Christian law. Byzantium and the Latin West, 6th–11th centuries*, Turnhout 2014, pp. 311–358.

⁶ These belong to the group of so-called “*assertorische Eide*” that encompasses oaths confirming certain past actions or/and the truthfulness of a statement; see A. Schmidt, “*so dir got helfe*”....., p. 87.

⁷ See e.g. H. Zaremska, *Iuramentum Iudeorum – żydowska przysięga w średniowiecznej Polsce* [in:] *E scientia et amicitia. Studia poświęcone Profesorowi Edwardowi Potkowskiemu w sześćdziesięciopięciolatecie urodzin i czterdziestolecie pracy naukowej*, kom. red. M. Drzewiecki, Warszawa–Pułtusk 1999, pp. 229–243. The Jewish oath fell within the area of law that Guido Kisch describes as “*Judenrecht*” – legislation regulating the relations of Jews to the Christian community – but encompassed the elements of “*Jüdisches Recht*” – a set of norms that applied within the Jewish community; G. Kisch, *A Fourteenth-century Jewry Oath*...., p. 332; see also A. Schmidt, “*so dir got helfe*”....., p. 90.

The fear of perjury and the threat of subsequent punishment in life after death made the oath an almost unbreakable promise, at least on a theoretical level. Any guarantees resulted from the transcendent nature of the oath, and for understandable reasons that had to be adapted to the confession of the oath-taker.

In addition to the actual text of the oath, which will be the subject of our analysis, also the way in which the oath was taken was adapted. In particular, from records in medieval city books, but also from iconographic material, we learn about the essentials of the practical implementation of the Jewish oath⁸. Taking an oath by a Jew was associated with a number of ceremonies and prescriptions, from prescribed clothing and posture to humiliating attributes, such as the skin of sow, on which, according to some sources, the Jew was to stand during the oath-taking, the robe of a penitent or a hat soaked in the blood of a lamb⁹. Regardless of whether these prescriptions were fully applied or not, we can state that we do not find any similar remarks concerning the practical implementation of the oath in the records of analyzed early modern books of oaths from Wrocław and Świdnica. The Jewish oath thus represents both a privilege and a means of dehonouring. In accordance with Guido Kisch we can say that *juramentum judeorum* represents a certain manifestation of a medieval Christian conception of “Jewishness” and reflects the relation towards Jews in general¹⁰. The long tradition of utilizing the oath as a type of communication, therefore, provides us with rich material and interesting evidence of relationships between Jews and Christians.

⁸ See e.g. the oath from Frankfurt am Mein (1391) in J.R. Marcus, M. Saperstein, *The Jews in Christian Europe*...; or the 14th-century oath in manuscript no. 267 from *Fürstlich Fürstenbergischen Hofbibliothek zu Donauerschingen* edited by G. Kisch, *A Fourteenth-century Jewry Oath*..., pp. 333–334. Both are records of wording along with the regulations concerning the practical taking of the oath. An example of this and an iconographic source is the illumination of an oath taking in the *Schwabenspiegel (Buch der Könige)* from the first half of the 15th century; *Buch der Könige [= Der Könige Buch]*, *Schwabenspiegel*, Hagenau [1425 < 1450], MS Bruxellensis 14689–91, fol. 204v, digitized version: <https://uurl.kbr.be/1065739> (accessed: 02.09.2020).

⁹ A. Schmidt, “so dir got helfe”..., see especially pp. 100–105; the author also discusses the controversy concerning the actual application of such regulations and rules.

¹⁰ G. Kisch, *A Fourteenth-century Jewry Oath*..., p. 337.

In the research presented here, the main focus was on the urban environment of the historical region of Silesia (so-called Lower Silesia). An important turning point in the history of towns and cities in this region, those predominantly belonging to the group of cities based on Magdeburg law, was the year 1742, when the region of Silesia was divided into two parts after the Silesian wars between the Prussians and the Austrian Habsburgs. After that year, the continuity of an administrative development was disrupted through political changes. As we will see, this change was also reflected in the wording of the oaths meant for the Jews. That is why this year marks a certain limit to the presented research. Both cities in question were a part of the so-called Magdeburg legal district, Wrocław as a metropolis and the supreme court of appeal for its own legal district¹¹ and Świdnica, because it came under Magdeburg law in the second half of the 14th century¹². Both cities were therefore on the same legal basis.

Within the archival materials of both cities, a number of form collections have been preserved, containing texts of oaths used on various occasions during the period under review. For Wrocław those are especially two books of oaths – a book with the long inscription: “Eidbuch enthaltend Formularien der von den verschiedenartigen Beamten der Stadt bei Übernahme ihres Amtes zu schwörenden Amtseide 17 Jhd. bei manchen Eiden sind auch die Inhaber der Stellen für das ganze 17 Jhd. eingetragen”¹³ from the 17th century, and the aforementioned book of oaths named *Novus hic Iuramentorum Liber* from the 18th century¹⁴. Both books are alphabetically arranged early modern office manuals with depersonalized records of oaths and additional notes concerning oath-takers. The texts of the oaths are to be found in a late medieval Świdnica council book

¹¹ For the cities of the Wrocław legal district and the genesis and spreading of Wrocław models of municipal law, see T. Goerlitz, *Verfassung, Verwaltung und Recht der Stadt Breslau*, Teil I: *Mittelalter*, Würzburg 1962, especially p. 108.

¹² See M. Goliński, J. Maliniak, *Urzednicy miejscy Świdnicy do 1740 r.*, Toruń 2007, p. 8; *Świdnica. Zarys monografii miasta*, ed. W. Korta, Wrocław–Świdnica 1995, p. 55.

¹³ APW, AMW, sig. no. 897, Eidbuch enthaltend Formularien der von den verschiedenartigen Beamten der Stadt bei Übernahme ihres Amtes zu schwörenden Amtseide 17 Jhd. bei manchen Eiden sind auch die Inhaber der Stellen für das ganze 17 Jhd. eingetragen.

¹⁴ APW, AMW, sig. no. 898, *Novus hic Iuramentorum Liber*.

from the first half of the 15th century¹⁵. For the early modern period, four books of oaths have been preserved in Świdnica: a book named *Księga ławnicza*¹⁶, encompassing the oaths used from the end of the 15th to the 18th century; a book of oaths from the years 1669–1756 (*Iuramentum und Instructione*)¹⁷, containing oaths and instructions for officers and servants of the city council; a book of oaths from the year 1722 (*Eides Buch*)¹⁸; and a 16th-century collection that differs from the other mentioned books (*Teksty przysięg, zasady dziedziczenia*)¹⁹. Only in the first mentioned early modern book of oaths from Świdnica can a Jewish oath be found.

The aforementioned record of the oath of the “Shames”²⁰ comes from the first half of the 18th century. This record can be found in the book of oaths from early modern Wrocław intended among others for the officials and servants of the city council. This “Novus hic Iuramentorum Liber” contains an alphabetical index and all oaths recorded in it have the same format – the text of the oath is marked according to occupation or function, and the oath formula written usually in the first person is followed by records of oath-takers, i.e. the name and date of taking the oath. This book replaced the already unsatisfactory previous manual (the aforementioned *Eidbuch* from the 17th century), while a number of original texts from the 17th century were incorporated into it. Some of them were modified and amended, some remained the same, and some were added. Of course, the Jewish oath for the “Shames” belongs to the last mentioned group.

According to the records following the text of the oath, between the years 1738 and 1741 the formula was used for four people. As was mentioned before, the office of “Shames” came into existence by virtue of the patent of the Austrian emperor Charles VI, issued in 1738. This information is also included in the wording of the oath formula. The Patent was to resolve the situation between

¹⁵ APW, Akta miasta Świdnicy (hereinafter: AMŚ), sig. no. 181, Księga rady miejskiej, poszczególne sprawy sądowe.

¹⁶ APW, AMŚ, sig. no. 63, Księga ławnicza.

¹⁷ APW, AMŚ, sig. no. 73; *Iuramentum und Instructione* (1669–1756).

¹⁸ APW, AMŚ, sig. no. 74; *Eides Buch* 1722.

¹⁹ APW, AMŚ, sig. no. 297, *Teksty przysięg, zasady dziedziczenia* (16 w.). The oaths from this collection are significantly different from other oaths utilized in Świdnica during the period under review. The collection was probably never used.

²⁰ APW, AMW, sig. no. 898, *Novus hic Iuramentorum Liber*, pag. 384–386, “Eid vor die Juden Schames”.

Wrocław's merchants and their Jewish competitors in the city. Its purpose was to expel all Jews from Wrocław except for a small group of privileged ones, including three officials, so-called Shameses – one for Jews from Wielkopolska, the second for those from Lesser Poland (Małopolska), and the third for Lithuanian Jews, who (as is evident from the Wrocław oath) were primarily in charge of the evidence and affairs of other non-Wrocław Jews coming to the city. The exception also applied to Jewish butchers, whose presence in the city was indispensable in order to conduct trade with Jewish communities outside the city²¹. According to Brilling, the content of the document was adapted to the fact that the trade conducted by Jewish merchants was a key issue not just for the Wrocław economy. Hence, according to that regulation, Jewish merchants carrying on their trade had time-limited access to the city. In this context, Brilling speaks of the phenomenon of the so-called “vorübergehender Aufenthalt”, i.e. a time-limited stay²². However, he also points out that the patent did not specify the period during which a foreign Jewish tradesman could stay in the city, this, of course, causing considerable difficulties and discrepancies between the municipality and the Jews and between Wrocław merchants.

The “Shames” was subordinate to the city council and responsible especially for Jewish newcomers. His obligations were described in the text of the oath. By the very nature of its function and purpose, the oath had a completely different character than the classical Christian oath of office. The text of the promise shows the effort of its creators to make it so as to eliminate the risk of perjury as much as possible. We have to consider the fact that the text of the Jewish oath was compiled by a Christian author²³. The analysed oath was based on the format and arrangement of the Christian oath. It was supplemented by some typical Jewish elements – from a Christian point of view. There is no doubt that it was based on older models of Jewish (judicial) oaths, as we shall see below. The oath for non-believers was full of references to the Old Testament, and transcendent authorities were mentioned much more often in the text than in the case of the Christian oaths from

²¹ B. Brilling, *Friedrich der Grosse...*, pp. 104–105.

²² *Ibidem*, pp. 105–106.

²³ G. Kisch, *A Fourteenth-century Jewry Oath...*, p. 337.

the same city book. As a result, the oath is also much longer than most of the Christian ones.

Let us take a closer look at the oath's structure and the content itself. Following Guido Kisch²⁴, we can identify three main features of the Jewish oath. Those are: invocation of God, illustration of His omnipotence by mentioning miracles, and enumeration of punishments for perjury. Annette Schmidt lists the following three characteristics: invocation of the *Creator* God (the one who created the Earth and heaven and all the things in between, e.g. grass and foliage); reference to miracles done by God described in the Torah (there can also be direct reference to the Torah or the "Law given to Moses"); and a part where the punishments for oath-breaking or perjury were specified²⁵. Even though both authors were working with medieval oaths, their description of the Jewish oath is applicable also to the early modern oath from Wrocław. The formula can be divided into several parts. The opening part – the invocation – is quite similar to that of medieval oaths. The future official states that he swears by the Almighty God, who created "Heaven and Earth" and everything in between. The invocation is supplemented by the Hebrew name of God, "Adonai"²⁶. Thereafter, God is mentioned as the One who has given the "heilige Torah" to his "chosen people". The next part of the oath is the only one that brings us closer to the ceremonial side of the oath. In connection with the Torah there is a note concerning the obligation of the one who is swearing the oath – the text of the oath refers to the Torah with an addition that the oath-taker is holding it in his right hand²⁷.

The next part refers to obligations arising from the office of "Shames". In this respect, the "Shames" oath is not different from other early medieval oaths of office from Wrocław. The Shames vows to oversee compliance with the Royal Patent of July 10, 1738, by virtue of his office, to which he was admitted by the city council. He undertakes to take care of the affairs of foreign (incoming) Polish Jews entrusted to him without any ulterior motives and not to deceive them in any way by, for example, collecting fees (other than those provided for) from them or blackmailing them in some

²⁴ *Ibidem*, p. 331.

²⁵ A. Schmidt, "so dir got helpe"..., p. 89.

²⁶ See also G. Kisch, *A Fourteenth-century Jewry Oath*..., p. 336.

²⁷ For more information on the issue of swearing on the Torah, see H. Zaremska, *Iuramentum Iudeorum*..., p. 240.

way. It is clearly stated in the text that he has to collect only a set fee for one cart. In this part, we also encounter a number of restrictions relating to the oath-taker himself, related both to his behavior and to the ideas and prejudices of Christian society towards the Jews. For example, the oath-taker was prohibited from engaging in any “practices” or “prohibited matters” (“keine Practiquen und Verbothene Sachen”) and any activities that would involve financial risk. Given the part of the oath that includes mention of this, we can assume that it applied to matters relating to the circumvention of imperial regulations. On the other hand, the Shames’s moral integrity is also mentioned here. On no account is he to allow incoming Jews intentionally to “change” (i.e. misrepresent) their names and places of residence. Both the oath-taker and his wife were forbidden to do business, and the Shames should not allow anyone to act on his behalf or make any decisions on his behalf. He had to take care of everything related to the execution of his office himself personally. Furthermore, with his behavior and actions, the oath-taker was not allowed to cause complaints or suspicions of fraud on the part of either party (i.e. both Jews and Wrocław merchants). Like other municipal employees and oath-takers, the Shames promised that in the event of finding out anything that could be detrimental to the city or municipality, he would immediately “report” (“melden”) this to his superiors.

The part listing the practical duties of the official is again followed by a part characteristic for all Jewish oaths. Here, the oath-bearer takes the Almighty God as a witness again, the God of Abraham, Isaac, and Jacob, and of the chosen people, the God who led his people out from Egypt, across the Red Sea to the Promised Land and appeared to Moses in the form of a burning bush. The final part of the oath contains again a number of references to transcendent authorities and to the sanctions associated with violating the oath. All the commitments had to be kept by the oath-bearer under the threat of eternal damnation. However, the punishments for perjury are described in more detail. If the Shames did not fulfill any of his obligations and acted against the stated regulations, he would be cursed and damned forever, afflicted with leprosy as was “Naaman the Syrian”, and consumed by the flames that engulfed Sodom and Gomorrah. Moreover, he will be punished like the brothers “Dathan and Abiram”, and all the curses described in the Torah will fall on his head. The final invocation, the last

part of the oath, repeatedly mentions God (“Adonai”) as the Creator of Heaven and Earth and everything in them. The text of the oath ends with a typical “Amen!”, which stands on a separate line.

In the text of the Jewish oath presented here, the effort to eliminate any risk of violation of the oath is clearly visible. The guarantee in this case was Jewish religious belief. Jewish oaths included sanctions based on the Old Testament tradition, understandable and easily imaginable for members of the Jewish minority, and even for the Christian majority. A comparison with the older texts of the oaths analyzed by e.g. G. Kisch, H. Zaremska, or A. Schmidt shows that the oath of the “Shames” followed older medieval patterns. References to transcendental authorities constituted about half of the entire oath-formula. In this respect, the Jewish oaths can be treated as exceptional, because in the period under review, the mention of transcendent authority in Christian oaths from Wrocław was usually limited to a final invocation, and its extent was kept to a minimum. Despite the same features (as the medieval ones), however, we can observe more or less visible changes in the form of the oath. First, the oath analyzed here is an oath of office, not a judicial oath. This oath has a much more practical or rational purpose – its wording embodied the duties and obligations of the official and an expression of his responsibility for fulfilling them. It also reflects the way that the official attitude towards the Jewish inhabitants had changed. In the eyes of the official administration influenced by (early) modern economic theories, Jews not only played the role of a useful common enemy, but they were also an important part of an economic strategy. The attitude had changed, and it was in the public (economic) interest to maintain correct relations based on more rational principles.

On the other hand, in the wording of the oath, the references to punishments based on the Old Testament can still be found – the bad end of Sodom and Gomorrah and the death of the rebels Dathan and Abiram are recalled. In both cases, these are frequent topics (therefore very well known) not only in art²⁸. Heavenly fire destroys (or the earth swallows – as in the case of the rebellious brothers) those who oppose God’s law. Here we can see a clear reference to the punishment for breaking

²⁸ See A. Schmidt, “*so dir got helfe*”...., p. 95.

a promise given to God – for violating the oath. According to Annette Schmidt, the other parable of the Syrian Naaman has a double meaning²⁹. On one hand, it refers to leprosy as God's punishment towards the sinner and, again, it is very easily imaginable to contemporaries. On the other hand, it embodies superstitions and stereotypes related to Jews. In its medieval form, in medieval oaths, we encounter its more developed form. Naaman was – according to the Old Testament – the commander of Syrian armies. He fell ill with leprosy and was healed by the prophet Elisha. As a reward for his recovery, he offered valuable gifts to the prophet. But Elisha refused to take any reward for what was the mercy of God. In spite of that, Elisha's servant Gehazi claimed the reward. Because of this he fell ill with the same illness as Naaman. The symbolical meaning of the story is clear. Gehazi – as all Jewish moneylenders – took a reward for something that did not belong to him. For these reasons, Gehazi is also named in the medieval oaths alongside Naaman.

Here are some examples. Annette Schmidt mentions the Erfurt oath recorded between 1183 and 1200, where the relevant passage is as follows:

dan soll dich der Aussatz befallen,
der von Naaman auf Gehasi überging³⁰.

In another Jewish oath from 13th-century Heidelberg analysed by Annette Schmidt, we read:

Und wenn du schuldig bist, wessen dich dieser
Mann bezichtigt, dann soll dich der gleiche Aus-
satzbefallen, den Naaman hatte und der
auf Gehasi überging³¹.

A similar passage can be found in the 14th-century Jewish oath from the *Fürstlich Fürstenbergische Hofbibliothek in Donaueschingen*, edited by Guido Kisch:

²⁹ *Ibidem*.

³⁰ *Ibidem*, p. 94; in its original version (transliteration): “di naamannen liz. vnde iezi bestunt”.

³¹ *Ibidem*, p. 97; in its original version edited by the author: “die naaman an imo hada onde gezi anegienk”. The text of the oath is recorded in a form from the point of view of the reciter of the oath.

Ob du unrech[t] swerest,
 daz dich daz gegich und daz vallende we muß besten
 und auch daz blud dicke durch dich fliese, daz durch-
 floß Naaman und Yezi³²;

A very similar wording can be found in the oath mentioned by Hana Zaremska and edited by J.V. Bandtkie:

(...) et si tu reus sis, quod te lepra et venenum
 invadat, quae precibus Helizei Naaman Sirum
 dimisit, et Jezy invasit; (...) ³³

However, the early modern oath of Wrocław mentions only the name of the Syrian commander;

(...) es soll mich von Stunde an anfallen der Aus-
 satz mit dem Naemann der Syrer ist geschlagen
 gewesen (...)

As in each example of the medieval wording given, a part relating to Gehazi can be found. Without recalling the symbolical meaning of this example, it would be incomplete. The oath of office sworn by the Jewish official, the “Shames”, was created much later than the oaths shown above. But the same pattern was used when creating it. All the basic elements of a medieval oath can be found in its wording. On the basis of the “Naaman and Gehazi story”, we can see how the original meaning of this symbolical text was misunderstood or neglected. Perhaps it would be better to say that it was not that familiar to its author and to the public. In my opinion, from the perspective of the 18th-century creator of this oath, the risk of leprosy seemed to be much more important to recall. This, and the tradition of what an oath “more judaico” should look like. The purpose of the oath was not to humiliate the Jewish oath-taker nor to show him his place in society.

The evolution of this process can be seen much more clearly on the basis of an example of the oath of a new burgher from Wrocław, recorded during the “Prussian” times – after the year

³² G. Kisch, *A Fourteenth-century Jewry Oath*..., p. 334.

³³ J.V. Bandtkie, *Ius Polonicum: codicibus veteribus manuskriptum et editionibus quisque collatis*, Varsavia 1831, p. 20 (available online: <http://mdz-nbn-resolving.de/urn:nbn:de:bvb:12-bsb10519287-1> (accessed: 21.09.2020); see also H. Zaremska, *Iuramentum Iudeorum*..., p. 237 (note no. 26).

1742³⁴. This formula has three endings – one for a Protestant, one for a Catholic, and another one for a Jew. No special oath “more judaico” was needed. This is an expression of official equality that was in the public interest and in accordance with government strategy³⁵. This oath was additionally written on the first page of the book of oaths. It is a simple formula, that includes an oath of allegiance to the monarch and the state. The text of the oath is followed by three possible endings according to the confession of the oath-taker. First, the ending for a Protestant is given;

So wahr mir Gott helfe durch seinen Sohn Jesum
Christum zur ewigen Seligkeit. Amen!

An ending for a Catholic follows;

So wahr mir Gott helfe und sein heiliges Evange-
lium. Amen!

And the last one is for “Juden”;

So wahr mir Gott helfe zur ewigen Seligkeit.
Amen!”

As we can see, the differences were kept to minimum. Unfortunately, no date or information concerning the oath-takers and the ceremony itself are recorded for the text of the oath. Within the material analyzed, however, this oath represents the culmination of the connection of state ideology with the medieval type of text.

But let us go back to the 17th century and look at a second source. The second Jewish oath found in the early modern city book of Świdnica is a judicial oath recorded between the years 1637 and 1657 during the reign of the emperor Ferdinand III, grandfather of Charles VI³⁶. This type of oath was used at a trial, when there was litigation between a Christian and a Jew, and if the case came under the competence of the city law court. It is therefore a classic judicial oath. Since various types of oaths were utilized in medieval

³⁴ APW, AMW, sig. no. 898, *Novus hic Iuramentorum Liber*, pag. 4.

³⁵ See e.g. Werner E. MOSSE, *From “Schutzjuden” to “Deutsche Staatsbürger Jüdischen Glaubens”*: *The Long and Bumpy Road of Jewish Emancipation in Germany* [in:] *Paths of Emancipation: Jews, States, and Citizenship*, eds. P. Birnbaum, I. Katznelson, Princeton University Press, 2014, pp. 59–93.

³⁶ APW, AMŚ, sig. 63, *Księga ławnicza*, fol. 53, pag. 102, *Juramentum calumniae*.

and early modern justice, this one, called a *juramentum calumniae* (“der Eid vor Gefährde”, an oath against calumny, an oath of good faith)³⁷, is the only one meant for a Jew in the whole book. The book of oaths named *Księga ławnicza* was used for relatively long period – it encompasses oath-formulas from the 15th to the 18th century. It is not so well organized and structured as the one from Wrocław. The texts of the oaths were recorded in it gradually, as they arose or changed in accordance with the new requirements of the city council. For some oaths, we can find there the records of oath-takers, from which we can determine the period when the oath was used. Unfortunately, this is not the case of the abovementioned Jewish oath. Its age and the time of its use can be estimated only by the style of the scribe’s hand and the period of use of other oaths that were recorded in the book with it. We have no information about the oath-takers.

The Świdnica oath is an example of a typical text of a Jewish oath. Right at the beginning of the oath, the Creator God is invoked. He is mentioned here in the form of the substitute Jewish name “Adonai”. The same is written at the end of the promise. The oath-taking Jew, therefore, invoked the Creator (“Schöpfer”) of heaven, Earth, all men (including the oath-taker) and of leaves and grass, and the true God (“Wahre Gott”). In the text of the oath we also find a reference to the sacred Jewish book, the Torah. It is mentioned in connection with the punishments that fall on the head of a Jew who swears falsely or pursues evil intent both by his oath and his involvement in the litigation (by giving false testimony). In addition to the curses described in the Torah, other punishments for perjury and evil intent are mentioned. Mention is made, for example, of the fire that burned the biblical Sodom and Gomorrah. Following the previously mentioned characteristics of an oath “more judaico”, as presented by Kisch and Schmidt, we can say that even this early modern Jewish oath is based on medieval patterns³⁸.

³⁷ See e.g. „USLegal“ <https://definitions.uslegal.com/c/calumniae-juramentum/> (accessed: 16.09.2020); „Legal-Glossary“ <http://www.legal-glossary.org/2015/01/22/calumniae-juramentum/> (accessed: 16.09.2020).

³⁸ The wording of the oath is almost identical to the oath mentioned by Z. Frankel, *Die Eidleistung der Juden...*, p. 78 and which is part of *Die Reichskammergerichtsordnung* from the year 1555; *Die Reichskammergerichtsordnung von 1555*, eds. Ch. Belouschek, B. Dick, A. Laufs, Köln–Wien–Böhlau 1976, Tit. LXXXVI (*Ordnung und form des judeneydts*), pp. 162–165 (§ 10). See also J.C. Ulrich, *Samm-*

It is worth mentioning similarities between the two oaths from Wrocław and Świdnica. Some formulations are almost identical, although the Wrocław oath is much longer than the one from Świdnica. The reason for similarities may be the common model on which both oaths were based. At the same time, the same legal basis of both cities and close contacts in this area lasting until the early modern period may play a role (as well as does a shared historical development). It is no exception that oaths from both cities dating from the 17th and 18th centuries use the same format.

The issue of relations between Jews and Christians can also be observed on the basis of an example of other oaths that were not meant directly for Jews. In the abovementioned Wrocław book of oaths, we can also find the oaths of office for those who worked within the so-called “Juden Amt”³⁹. As we can assume from the wordings of those oaths meant for Christian officers in charge of the Jewish affairs in Wrocław (from the first half of the 18th century), there were still problems with humiliating and exploiting Jews. But we can also see that the public administration was attempting to prevent those problems. The concern of the abovementioned officers was very often the organization of relationships between Christians and Jews and ensuring control over this area. This brings us to the most essential function of such professions. Here again, we can see (both in the appointment of such officials and in the individual regulations which they were supposed to supervise) the effort of municipal government (and the early modern state) to achieve control over all areas of life within the urban community.

Among these officials we can find: a *gatekeeper* (the oath specified as that of the *Thor Bedienten im Juden Amt*)⁴⁰, whose oath of office was used four times in 1704, according to notes written at the bottom of the sworn-formula; an *accountant* (the oath specified as that of the *Buchhalters im Juden Amt*)⁴¹, whose oath was used in 1704; and a *municipal servant* entrusted with Jewish affairs (the oath specified as that of the *Juden Ambts Auffwarters*)⁴², for whom

lung jüdischer Geschichten..., pp. 75–77 (*Der Stadt Basel Statuten und Gerichtsordnungen, Ordnung und Form des Judeneides*).

³⁹ APW, AMW, sig. no. 898, Novus hic Iuramentorum Liber, pag. 335–340.

⁴⁰ *Ibidem*, pag. 337–338.

⁴¹ *Ibidem*, pag. 335–336.

⁴² *Ibidem*, pag. 339–340.

two variants of the oath of office from the years 1704 and 1733 have been preserved. All Christian oaths retained the format typical of other Wroclaw oaths of office from this period. In the invocation part of the oath „God Almighty” was addressed, and it was emphasized in this passage that this was a Christian oath. The oath-taker pledged the oath to the city council, promising to tirelessly, properly and in a god-fearing fashion fulfil the obligations arising from his office. This was followed by a passage giving the employee’s own duties, in which the established instructions issued for each profession were also mentioned. All four oaths conclude with simple form of invocation. There was no classical mention of the obligation to report everything suspicious to the city council, which otherwise appears in most of Wroclaw’s oaths. This duty is expressed in the texts of these oaths in various ways. Also, we do not find in any of the abovementioned oaths the promise not to break the oath in the form that we encounter it in almost all sworn formulas.

The accountant in charge of matters relating to the registration of Jewish community members promised to do the work honestly during set hours, to guard the keys of the “office”, and to keep proper records of the Jews (“Register”), i.e. properly to record their names and numbers. His obligation was also to register the Jews who left the city. In that case, he was to receive “die Zeichen” from them and to report it to the “Herren Administratoribus”. In everything else, he was obliged to follow the instructions given. As in the case of the accountant, the registration of the Jewish population was one of the main duties of the gatekeeper. He was to perform his service at the gate daily at a precisely set time (from its opening in the morning until the closing of the gate in the evening). His task was to register Jews passing through the gate, or to prevent access to those who were not allowed to do so (they did not own the prescribed “Tag Zettel” for Jews, or they were Jewish residents living “in front of the gates” who wanted to enter the city outside the annual market period etc.). He should also let the Jews enter the city only through the Świdnica- and Upper Gate. The oath-taker’s duties also included collecting fees from Jews and keeping records of them. The oath stressed that the gatekeeper had to avoid embezzlement and fraud.

The last of these Christian oath-takers who ensured that the rules of coexistence between the Jewish community and the rest of the urban population were observed, was the municipal servant

called the “Auffwarter”. As was mentioned above, two versions of the sworn promise have been preserved. A very abridged version of the original vow was additionally written next to the official oath. However, notes on oath-takers were recorded directly after the text of the original, longer oath. It is possible that, if necessary, a shorter version was used when the official took his office. However, it did not contain some essential information concerning the performance of the function of the oath-taker. The text of the shorter version of the oath merely mentioned the instructions to be followed. Like the gatekeeper, the municipal servant was also obliged to start and end his duties with the opening and closing of the city gates. For example, he was obliged to check whether Jews were properly marked (with appropriate symbols) and to report anything suspicious. The text of the oath also recalls that the oath-bearer should deal with Jewish affairs fairly and deal with Jews “honestly”. He was also responsible for the admission of Jews into the city and was obliged not to conceal anything to his superiors.

In all the abovementioned Christian oaths, the new official’s obligation to try to prevent undesirable – and certainly frequently recurring – situations is emphasized. In this respect, the oath can provide us with information about what the coexistence of both groups of the population looked like on the social and economic level. It is certainly worth mentioning the repeated appeals for equal and fair treatment of the Jewish population appearing in the oaths of Wrocław officials who were in charge of Jewish affairs. Finally, these oaths of office are proof of the way in which the various regulations and decrees concerning the Jewish community were applied in practice.

Considering the wording of oaths, there are some important features that were common to all Jewish oaths from the middle ages till the end of early modern era. First God was always mentioned as “the Creator”, the one who created the Earth and heaven and all things between (e.g. grass and foliage – as it is stated in the wording of the judicial oath from Świdnica). Next, reference to the Torah (or the law given to Moses) can be found in almost every Jewish oath. This is most probably related to the procedural aspect of the oath. A Jew had to hold or touch the Torah when taking an oath. Finally, every Jewish oath included a part where the punishments for oath-breaking or perjury were specified. This is something we do not encounter in any Christian oath from our

analysed materials, at least not on such a scale. The wording of the Jewish oath depends on what purpose it was to serve. It was created by Christians, and it was created to be as unbreakable as possible. Considering also the regulations relating to the practical implementation of the oath, we can say the aim was also to show the place and position of Jewish people within the Christian community. The oath was primarily a tool of discipline and control. Therefore, a lot of examples of punishments given in the Jewish oath have a strongly symbolical meaning. There is a strong tradition and continuity in utilization of oath formulas. We can find the wordings of medieval formulas in oaths from the 18th century. But at the same time, we can trace changes that reflect a transformation of society and further steps in the modernization process. For all these reasons, such oaths can be a rich source of valuable information on urban social development, and they can offer us specific insight into its changes during the substantial and long period of their existence.

Annex

Transcription of Jewish judicial oath – Świdnica, 1637–1657⁴³ (Archiwum Państwowe we Wrocławiu, Akta Miasta Świdnicy, sig. 63, Księga *ławnicza*, fol. 53, pag. 102, Juramentum calumniae)

Juramentum Calumniae eines Judens

Adonei ein Schöpfer Himmels und des Erdreichs und aller Dinge, auch mein und der Menschen die hier stehend, ich rufe dich an, durch deinen heiligen Nahmen, auf diese Zeit, zu der Wahrheit, das ich gegenwertige Zeugen, welche ich um Bekendtnüs der Wahrheit habe fürladen lassen, gefehrlicher Mainung auf ihr gewissen, nicht beschuldige, sondern ich thue es, mein und Meiner Mündlein unvermeidlichen Notdurft hallen, und wo ich dieses Zeugnüs zu einer gerechten Sache nicht gebrauche, sondern einig Unwahrheit, Falsch oder Betrigligkeit darinnen vormerket wirdt, so sei ich Heram und verflucht ewiglich, wo ich auch nicht wahr und Recht habe in dieser Sachen, das mich

⁴³ Both texts have been transcribed according to the rules for the transcription of German texts in J. Šebánek, *Pomocné vědy historické I. Paleografie*, Praha 1958, pp. 61–70.

dann übergehe und verzehre das Feuer, das Sodoma und Gomorrha überging, und alle Flüche, die an der Torah geschrieben stehen, und das mir auch der wahre Gott, der Laub und Grass, und alle Dinge geschaffen hat, niemmermehr zu Hülfe noch zu statten komme, in einigen meinen Sachen und Nöthen. Wo ich aber Wahr und Recht habe, in dieser Sachen, also helfe mir der wahre Gott Adonei

Transliteration of the oath of "Schames", Wrocław, 1738 (Archiwum Państwowe we Wrocławiu, Akta Miasta Wrocławia, sig. 898, Novus hic Iuramentorum Liber, pag. 384–386, Eid vor die Juden Schames)

Eyd vor die Juden Schames

Ich N.N. Schwere bei dem Allmächtigen Gott, Adonai, der Himmel und Erden, auch alles so darinnen ist, geschaffen hat, der Herr ist über alle Melachim, der seinem außerwählten Volk die heilige Torah gegeben hat, die ich in meiner Rechten Hand liegen habe, daß nachdem Ich von Einem Hochedlen und Gestrengen Rath zu einem Schames für die anhero kommende Pohnische Juden und Negotianten angenommen bin, dass ich alle dem was in dem von /weiland/ Ihro Kayser,, und Königliche Majestät unterm 10ten Juli 1738 publizierten Patent enthalten getreulich und mit allem Fleiße nachkommen Verfremden Pohl. Juden Nutzen ohne Arglist zu befördern suchen, Sie auf keine weise hintergehen, oder von Ihnen einiges Geld, unter was Vorwand solches auch sein mag, zu erpressen suchen, sondern mich mit dem Außatz von Acht Sgrl. von jedem betudenen Wagen begnügen werde. Ich will auch keine Praktiken und verbotene Sachen weder selber Vornehmen, noch andern dazu einen Vorschuss geben, auch keines Wegs gestatten, das die ankommende Juden ihren Nahmen, und den Ort ihres Aufenthalts Verändern, Ich will auch weder selber, noch durch mein Weib und die meinigen einige Handlung treiben, noch mich hinter einen andern stecken, noch zulassen, dass die unter dem Nahmen meiner Bedienten, mir zugelassene Personen dergleichen treiben sondern mich in allem ehrlich und fleißig bezeigen also dass die Pohl: Juden und Commercianten und die hiesige Kaufmannschaft sich über mich zu beschweren nicht Ursache haben soll, Sofern ich auch was erfahren sollte was dieser Stadt und dem Lande nachtheilig sein könnte, dass ich es so gleich melden und denunzieren wolle und werde. Und daß ich diesem allem nachkommen werde, daß bezeige ich mit dem Allmächtigen Gott, Abraham, Isaack und Jacob, der sein

auserwähltes Volk, aus Ägypten durchs Rote Meer in das gelobte Land geführte hat, auch dem Mose im Pusch erschienen ist. Da ich aber diesem Zu wieder handeln werde, so sei ich heram und Verflucht ewiglich, es soll mich von Stunde an anfallen der Aussatz mit dem Naemann der Syrer ist geschlagen gewesen, und soll mich das Feuer Verzehr dass Sodoma und Gomorrha verzehret hat oder mich soll das Erdreich, wie Dathan und Abironn in meiner feinde Lande Verschlingen und sollen mich von statt an überfallen alle Flüche, die in der Torah geschrieben stehen dar wieder ich nicht begehren, Bitten noch Aufnehmen will, einige Erklärung Auslegung, Abnehmung oder Vergebung von keinem Juden noch andern Menschen als mir der Gott Adonai helfe, der Himmel und Erden, auch alles was darinnen ist erschaffen hat, Amen.

Löbel Marcus

Samuel Borack

d 14. Nov. 1738

Jacob Simon

Salomon Hirsch

d. 24. Apr. 1741

Streszczenie

Przysięga *More Judaico*. Dwie wczesnonowożytne przysięgi żydowskie z Wrocławia i Świdnicy oraz ich porównanie ze średniowiecznymi przysięgami żydowskimi

Forma, a niekiedy gest przysięgi były jedną ze składowych świata symboliki epoki średniowiecznej i nowożytnej. Celem pracy jest przedstawienie dwóch wczesnonowożytnych przysięg zachowanych w zbiorach (księgach przysięg) z miast tzw. magdeburskiego okręgu prawnego – Wrocławia i Świdnicy – oraz ich analiza w kontekście rozwoju przysięgi żydowskiej (*juramentum judeorum*, *sacramentum Hebreorum*, *Judeneid*) w Europie Środkowej. Na podstawie porównania tekstu obu wspomnianych przysięg z przysięgami średniowiecznymi została podjęta próba prześledzenia ciągłości owego zjawiska oraz zmian we wzajemnych relacjach pomiędzy mniejszością żydowską a chrześcijańską większością. Brzmienie przysięgi żydowskiej zależało od celu, jakiemu miała ona służyć. Przysięga została stworzona przez chrześcijan, którzy dążyli do tego, by jak najbardziej ograniczyć możliwość jej złamania. Biorąc pod uwagę przepisy dotyczące praktycznego zastosowania przysięgi, można powiedzieć, że jej celem było również ukazanie miejsca i pozycji narodu żydowskiego w społeczności

chrześcijańskiej. Przysięga była przede wszystkim narzędziem dyscyplinowania i kontroli. Z powyższych powodów stanowi ona bogate źródło cennych informacji na temat rozwoju społeczeństwa miejskiego oraz zapewnia wgląd w zmiany, jakim podlegało ono na przestrzeni znaczącego i długiego okresu swojego istnienia.