ON THE WORD OF A JEW

Religion, Reliability, and the Dynamics of Trust

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Some Reflections on Jews and Oaths in the Commercial Arena in Medieval Europe

Ephraim Shoham-Steiner

Jews and Christians in the European Middle Ages were opposing, competing, and at times mutually hostile groups.[1] Yet they were also close neighbors, business partners, and associates, especially in the tightly knit medieval urban environment. It was a laborious task, but almost a prime directive, to overcome ingrained hostility and mutual feelings of suspicion and build common trust on a level required to sustain daily life. However, building trust amid the feelings of tension nurtured over almost a millennium of religious competition, theological antagonism, ethnic hostility, and the innately unbalanced political, judicial, and legal status required a sincere effort.

In this chapter, I will focus on an internal Jewish debate about the use of oaths in the marketplace. In medieval Europe, most oaths sworn for commercial purposes involved invoking the name of the deity or a saint, or placing one's hand on a sacred object (a holy codex or a relic) as a means of validating the speech-act.[2] As participants in the marketplace, Jews also used oaths; not surprisingly, the invocation of the name of a deity or a saint by Jews elicited different responses among halakhists. The use of an oath represented a type of conceptual middle ground. Discussions of oath utterances do not reflect the ingrained fear of conversion, although the problem rabbis attributed to this speech-act was a confessional one. Rather, oaths represented the delicacy and fragility of commercial relationships between two individuals from two different religions. Thus the challenge at hand was forming the intricate network of interfaith relations and finding a religious comfort zone that would enable commerce and trade.[3] This very thin fabric demanded constant maintenance. In cases in which the trust was breached, what seemed to be the firm ties of the past quickly turned into the great and grave disappointment of present and the backdrop for harsh feelings and animosities in constructed memories and in literature designed to educate and admonish.[4]

The evidence I will discuss comes, for the most part, from internal Jewish sources, penned, compiled, preserved, and distributed in relatively closed circles by members of the male rabbinic learned elite of the Jewish communities. In the past, scholars took statements made by this rabbinic elite at face value and attributed the information gleaned from these sources such credence that modern readers were given the impression that it represented the thoughts, actions, mind-set, and mentality of the whole body of medieval Jewry. While this is partially true, we should read through the rabbinic sources against the grain. In my reading of these sources, I wish to present the rabbinic attitudes, the internal conversation among the individuals who constructed and consumed these texts, but in addition, I will suggest that a close examination reveals rabbinic anxieties regarding what seem to be other trends among medieval Jews, trends that some rabbis were attempting to curb or regulate. A close observation enables us to see through the rabbinic agenda and reconstruct what we may define as the *vox populi*, or better yet *voces aliae*, the suppressed voices of those individuals whose lives rabbis attempted to regulate, with oscillating levels of success. We will see how the attempt to be trustworthy and credible in the eyes of non-Jewish business associates prompted medieval European Jewish merchants and financiers to take steps that were deemed by some rabbis to be an erosion of Jewish core values. These trends were aimed at neutralizing the invocation of the name of foreign deities while swearing oaths in the marketplace, turning them in essence into a form of currency to enhance credibility. Thus, invoking the names of Christian saints, an act that seemed to some rabbis to be highly problematic, appears to have been registered very differently by other Jews in their quotidian mercantile exchange.[5]

As is clearly evident from both Jewish Hebrew and Christian Latin sources, Jews gave trust-based loans to their Christian neighbors. A short entry from the twelfth-century *Book of Remembrance (Sefer Zekhira* in Hebrew), a memoir compiled by Rabbi Ephraim ben Jacob of Bonn, illustrates this clearly.[6] This short composition is an amalgam of religious poetry (*piyyut*), a personal memoir, and a selection of historical anecdotes from various sources. Its main theme is the documentation of the persecutions of Jews during the twelfth century in northwestern Germany, northern France, and England.[7] After discussing the events of the Second Crusade in northern France (1146), Rabbi Ephraim concludes by praising the Almighty for the deliverance of French Jewry, who managed to emerge from the persecutions relatively unscathed:

> And in the other communities of *Zarfat* [northern France] we haven't heard of anyone who was killed or forced to baptize. Nevertheless, they did suffer financial losses. For the King of France has decreed: "Anyone who volunteered to go to Jerusalem, if he owed money to Jews his debt would be relinquished".

> Indeed most of the loans provided by Jews in France are trust-based *(ba-amanah)*, thus they have lost a fortune.[8]

After having set aside the pressing life and death matters, Rabbi Ephraim turns in his account to the economic damage endured by the Jews in northern France. This short entry suggests that northern French Jewry suffered some serious financial loss during the Second Crusade. Relying on trust (*amana*) and royal protection as safeguards for their loans to non-Jews, northern French Jews had little or no form of value-based collateral.[9] The French royal decree, issued by King Louis VII with the intent of prompting knights into "taking the cross,"[10] stipulated that debts owed to Jewish financiers and creditors were either relinquished or suspended until the person who joined the Crusades returned safely from his endeavor. Thus those Jews whose debtors "took the cross" were hurt financially.[11]

This evidence of trust-based loans from the *Book of Remembrance* is corroborated by a slightly earlier source reflecting events that occurred in Cologne during the 1120s. In his autobiography *Opusculum de Conversione Sua*, the Jewish apostate Hermannus quondam Judaeus (literally, Herman who was once Judah, or a Jew) mentions that he lent a considerable sum of money, without collateral or guaranties, to Prince-Bishop Egbert of Münster.[12] Herman's immediate kin and fellow Jews admonished him for what they considered to be a foolish deed performed by an inexperienced teen and sent him to reside with the bishop in Münster in the winter of that year (possibly 1128) to serve as a constant reminder of the debt. Although the depiction of the Jewish reaction may have been a polemical insertion into the story, showing the Jews as greedy and money minded, it confirms that Jews were lending money to Christians, especially those with a high sociopolitical profile, in return for symbolic or little collateral.[13]

As is evident from the remainder of Herman's text, a bond of trust developed between the two individuals—the young Jewish representative of the Cologne-based merchant-banker Halevi family on the one hand and the wayfaring bishop, counselor to the emperor, on the other. This bridge over the religious divide and the bond of trust that was forged between the two grew to the point that it came to manifest one of the Jews' greatest and most ingrained fears in medieval Europe: the fear of conversion resulting from fraternizing and close association with Christians.

Commerce, Trade, and Faithfulness

From late antiquity, direct commercial contacts between Jews and non-Jews were viewed by rabbinic authorities as a potential minefield for the faithful. Rabbis feared that in these gray, unsupervised areas of interreligious contact, Jews would develop intimate relationships with non-Jews and eventually compromise their

religious standing. However, these fears were overshadowed by a stronger rabbinic suspicion that certain acts and statements, such as swearing oaths and close social association, would bring Jews to acknowledge the potency of foreign deities. Fears of the first category are already manifested in the Hebrew Bible: "Lest thou make a covenant with the inhabitants of the land, and they go astray after their gods, and do sacrifice unto their gods, and they call thee, and thou eat of their sacrifice" (Ex. 34:15).

In light of this biblical command, rabbis attempted to curb, limit, and at times even altogether suppress potentially dangerous business liaisons between Jews and non-Jews. Rabbinic views on such matters were legally formulated in the tractate *Avodah Zarah* (literally, *Idol Worship*) of the Babylonian Talmud.[14] This tractate became a highly influential text among medieval European Jews in the twelfth century due to its attempt to regulate the social and business interactions between Jews and non-Jews.[15] For example, the rabbinic sages regulated days on which Jews must refrain from having any business dealings with non-Jews.[16] The rationale behind this concern was that the outcome of any business deal involving both Jew and non-Jew would prompt the non-Jewish partner to either thank his deity for the positive outcome or cause the gentile partner to beseech the deity in case of failure. Rabbis were also concerned about the possible use of products procured from Jews for idolatrous festivals and worship.[17]

With the growing Jewish population in medieval Europe, especially from the tenth century on, and exposure of Jews to the developing medieval Christian calendar of saint's days, rabbinic efforts to regulate business were rendered nearly obsolete. One had either to adhere to the rabbinic regulations of the Talmud at the risk of not being able to conduct proper business or ignore them altogether. The first commentary glosses known as *tosafot*, compiled in twelfth-century northern France on the Talmudic tractate *Avodah Zarah* (mentioned above) address this problem. Medieval rabbis made here a conscious attempt to reconcile the Talmudic dictum with the realities of medieval western European life in an effort to have their cake and eat it too. This attempt involved distinguishing between the idol-worshiping gentile population of antiquity and the gentile contemporaries of medieval European Jews. Some medieval rabbis argued that Christians were not performing "pure" blatant idol worship; if some of the practices resembled idol worship, it was simply because they pursued these habits as tradition in the form of ancestral custom *mos maiorum*.

Swearing Oaths in the Marketplace

In a revealing responsum attributed to the thirteenth-century German Jewish sage Rabbi Meir ben Baruch of Rothenberg (d. 1293), the author responds to "Rabbi Asher my teacher and kin" about a matter that greatly saddened him.

Rabbi Asher, who is mentioned as the recipient of the responsum, is Rabbi Meir's younger contemporary and student, Rabbi Asher ben Yehiel ("Rosh"), who resided in Cologne at the time.[18] It seems that several issues caused Rabbi Asher distress. One issue that appears in the following responsum concerns attempts made by Jewish merchants and businessmen in his immediate surroundings, probably his native Cologne, to gain their gentile business partners' trust by swearing what he thought were religiously objectionable oaths. The exact phrasing of Rabbi Asher's question did not survive, but it can be reconstructed from the answer Rabbi Meir supplied:

> And regarding what you wrote (to me) about those who "swear on the guilt of Samaria"[19] and in most of their business transactions they rely on this, and their livelihood depends on these depravities.[20] Indeed I share your grief over this matter and I have, time and again, chastised my adherents on this, crying out about it, in vain and to no avail. And I say about this time and again that it is over these matters that the properties of the house owners dwindle and collapse[21] and the debts go sour, indeed a measure for a measure, "in the pot that they cook they will be cooked."[22] Nevertheless I cannot protest for they claim they have a great man to rely on[23] [referring to Rabbi Jacob ben Meir, also called Tam[24]] who (they say) sanctioned this practice based on his claim that: "the Gentiles that live outside of the Land of Israel are not idol worshippers."[25] Furthermore, *for in our times all swear oaths invoking the names of the saints while they* [the non-Jews] *do not revere them as deities.* When they [the gentiles] do invoke the names of the saints they also mean to invoke Jesus, but they usually do not explicitly utter *his* name. And if you think that they do actually think about *him* while they swear the oath, these after all are matters of the heart and matters of the heart are not "real things."[26] Indeed, their thoughts [when uttering the names of the saints] were on the creator of the heavens (and earth).[27]
>
> Alas, on matters that are utterly forbidden where there is no way to allow any leniency they [my Jewish adherents] do not obey me let alone when, like in this case, they may rely and lean on this opinion they surely do not listen. And they do the deed wittingly and violate the dictum of Rabbi Samuel.[28] And how blind are they to think that by this they will actually prosper and gain, for they lose more than they gain. And he who suggested that I had ruled in favor of this practice had lied to you for on any matter where the great ones[29] disagree I always lean towards the more stringent side, unless this is a matter where the permit is simple and widespread in accordance with an older custom that may be relied on.[30]

The reader may wonder why I chose to cite this rather lengthy text in its entirety, as even in its original form, it is not very communicative and assumes much Talmudic knowledge in order to properly comprehend it. Due to its revealing nature, this correspondence allows a behind-the-scenes glance at the decision-making process among halakhists in matters of this sort. The responsum

highlights Rabbi Asher and Rabbi Meir's strong objection to what became a widespread practice of Jewish merchants and creditors: swearing in the name of Christian saints.

Although this responsum is not dated, most clues point to the fact that it was probably written between 1270 and 1281.[31] During this period, Cologne was a hub of thriving commerce and financial activity, where Jews played an enormously important role in both trade and banking. Jewish traders resided in Cologne as early as the tenth century, and Jews from nearby regions flocked to the city for commerce, especially for its renowned triannual markets and fairs.[32] Several years prior to the suggested dating of this document, in 1266, the local archbishop granted the Cologne Jewry the exclusive rights to local moneylending and suppressed any competition. By so doing, the archbishop enhanced his income, taking a cut of the commission and interest while attempting to enhance his political leverage in the city. Archbishop Engelbert II von Falkenburg had the *Judenprivileg* he had drafted carved in stone and set first in the chapter of the Cologne Cathedral and then set on display on the cathedral's northern wall, where it remains to this day.[33] The exclusive status of Jews as the leading financiers was a source of great friction with the local businessmen and trade guilds.[34]

This economic privilege speaks volumes to the role of Jews in the Cologne economy in the mid-thirteenth century. It was during this time period that the local synagogue was renovated and beautified and an elaborate Gothic-style, lavishly decorated *bimah* (podium) carved in luxurious imported northern French limestone was installed. According to recent research, this was also the time when the famous Amsterdam Mahzor (called this due to its current location) was commissioned, produced, and used in the Cologne Jewish community (1270s).[35]

While the general objections raised in the responsum are abundantly clear, I would like to provide a close reading of the encoded rabbinic language of the text. The individuals criticized are described as swearing oaths "on the guilt of Samaria." Some light may be shed on this enigmatic expression from the words of Rabbi Eleazar ben Judah of Worms (1165–ca. 1240) in his early thirteenth-century commentary on the prayers for the Jewish festival of the New Year (*Rosh Hashanah*). Rabbi Eleazar, a perceptive observer of his life and times, and one of the adherents of the Ashkenazi Pietistic movement, makes the following comment on the phrase: "All knees will kneel to You and all tongues *will swear by Your name.*"[36]

> And all tongues will swear by your name: and they will cease saying: "as your god lives Dan" and "as the way to Beersheba lives" for they will no longer "swear by the guilt of Samaria" but rather swear by Your name, and they will see and acknowledge that You are the only one.[37]

Alluding to the biblical verse from the prophecy of Amos, it seems that those who swore "by the guilt of Samaria" were Israelites invoking the name of

a local deity. The classic interpreters of these verses associated the phrase "the guilt of Samaria" and the words "Dan and Be'ershevah" with the biblical Israelite worship of the calves (*agalim*) positioned by King Jerobam in the border towns of the northern Israelite kingdom, Dan in the north and Beersheba in the south (1 Kings 12:28–33).[38] The prophecy of Amos, who followed the Jehovian code of a single place of unified worship and a nonterritorial and nonfigurative deity, voiced criticism about worshiping the Israelite calves and invoking their names and place of worship in sworn oaths. Rabbi Eleazar used this reference as his point of departure when he voiced his hope that his Jewish contemporaries would also refrain from similar practices.

Rabbi Eleazar's comment on the prayer fits nicely with the critique expressed in the words of Rabbis Asher and Meir a generation and a half later. It seems that during the thirteenth century, it became more common among Jews to use the names of the Christian saints when swearing oaths in the commercial arena.

In his responsum, Rabbi Meir notes that those who act this way are said to tell their critics that their behavior was sanctioned by none other than the aforementioned Rabbi Jacob ben Meir, known as Rabbenu Tam. Furthermore, it seems that some Jews even said that Rabbi Meir himself had sanctioned this behavior, a claim that infuriated him and that he attempted to revoke in his responsum, lest his reputation be tarnished. To remove any shadow of doubt, Rabbi Meir provides a detailed answer, and although he made no explicit reference to the alleged authorization by Rabbi Jacob ben Meir to this practice, it likely refers to the gloss I will examine below.

Before we delve deeper into the details of the northern French twelfth-century gloss on the Talmud that Jews saw as enabling their invocation of the name of Christian saints in oaths, let us first go further back in time to the eleventh century, to Rabbi Jacob's maternal grandfather, Rabbi Shlomo ben Isaac ("Rashi," 1040–1105).[39]

In Exodus 23:13, we read the following: "And in all things that I have said to you beware; and make no mention of the name of other gods, neither let it be heard out of your mouth."[40] In his running commentary on the Pentateuch, Rashi comments:

> *Make no mention*: This means that one must not say to another 'Wait for me near such-and-such an idol' [church] or 'Stay with me on the festival of such and such an idol [saint's day].' It shall not be heard from a heathen through thine agency.[41] For consequently you will have brought it about that it has been mentioned through your agency.[42]

This idea is not Rashi's innovation. It comes from the Babylonian Talmud, tractate *Bekhorot* (2b), in which the Talmud quotes a statement by the father of the Talmudic sage Samuel: "One must not enter a partnership with a gentile,

for it may end with a need for an oath, and the gentile will indeed swear the oath invoking the name of his deity, and it is about these matters that the Torah stipulated: 'It shall not be heard on your account' [literally, 'by your mouth'—*al pi'kha*]." It seems as if Rashi strictly adheres to the Talmudic precedent. However, in an anecdote found in a few sources that preserved Rashi's teachings, we hear of the following incident from his own life:

> Once a gentile owed an oath to our Master [Rashi] and he escorted the [gentile] debtor to the entrance of an idolatrous shrine [church] causing him to think he intended to make him swear an oath, but in his heart he [Rashi] had no such intention, for the sages have already said: "One should not strike a partnership with a gentile for there may be a situation where the gentile would want to swear an oath and he will wish to use the name of his idolatrous deity about which the Torah states: 'It should not be heard on your account'" (Sanhedrin 63b). Rather, he made it look as if he indeed wanted to cause the gentile to swear the oath. And they [the clerics at the church] brought out the rotting bones of their depravities [a relic] and the gentile put a coin on them in order to (dis)grace the idolatry.[43] At this point our Master believed[44] him and gave the gentile more time based on his oath. And from that time on, our Master had decided to restrict himself and refrain from negotiating great matters with non-Jews for there might be a chance the non-Jew would need to swear an oath, this in effect would cause the non-Jew to pledge money to his deity and thus an idolatrous worship will benefit directly on our master's account. Furthermore this behavior may suggest that the Jew actually acknowledges the idolatrous deity as effective and potent, for he brought someone to swear by it.[45]

This story, penned before 1096, discusses a business partnership between the northern French Jewish sage and a certain non-Jew. As Haym Soloveitchik has shown, Rashi and his family were in the viticulture crediting business, providing venture capital and high-risk loans to vineyard owners in the area of his hometown of Troyes in Champagne.[46] It seems from the text that Rashi only realized in hindsight that his behavior was a violation of the biblical commandment from Ex. 23:13.[47] The shrine of the saint and the reliquary it possessed were brought to serve as a guarantor for the loan, and by accepting this act of faith, Rashi inevitably attested to its validity. Later, Rashi identified the problem and vowed he would not fail in the future. Neither text is dated, but it stands to reason that Rashi made this strong claim in his biblical commentary based on his own life experiences recorded in his responsum. From Rashi's experience, it seems clear that Jewish moneylenders' acceptance of Christian oaths on holy relics certified a degree of trust.

The *tosfaot* (glosses) on the aforementioned Talmudic discussion restricting business partnerships with non-Jews record a debate between Rashi's grandchildren, Rabbi Samuel ben Meir ("Rashbam") and his younger brother, Rabbi Jacob ben Meir (Tam):

It is due to this dictum that Rabbi Samuel ben Meir forbade accepting an oath from a non-Jew based on an *a fortiori* claim (if striking a partnership which is a great matter is forbidden, a much lighter matter like accepting an oath is clearly forbidden). However Rabbi Jacob "Tam" allows this, for through this oath [uttered orally] the Jew may salvage assets from the non-Jews. Rabbi Jacob bases his claim on the Talmudic dictum from *Avodah Zarah* (6b) that a loan that is oral [involves no written deed] may be collected at any time (even in the days restricted by rabbinic law for commerce with non-Jews stipulated at the beginning of this tractate). His reasoning is that doing so is like salvaging assets from them and that is permitted . . . and Rabbi Jacob also supports his claim by saying: "In our time all the gentiles swear oaths invoking the names of their saints, and they do not consider the saints as deities. Although when they swear they invoke alongside the name of the saint the name of the heavens (and when they say so they actually mean "something else," i.e., Jesus) nevertheless this is not invoking the name of an idolatry for they really refer to the Lord creator of the heavens and earth. And although they summon together in this speech-act the Lord with another force and it is a Jew who caused them to swear these oaths in our business dealings with them, nevertheless it is not we [the Jews] who cause them to err and we [Jews] are not violating the prohibition of "placing a stumbling block before the blind" because the gentiles here are Noahides [sons of Noah] and although they are prohibited to worship idols they are not prohibited to share (believe that alongside the creator there are other powers that be). Besides, we are prohibited to "share" but not prohibited to cause others from performing speech acts that involve "multiplicity and participation."[48]

It is clear from the gloss that the editor of the *tosafot* on the Babylonian Talmud tractate *Sanhedrin* favored Rabbi Jacob's opinion, for he chose to present it in full after Rabbi Shmuel's and even elaborate on it.[49] It also seems clear that Rabbi Jacob realized that attempting to prevent his fellow Jews from the already widespread practice of asking non-Jews to swear oaths on relics and to invoke the names of saints was futile. Therefore, in an attempt to sanction the already widespread behavior, Rabbi Jacob provided a halakhic justification for the argument.[50] By the thirteenth century, Jewish merchants ignored the fine print of the rabbinic legal ruling and instead assumed a blanket sanctioning for all oaths. Basing themselves on the more lenient opinions of Rabbi Jacob Tam and Rabbi Isaac, and in an attempt to enhance non-Jewish business partners' trust, Jewish merchants and bankers were willing to swear oaths *themselves* using and invoking the Christian saints' names.[51] When these Jews were confronted on this matter by more stringent Jews, they replied that this practice was allowed by Rabbi Jacob Tam; some may have also added that they relied on Rabbi Meir of Rothenburg.

The elaborate discussions of Rabbi Jacob Tam and Rabbi Isaac "the Elder" of Dampierre in the twelfth century allow us to reevaluate the manner in which Jews were willing to understand the invocation of saints' names

by non-Jews swearing oaths not as theological statements per se but in the less theologically charged and more businesslike fashion of a mercantile credibility enhancement mechanism. By exposing their thoughts and comments, even if they were recorded to sanction a dubious practice ex post facto, the leading halakhic masters brought the very concepts that could undermine the adherence to the Talmudic dictum to public knowledge, thus diffusing their negativity. It appears that in the eyes of those individuals operating in the commercial arena, it was not a giant leap to actually swear oaths for commercial matters using the names of Christian saints to instill a sense of trust and trustworthiness. For them, this was more a matter of creating a business conduit than a theological action. It may well be that the nature of the rift between Rabbis Asher and Meir and the people they were criticizing was not about idolatry or heresy but a more subtle theological issue: To what extent could an act of invoking a saint's name become a theologically neutral and merely economic tool? Could an oath made by a Jew invoking the names of Christian saints be understood by other Jews as a theologically hollow speech-act made for mercantile purposes alone, or was any invocation of a saint's name by a Jew a speech-act that was inherently so religio-theologically charged that it could not be considered solely on a utilitarian level?

It is not clear whether the practice criticized by Rabbis Asher and Meir was unique to Rabbi Asher's locale in Cologne or whether it was more widespread; the latter seems to be closer to reality. It appears that Jews in Cologne may have spearheaded a growing phenomenon throughout Germany and perhaps northern France as well, as they began using (or abusing, if we accept Rabbi Asher's critique) Rabbi Jacob's license to accept oaths made by non-Jews invoking the name of Christian saints and even swore oaths to their non-Jewish business partners in the same manner.

Interestingly, in his attack on this practice, Rabbi Meir warns that those who are believed to have embraced what he understands to be an erroneous custom might suffer divine retribution in the form of the failure of their business endeavors. We may thus wonder why the threatened retribution is not as severe as expected; although the practice of Jews swearing oaths and invoking the names of Christian saints is strongly criticized, terms like idolatry or heresy are not introduced into the discussion. This may be a result of the rabbinic acceptance that they were fighting a losing battle.

The story discussed earlier about Rashi and the gentile creditor allows us to formulate an understanding regarding the changing social atmosphere of those times. In the story, it was Rashi, the Jew, who needed to receive the oath from the Christian, and it was the Christian who went out of his way to please his Jewish debtor by going to a church and taking an oath involving relics. By the thirteenth century, matters had been reversed. Rabbis Asher and Meir were chastising Jewish merchants and businessmen who wittingly swore oaths invoking the names

of Christian saints in an attempt to boost their trustworthiness in the eyes of their non-Jewish business partners. In many ways, this reversal of roles reflects the general paradigm shift in medieval Jewish history in northern Europe from the tenth and eleventh centuries to the thirteenth and especially the fourteenth century. The Jews began as a tolerated and even sought-after minority, at least in commercial matters. Their financial, credit, and commercial abilities were considered by lords and laymen alike as reason to seek their presence and engage in business with them. During this time, they had relatively little competition. By the thirteenth century, the situation had changed, and with the rise of the mercantile urban elite, Jews became yet another player in a more diverse economical game. The privilege granted to the Cologne Jews in 1266 illustrates this point vividly. The final clause in the stone-carved document prohibits the settlement in Cologne of the French Cahorsin bankers, explicitly to prevent competition with the Jews in the crediting business. The clause, probably included in the privilege at the behest of Jewish merchant bankers, exposes the fact that although the privilege of 1266 was an attempt to suppress the competition, they well understood that challenges to their monopoly would multiply.[52] It is no wonder that once their trade was no longer unique, Jews' legal and social standing constantly eroded during the thirteenth century until it was they who needed to boost their credibility among their Christian business partners.[53]

In the final lines of the responsum, Rabbi Meir comes to grips with the claim made by some of the Jewish merchants that it was he who sanctioned their practice of swearing oaths invoking the names of Christian saints. He vehemently denies this claim as false. Thus, another aspect of trust and trustworthiness is at play in this responsum: Rabbi Meir's own credibility among his rabbinic adherents and colleagues.[54] The language and imagery employed by Rabbi Meir is also worthy of attention. He writes that the Jews who swear oaths invoking the name of Christian saints are blinded by their belief that straying from the path might help them acquire wealth. The language and imagery of blindness applied here resonates with the Christian polemical imagery of the Jew as blind to the confessional Christian truth.[55] Rabbi Meir, in what seems like an intended twist, accuses Jews who turn a "blind eye" to their own religious behavioral code of blindness, stating that their attempt to earn the trust of their non-Jewish business partners and procure wealth blinds them to the real truth—that they lose more than they gain because they are compromising Jewish ideals.

Conclusion

We have surveyed some of the attitudes prevalent among Jews regarding the use of oaths in the commercial arena. Using medieval European rabbinic sources, we have seen how difficult it was for some Jews to reconcile the biblical verses as they were understood in the Talmud with the economical need to strengthen

credibility, trustworthiness, and faith among their Christian business partners. Oaths, especially powerful ones, involved invoking the name of a deity or placing one's hand on an object that represented a metaphysical entity that would vouch for upholding a deal or a debt, such as a sacred codex or a relic of a saint. As we see, this was problematic for some Jews, such as the eleventh-century sage Rashi and some of his family members, including his grandson Rabbi Samuel ben Meir. The business environment of an eleventh-century marketplace in western Europe was still very much an oral environment, with few written deeds. In such an environment, the use of oaths to support one's credibility and trustworthiness was a frequent quotidian occurrence. Twelfth-century sources such as Rabbi Jacob Tam's gloss and his recorded disagreement with his older brother Rabbi Shmuel ben Meir disclose to us that attitudes were changing. By this time, it is clear that the more frequent and prevalent behavior involved Jews accepting oaths made by invoking the names of Christian saints on a daily basis. In the mind of Rabbi Jacob, probably adhering to a more popular trend or in an attempt to retain rabbinic relevance to a larger audience, the mercantile environment somewhat neutralized the religious nature of the invocation of the saint's name. It was still a powerful tool as it drew a supernatural power into the business dealing. In order to reconcile this, Rabbi Jacob was willing to view the saint not as drawing his power from the figure of Jesus but rather from the Almighty himself ("creator of the heavens"). This enabled him to sanction such behavior, which created an atmosphere where Jews felt more at ease with the practice of oath swearing. By the thirteenth century, we hear from Rabbi Asher and Rabbi Meir in Germany that Jews were already using the same oaths (invoking the names of Christian saints) as a common practice when dealing with Christians, to the point where they would swear such oaths themselves. This may be connected with the erosion of both the legal and commercial status of Jewish merchants, who were struggling to remain relevant in a more complex and economically advanced business environment. Unfortunately, the Jewish sources at our disposal are predominantly rabbinic. We have few sources that stem from the non-rabbinic commercial strata of Jewish society. The voice of the Jewish merchants and creditors themselves is either completely absent from the sources or mediated to us through rabbinic eyes and writing. At this point, we can only speculate about the merchants' actual practices, thoughts, and rationalizations.

Notes

1. This chapter is based on a talk delivered at the Oxford Center for Hebrew and Jewish Studies at Yarnton Manor in March 2014. I wish to thank the conference organizers and volume editors, Mitch Hart and Nina Caputo, for inviting me to the conference, and my fellow medievalists and early modernists Sara Lipton, Josh Teplitsky, and Rachel Fürst for

suggesting I look into this matter. I wish to thank my friend Dr. Jason Rogoff for reading this chapter and making some invaluable comments that helped me sharpen some of the claims made here. The research for this chapter was made possible by the generous aid of the Israel Science Foundation (ISF) and The Council for Higher Education Project: Israel Centers for Research Excellence (I-CORE), grant number 1754.

2. On the use of oaths in the medieval marketplace, see Ralph J. Hexter, *Equivocal Oaths and Ordeals in Medieval Literature* (Cambridge: Harvard University Press, 1975).

3. On this topic, see Ephraim Shoham-Steiner, ed., *Intricate Interfaith Networks: Quotidian Jewish-Christian Contacts in the Middle Ages* (Turnhout: Brepols, 2016).

4. A clear sense of this disappointment can be seen when reading through the following passage from the early thirteenth-century *Book of the Pious* (section 250 in the Parma edition): "'Whose mouth speaketh falsehood and their right hand is a right hand of lying' (Psalms 144:8). Once they [the Christian gentiles] decreed destruction [forced conversion, in Hebrew *Shemad*] on Israel [the Jews] to forcefully immerse them in their waters [baptism] and to cause the Jews to leave God the Lord of Israel so that we should be entrapped in the beliefs of the gentiles. And Israel [the Jews] were all engaged in fleeing from their localities. Many had lords and dignitaries who presented themselves as if they are amicable and friendly saying: 'Come to me and I shall protect you against your enemies.' They [the Jews] came to them but were nevertheless killed. That is why they said: a Jew shouldn't be intimate with a gentile." For the original Hebrew text, see Jehuda Wistinetzki, ed., *Das Buch der Frommen: nach der Rezension in Cod. De Rossi no. 1133 mit Einleitung und Registern von Jacob Freimann* [in Hebrew] (Frankfurt: Wahrman, 1924), 82.

5. The question of Jews and trust, trustworthiness, belief, and disbelief, especially regarding the legal and commercial relationship between Jews and Christians in medieval Europe, has been discussed before. It is closely associated with the more general and philosophical question of faith and trust, specifically within a network of relations crossing religious and what later in time developed into "confessional" boundaries. R. J. Zwi Werblowsky, "Faith Hope and Trust: A Study in the Concept of *Bittahon*," in *Papers of the Institute of Jewish Studies London*, ed. J. G. Weiss (Jerusalem: Magnes, 1964), 95–139. I wish to thank my friend Daniel Abrams for turning my attention to this somewhat forgotten paper by Zwi Werblowsky. On the Jew's oath, see Amnon Linder, "The Jewry Oath in Christian Europe," in *Jews in Early Christian Law: Byzantium and the Latin West, 6th–11th Centuries*, ed. J. Tolan et al. (Turnhout: Brepols, 2014), 311–59.

6. The memoir begins with the author's personal recollection of the events leading to the persecutions of the Second Crusade in 1146 and concludes with the events of 1196 in Speyer. Internal references in the text suggest that it was compiled as an addendum to the Hebrew chronicles that discuss the anti-Jewish riots and massacres of 1096 that were compiled during the 1140s–1150s in the Rhineland. Ephraim's text covers the next fifty years, from the fiftieth anniversary of the 1096 riots (1146) to the centennial anniversary (1196) of the 1096 events. Ephraim ben Jacob of Bonn, *Sefer Zehira Selichot ve'Quinot*, ed. A. Haberman (Jerusalem: Mosad Bialik, 1970). The modern detailed edition of the Hebrew chronicles about the 1096 events is Eva Haverkamp, *Hebräische Berichte über die Judenverfolgungen während des Ersten Kreuzzugs*, Hebraische Texte aus dem mittelalterlichen Deutschland Bd. 001 (Hannover: Monumenta Germaniae Historica, 2005).

7. The latter literally means "the islands of the sea," referring to the insular kingdom of England.

8. Shlomo Eidelberg, *The Jews and the Crusades: The Hebrew Chronicles of the First and the Second Crusades* (Madison: University of Wisconsin Press, 1977), 131. For a short introduction to the *Book of Remembrance*, see Eidelberg, *The Jews and the Crusades*, 117–20. For the Hebrew text of the quoted passage, see *Sefer Zekhira*, 27, rows 212–16.

9. On Jews in northern France in this time period, see Robert Chazan, *Medieval Jewry in Northern France: A Political and Social History* (Baltimore: Johns Hopkins University Press, 1973), 30–61; Emily Taitz, *The Jews of Medieval France: The Community of Champagne* (Westport, CT: Greenwood, 1994). On Jewish moneylending in a slightly later period, see William C. Jordan, *The French Monarchy and the Jews: From Philip Augustus to the Last Capetians* (Philadelphia: University of Pennsylvania Press, 1989), 3–90. See also Norman Golb, *The Jews in Medieval Normandy: A Social and Intellectual History* (Cambridge: Cambridge University Press, 1998), 217–52.

10. *Se croisier* in medieval French and *crux suscepit*, *crux accepit*, or *crucizo* in medieval Latin: namely, the vow to take the cross and join the Crusade.

11. Regardless of the question of whether this is indeed how matters had unfolded and how grave the losses, in the memory of the period, or at least in the attempt made by Rabbi Ephraim to shape that memory, this is how matters were recorded and remembered. Rabbi Ephraim was thought to be an important chronicler, especially among rabbinic circles, so much so that Rabbi Isaac ben Moses of Vienna ("Or Zaruah") attributed to him the fictitious story of the martyrdom of Rabbi Amnon of Mainz. On this, see I. G. Marcus, "A Pious Community and Doubt: *Qiddush ha-Shem* in Ashkenaz and the Story of Rabbi Amnon of Mainz," in *Essays on Hebrew Literature in Honor of Avraham Holtz*, ed. Zvia Ben-Yosef Ginor (New York: Jewish Theological Seminary of America, 2003), 21–46.

12. Jean-Claude Schmitt, *The Conversion of Herman the Jew: Autobiography, History, and Fiction in the Twelfth Century*, trans. A. J. Novikoff (Philadelphia: University of Pennsylvania Press, 2010), 204. On Herman and his autobiography, see also Aviad Kleinberg, "Hermanus Judaeus's Opusculum: In a Defense of Its Authenticity," *REJ* 151 (1992): 337–53. Herman's text has been discussed quite extensively over the past two decades. See Jeremy R. Cohen, "The Mentality of the Medieval Jewish Apostate: Peter Alfonsi, Hermann of Cologne, and Pablo Christiani," ed. Todd M. Endelman, *Jewish Apostasy in the Modern World* (New York: Holmes and Meyer, 1987), 20–47; K. F. Morrison, *Conversion and Text: The Cases of Augustine of Hippo, Herman-Judah, and Constantine Tsatsos* (Charlottesville: University of Virginia Press, 1992), 39–113; and most recently, Ryan Szpiech, *Conversion and Narrative: Reading and Religious Authority in Medieval Polemic* (Philadelphia: University of Pennsylvania Press, 2012), 60–91. The recipient of the loan, Ekbart or Egbert, bishop of Münster, was appointed to this diocese in 1127 and died in Cologne in January 1132.

13. In a later period, especially the thirteenth century, we can see more evidence of written deeds, especially for monetary and real estate transactions. Here too the mercantile communities in medieval Cologne may serve as a good example: see M. Stern and R. Hoeniger, eds., *Das Judenschrinesbuch der Laurenzpfarre zu Koln: Quellen zur Geschichte der Juden in Deutschland Band 1* (Berlin: Leonhard Simion, 1888). On the importance of written deeds in the monetary exchange between Jews and non-Jews in southern France, see J. Shatzmiller, *Shylock Reconsidered: Jews Moneylending and Medieval Society* (Berkeley: University of California Press, 1990). And for France, see A. Holtmann, "Jewish Moneylending as Reflected in Medieval Account Books: The Example form Vesoul," *The Jews of Europe in the Middle Ages: Tenth to Fifteenth Centuries (Proceedings of the International*

Symposium Held at Speyer, 20–25 October 2002), ed. C. Cluse (Turnhout: Brepols, 2004), 305–16. On the Anglo-Jewish starrs [from the Hebrew word *shtar* or *shtarot* (pl.)], see the nineteenth-century catalogue by M. D. Davis, *Hebrew Deeds of English Jews before 1290* (London, 1888), and Israel Abrams et al., eds., *Starrs and Jewish Charters: Preserved in the British Museum: with Illustrative Documents, Translations and Notes* (Cambridge: Cambridge University Press, 1930–32). More recently: Anne Causton, *Medieval Jewish Documents in Westminster Abbey* (London: Jewish Historical Society of England, 2007), and Judith Olszowy-Schlanger, "The Money Language: Latin and Hebrew in Jewish Legal Contracts from Medieval England," in *Studies in the History of Culture and Science: A Tribute to Gad Freudenthal*, ed. Resianne Fontaine et al. (Leiden: Brill, 2011), 23–50.

14. On this tractate and how it does not deal with idolatry but rather with the relationship between Jews and people considered by Jews to be idolaters, see Moshe Halbertal and Avishai Margalit, *Idolatry* (Cambridge, MA: Harvard University Press, 1992), 209–13.

15. On the predominance of the Babylonian Talmud as a source of Jewish legal thought and ruling among northern European Jews in the Middle Ages, see Talya Fishman, *Becoming the People of the Talmud* (Philadelphia: University of Pennsylvania Press, 2011), 91–154. See also the recent thought-provoking article by Haym Soloveitchik, "The Third Yeshiva of Bavel and the Cultural Origins of Ashkenaz: A Proposal," in *Collected Essays*, vol. 2, ed. Haym Soloveitchik (Oxford: Littman Library, 2014), 150–201. One of the issues discussed in this article is whether or not, and to what extent, tractate *Avodah Zarah* was part of the core curriculum in the Jewish academies in medieval Europe close to the time we first hear of a Jewish learned presence in this part of the world. See also Haym Soloveitchik, *Wine in Ashkenaz in the Middle Ages* [in Hebrew] (Jerusalem: Shazar, 2008), 157–90.

16. On this and other matters relating to the calendar and the keeping of time between Christians and Jews in medieval and early modern Europe, see Elisheva Carlebach, *Palaces of Time: Jewish Calendar and Culture in Early Modern Europe* (Cambridge, MA: Belknap, 2011).

17. On this and other matters behind this tractate in the Talmud, see Moshe Halbertal, "Coexisting with the Enemy: Jews and Pagans in the *Mishnah*," in *Tolerance and Intolerance in Early Judaism and Christianity*, ed. Graham N. Stanton and Guy Stroumsa (Cambridge: Cambridge University Press, 1998), 159–72.

18. The responsum can be found in the new comprehensive edition of Rabbi Meir's response; see Meir B. Baruch of Rothenburg, *Responsa*, ed. Ya'acov Frabstein [in (Hebrew] (Jerusalem: Machon Yerushalayim, 2015), 3:173–76 § 295–99 (formerly 1282–87) .The reference to Rabbi Asher appears in the opening remark found in § 295 and the responsum under consideration here appears in § 297. The original responsum contained answers to queries raised by Rabbi Asher on several matters. Later copiers and printers gave different numbers to each topic, but they are all part of one letter addressed by Rabbi Meir to Rabbi Asher and signed by Rabbi Meir at the end of § 299. On Meir of Rothenburg, see Irving A. Agus, *Rabbi Meir of Rothenburg: His Life and His Works as Sources for the Religious, Legal, and Social History of the Jews of Germany in the Thirteenth Century* (Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1947); more recently: Ephraim Kanarfogel, "Preservation, Creativity, and Courage: The Life and Works of R. Meir of Rothenburg," *Jewish Book Annual* 50 (1992): 249–59; Simcha Emanuel, "Unpublished Responsa of R. Meir of Rothenburg as a Source for Jewish History," in *The Jews of Europe in the Middle Ages: Tenth to Fifteenth Centuries (Proceedings of the International Symposium Held at Speyer, 20–25 October 2002)*, ed. Christoph Cluse (Turnhout: Brepols, 2004), 283–93. More recently: Joseph I. Lifshitz, *Rabbi Meir of Rothenberg and the Foundation of Jewish Political Thought* (New York: Cambridge University Press, 2015) 36–46. Asher studied with Meir and maintained constant contact with him for almost twenty years, although they lived in different localities in Germany. After Rabbi Meir was imprisoned for an unlicensed attempt to leave the German Reich (1286), Rabbi Asher played a facilitative role, along with others, in the attempts to free him from incarceration (1286–93). Later, after Meir's death in captivity, Rabbi Asher was active in the attempts to redeem his bodily remains from German imperial authorities. When these attempts failed and Rabbi Asher was himself in danger, he left Germany (1303) via France to Iberia, where he lived in Toledo until his death in 1327. See Alfred Freimann, *Ascher ben Jechiel: sein Leben und Wirken*, Jahrbuch der Jüdisch-Literarischen Gessellschaft band 12 (Frankfurt: David Droller, 1918).

19. A reference to the biblical verse in Amos 8:14: "Those who swear by the guilt of Samaria, saying: 'as your god lives Dan' and 'as the way to Beersheba lives' they shall fall to rise no more."

20. The Hebrew reads קדישים (*qudeshim*), which is a pun on the Hebrew word קדוש (*quadosh*), meaning saintly, but in this context, it is the pejorative קדש *(quadesh)*, meaning a male cult prostitute (Deut. 23:18). The verse invoked here is from Job 36:14: "They die in their youth expire among the depraved (תמת בנער נפשם וחייתם בקדשים)." Rabbi Meir slightly altered the verse, writing וחייהם (their lives) instead of וחייתם (their livelihood or desire).

21. Rabbi Meir is invoking here the teaching of the Babylonian Talmud tractate *Baba Metziah* 71a: "All those who give loans with interest their businesses collapse." Through this allusion, it is clear that Rabbi Meir is referring to Jewish usurers who swear by the names of the saints as a means of enhancing their credibility.

22. Here Rabbi Meir alluded to a text in Babylonian Talmud tractate *Sota* 11a where the Talmud refers to the Egyptians who were drowned in the Red Sea. They are described as being "cooked" in the same cauldron they had attempted to "cook" the Israelites in. They had tried to drown the Israelites in the Nile, and they were eventually drowned. This also may be an allusion to baptism.

23. In the Hebrew phrasing, "They hang their claim on a high and vast tree (תולין באילן גדול)," referring to Rabbi Jacob ben Meir (Rabbenu Tam).

24. Rabbi Jacob ben Meir (~1100–71) of the northern French town of Ramerupot. See Avraham (Rami) Reiner, "Rabbenu Tam and his Contemporaries" [in Hebrew] (PhD diss., Jerusalem: Hebrew University, 2002). On Rabbi Jacob's attitude toward the business dealings in his time and his attempt to ease the way and lower the denominational hurdles for his fellow Jews, see S. Albeck, "Rabbenu Tam's Attitude to the Problems of his Time" [in Hebrew], *Zion* 19 (1954): 104–41. On the hegemony of Rabbi Jacob's school of learning and his powerful impact on rabbinic thought in northern France and Germany in the twelfth and thirteenth centuries, see Avraham (Rami) Reiner, "From Rabbenu Tam to Rabbi Isaac of Vienna: The Hegemony of the French Talmudic School in the Twelfth Century," in *The Jews of Europe in the Middle Ages: Tenth to Fifteenth Centuries (Proceedings of the International Symposium Held at Speyer, 20–25 October 2002)*, ed. Christoph Cluse (Turnhout: Brepols, 2004), 273–82.

25. See gloss (*tosafot*) on the Talmudic text in *Avodah Zarah* 2b text beginning with *Asur*. The glosses on tractate *Avodah Zarah* (that appear in the standard edition of the Babylonian Talmud [Rahm edition, Vilnius, 1881, hence forth BT]) were edited in northern France in the later years of the thirteenth century, probably in the circles of Rabbi Peretz of Corbeil. See Ephraim E. Urbach, *The Tosapists: Their History Writings and Methods* [in Hebrew] (Jerusalem: Mosad Bialik, 1980), 654–57.

26. דברים שבלב אינם דברים (lit: "thing that are in the heart are not real things"). The meaning of this legal construct is that in order to initiate a certain legal action, an intent ("inner thought") is not enough, and there is a need for a legal speech-act or actual deed to take place. On this concept of inner thoughts in Jewish legal thinking, see Itamar Warhaftig, "'Inner Thoughts' and Error in Halakha" [in Hebrew], *Dinei Israel: An Annual of Jewish Law and Israeli Family Law* 3 (1972):191–206.

27. "And although it is said that he who invokes the name of the heavens with any other entity should be severed from the face of the earth it seems odd that an Israelite will be prohibited to cause a non-Jew to invoke the name of the heavens and something else." This is the end of the quote from Rabbi Jacob ben Meir.

28. Referring to Rabbi Shmuel ben Meir, Rabbi Jacob's older brother. His opinion on the matter appears in the glosses (*tosafot*) on BT Sanhedrin 63b (for a translation and discussion of this source, see the following p. 16). The standard glosses (*tosafot*) on tractate Sanhedrin are an amalgam of the work of Rabbi Peretz of Corbeil and his students from the late thirteenth and early fourteenth centuries juxtaposed on the earlier glosses of the twelfth-century tosafists Rabbi Samson of Sans and his students. Se Urbach, vol. 2, 657–59 [in Hebrew]; Ephraim Kanarfogel, *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (Detroit: Wayne State University Press, 2013), 28–29.

29. This statement probably refers to Rabbi Shmuel and Rabbi Jacob, the renowned twelfth-century tosafists.

30. The text was published in Hebrew in the 1960s by the late Isaac Ze'ev Kahana. See Rabbi Meir ben Baruch (Maharam) of Rothenburg, *Responsa Rulings and Customs: Collected, Annotated, and Arranged in the Order of the Shulchan Arukh* [in Hebrew], vol. 2, ed. Isaac Z. Kahana (Jerusalem: Mossad Harav Kook, 1960), 50–53 and 56–57.

31. We know of several questions that Rabbi Asher sent to his mentor Rabbi Meir. On this, see *Responsa of Rabbi Meir of Rothenburg and His Colleagues* [in Hebrew], ed. S. Emanuel vols. 1–2 (Jerusalem: The World Union of Jewish Studies, 2012), 149–63. In the collection of Rabbi Meir's responsa, edited by I. Z. Kahana, our responsum is prefaced by the one discussing the images in illuminated *Mahazorim* (communal festive prayer books, the Jewish equivalent of a Latin missal). See Rabbi Meir ben Baruch (Maharam) of Rothenburg, *Responsa Rulings and Customs: Collected, Annotated, and Arranged in the Order of the Shulchan Arukh* [in Hebrew], vol. 2, ed. Isaac Z. Kahana (Jerusalem: Mosad Harav Kook, 1960), 50–53, 56–57. Kahana identifies both our response and the one about the illuminated *Mahazorim* as letters addressed from Rabbi Meir to Rabbi Asher. Rabbi Asher was born in Cologne between 1245 and 1250. He studied with Rabbi Meir between 1265 and ca. 1270 and then returned to Cologne, where he resided until 1281. When Rabbi Meir's father, Rabbi Baruch, died in 1281, Meir returned from Rothenburg to Worms, where he was joined by Rabbi Asher in 1281 or 1282. Since the responsum is signed by Meir referring to his father as among the living, we can safely say it is from before 1281. Thus the time frame for a correspondence between the two can be narrowed down to 1270–81.

32. As Robert Chazan has noted in his analysis of the twelfth-century Jewish chronicles of the 1096 events, the Hebrew chroniclers, and especially Shlomo bar Shimon, drew from sources such as what he called "the deeds of the Jewish community of Cologne," where we find records of Jewish activity in the Cologne fairs from the early eleventh century. Robert Chazan, "The Deeds of the Jewish Community of Cologne," *Journal of Jewish Studies* 35 (1984): 185–95. See also Shlomo Eidelberg, *The Jews and the Crusaders* (Madison: University of Wisconsin Press, 1977), 51–53. For the full Hebrew text of this chronicle, see Eva Haverkamp, *Hebräische Berichte über die Judenverfolgungen während des Ersten Kreuzzugs*, Hebraische Texte aus dem mittelalterlichen Deutschland Bd.001 (Hannover: Monumenta Germaniae Historica, 2005), 429–31.

33. On the privilege, see Joachim Oepen, "Das Judenprivileg im Kölner Dom," in *Der Kölner Dom und "die Juden": Kölner Dom Blatt: Jahrbuch des Zentral Dombau Vereins*, ed. Bernd Waker and Rolf Lauer (Koln: Verlag Kölner Dom 2008), 59–92. For an epigraphic analysis of the stone inscription, see Helga Giersiepen's article in the same collection: Helga Giersiepen, "'In Publico Aspectu Hominum': Ephigraphische Überlegungen zum Judenprivileg," Waker and Lauer, *Der Kölner Dom und "die Juden,"* 93–112 On the possible connection between some of Rabbi Asher's questions to Rabbi Meir during this decade and the Cologne Judenprivileg, see Ephraim Shoham-Steiner, "The Writing on the Wall: A Mahzor, A Bimah and A Privilege; A Look at Social Processes in the 13th Century Jewish Community of Cologne," in *Visual and Material in Pre-Modern Jewish Culture*, ed. Katrin Kogman-Appel (Turnhout: Brepols, forthcoming 2020).

34. Adolf Kober, *Cologne*, trans. Solomon Grayzel. The Jewish Communities Series (Philadelphia: Jewish Publication Society of America, 1940), 22–25 and 105–6.

35. The Amsterdam Mahzor was most probably produced in the third quarter of the thirteenth century. Its beauty and the carefully executed illumination suggest it was designed for an affluent individual for communal use in a community following the Cologne rite. See Gabrielle Sed-Rajna, "The Decoration of the Amsterdam Mahzor," in *The Amsterdam Mahzor: History, Liturgy, Illumination* (Leiden: Brill, 1989) 56–70. For the Cologne rite, see Ezra Fleischer, "Prayer and Liturgical Poetry in the Great Amsterdam Mahzor," in the same volume, 39–42. On the synagogue renovation and the elaborate Bimah, see Sven Schütte and Marianne Gechter, eds., *Von der Ausgrabung zum Musem: Kölner Archäologie zwischen Rathaus und Praetorium—Ergebnisse und Materialen 2006–2012* (Stadt Köln: Köln, 2012), 110–41.

36. The phrase is from the medieval Hebrew prayer *Aleynu Leshabea'h*, the Jewish equivalent of the Latin "Te Deum Laudamus." On this prayer and its liturgical meaning, see Israel M. Ta-Shma, "Meqorah u'Mequoma shel Tfilat Aleynu Leshabe'ach: Seder Ha'ma'madot u'She'elat Siyyum Ha'Tfilah," in *The Frank Talmage Memorial Volume*, ed. Barry Walfish (Haifa: Haifa University Press, 1993) 85–98; and Israel J. Yuval, *Two Nations in Your Womb: Perceptions of Jews and Christian in Late Antiquity and the Middle Ages*, trans. Barbara Harshav and Jonathan Chipman (Berkeley: University of California Press, 2006), 190–204.

37. Rabbi Eleazar is alluding to the verse from the prophecy of Amos 8:14: "Those who swear by the guilt of Samaria, saying: 'as your god lives Dan' and 'as the way to Beersheba lives' they shall fall to rise no more." The reference in the book of Amos is to the temples of Dan and Be'ersheva that were the northern Israelite kingdom's temples dedicated to the God of Israel, where images of the calf were venerated as representations of the Lord. The prophet mocks those who invoke the name of the calf temples when they swear oaths. Interestingly, Rabbi Eleazar understands the practice of swearing the oaths in a similar manner to that in which Rabbi Asher and Rabbi Meir understand it. On Rabbi Eleazar's relation to the Ashkenazi Pietists, see Ivan G. Marcus, *Piety and Society: The Jewish Pietist of Medieval Germany* (Leiden: Brill, 1981), 109–29.

38. The calves symbolized the Israelite deity poised on the boundaries of the northern kingdom, thus demarcating the boundaries and magically protecting them.

39. On Rashi, see the new biography by Grossman. Avraham Grossman, *Rashi*, trans. Joel Linsider (Oxford: Litmman Library, 2012).

40. The original context of this dictum probably relates to the immediate context in scripture that goes on to discuss the agricultural festivals, the Feast of Unleavened Bread and the Feast of Sukkot. The verse stipulates that the names of other gods should not be mentioned, probably referring to invoking them in the context of the festivals. Some of the non-Israelite deities were closely associated with fertility, which was celebrated in these festivals, and the dictum is probably designed to prevent any form of syncretism of the Hebrew God with the Canaanite deities Ba'al, Ashera, etc.

41. In other words, "You shall make no business-partnership with a heathen through which it might happen that he will take an oath by the name of his god."

42. Rashi's commentary on this verse can be found in *Chumash with Targum Onkelos, Haphtaroth and Rashi's Commentary*, vol. 2, *Exodus*, trans. A. M. Silbermann and M. Rosenbaum (Jerusalem: Silbermann Family and Routledge, 1985), 125.

43. The text uses pejorative language when referring to objects held in reverence by Christians, such as relics referred to here as "the rotting bones of their depravities," and when the gentile honors the relics by placing a coin on the reliquary, the text refers to this act not as an act of honor but as an act of disgrace. The use of pejorative language when referring to Christian sacral objects, rituals, clerics, Jesus, Mary, and the saints is well known and well documented. Mordechai Breuer published a one-page appendix to his edition of the *Nizzahon Vetus* in which he listed thirty-three of these pejorative terms. See *Sefer Nizzahon Yashan: Sefer Vikkuah neged ha-Nozerim*, ed. Mordechai Breuer (Ramat-Gan: Bar-Ilan University Press, 1978), 194. On similar language in the twelfth century Hebrew chronicles of the 1096 events, see Anna Sapir Abulafia, "Invectives against Christianity in the Hebrew chronicles of the First Crusade," in *Christians and Jews in Dispute: Disputational Literature and the Rise of Anti-Judaism in the West (c. 1000–1150)* (Aldershot, VT: Ashgate, 1998). On cursing the Christians, see Yuval, *Two Nations in Your Womb*, 115–34, and additional bibliography in his notes. More recently on this topic: Ruth Langer, *Cursing the Christians?: A History of the Birkat Haminim* (New York: Oxford University Press, 2012).

44. There are two possible readings here. According to Elfenbein's edition, there are some sources that say that Rashi believed (ויאמן) the gentile after he swore the oath (ויאמן רבי), and there are some sources that state that Rashi withdrew then and there: וימאן

45. Israel S. Elfenbein, *Responsa Rashi (Solomon ben Isaac) ex codicibus librisque impressis congessit praefationem annotationnes indices adiecit* (New York: Shulsinger Bros., 1943), 23. Elfenbein correctly observed that this anecdote, which appears in a manuscript called *Isur ve'heter le'Rashi* in the Avraham Merzbacher (1812–85) collection of the Frankfurt Library, as well as a manuscript of the same name from the Jewish Theological Seminary library collection in New York and the *Book of Oreh*, were penned by the person Avraham Epstein called "Rashi's student and trusted secretary," Schmaia. See Avraham Epstein, "Schmaja: Der Schüler und Secretär Raschi's," *MGWJ* 41 (1897): 257–63 and 296–312. Our knowledge about R. Schmiah is far greater nowadays. There is no up-to-date summary of Shmaiah's biography and his role in preserving editing and glossing his master mentor's work, but one can consult Avraham Grossman and Uziel Fuchs's articles: Avraham Grossman, "Marginal Notes and Addenda of Rabbi Shemaiah and the Text of Rashi's Biblical Commentary" [in Hebrew], *Tarbiz* 60 (1990–91): 67–98; Uziel Fuchs, "Shnei Pirushim Hadashim al Masechet Tamid: Pirush Ashkenazi u'Pirush Rabbenu Shmaiah" [in Hebrew], *Kobez Al Yad: Minora Manuscripta Hebraica* 15 (25) 2000: 95–141, especially 99–100 and the notes there.

46. Haym Soloveichik, "Can Halakhic Texts Talk History?" *AJS Review* 3 (1978): 153–96. This article was reprinted in: Haym Soloveichik, *Collected Essays*, vol. 1 (Oxford: Littman Library, 2013), 169–223.

47. I would suggest that the commentary on Ex. 23:13 was either written after the incident or that this bit was inserted and amended by Rashi in his already existing commentary on this verse post factum as a result of this incident. Rabbi Shmuel ben Meir ("Rashbam," 1085–1158), Rashi's grandson and close disciple, testifies in his running commentary of the Pentateuch (Gen. 37:2) that the aging master rewrote some of his commentaries on the Bible following their discussions and lamented the fact that he did not do so more frequently in accordance with the new natural understanding (as opposed to a more traditional homiletic approach) "that are newly taught of day by day." See Martin I. Lockshin, *Rabbi Samuel ben Meir's Commentary on Genesis: An Annotated Translation* (Lewiston-Lampeter-Queenston: Edwin Mellen, 1989), 241–42.

48. BT Sanhedrin 63b and the tosafist gloss there beginning with the word *Asur*. This text is also quoted in BT Bekhorot 2b and the tosafist gloss there beginning with the word "*Shemah*". On the matter of "multiplicity and participation" (*shituf*), see Jacob Katz, "Shlosha Mishpatim Apologetiyim Be'Gilgulehem" [in Hebrew], in *Halakhah and Kabbalah: Studies in the History of Jewish Religion in Various Faces and Social Relevance*, ed. Jacob Katz (Jerusalem: Magnes, 1986), 270–90, especially 278–79 and 289–90. On this, see Moshe Halbertal and Avishai Margalit, *Idolatry*, 111.

49. The editor of the glosses (*tosafot*) on tractate Sanhedrin of the BT is anonymous. Textual evidence in the glosses suggest, however, that it is likely that they were edited sometime during the end of the thirteenth century or the early fourteenth century in northern France by one of the students of the acclaimed tosafist and compiler of tosafot Rabbi Peretz ben Elijah of Corbeil (d. 1295): Benjamin Richler, "Manuscripts of the Tosafists on the Talmud" [in Hebrew], in *Ta-Shma: Studies in Judaica in Memory of Israel M. Ta-Shma*, vol. 2, ed. Avraham (Rami) Reiner et al. (Alon Shvut: Tevunot Press, 2011), 771–854, especially 815–33. Rabbi Peretz himself studied with French masters Rabbi Yehiel of Paris and Rabbi Samuel of Evreux, but he was also a close disciple of the German Jewish masters, such as Rabbi Meir of Rothenberg. See Urbach, *Ba'alei Ha-Tosafot*, vol. 2, 657; Kanarfogel, *The Intellectual History*, 37–110, especially 66–67. Recently: Shevach Shulman, "The Uniqueness of Rabbi Peretz ben Eliyahu as a Tosafist and as a *Posek*" [in Hebrew] (master's thesis, Ramat-Gan: Talmud Department, Bar-Ilan University, 2014). I thank my friend Judah Galinsky for turning my attention to Shulman's work.

50. Jacob Katz mentioned another twelfth-century northern French Jewish legal authority who had also elaborated on the subject: Rabbi Isaac ben Samuel of Dampierre (referred to more commonly by his acronym Ri "the Elder," d. 1189). In a quote of his found in the writings of the northern French exiled Rabbi Yerucham ben Meshulam (1290–1350), *Sefer Toldot Adam ve'Hava* (path 17, section 5), Rabbi Isaac writes, "There is another way to permit this practice (of causing a non-Jew to swear by invoking the name of the saints) for they [the Christians] swear the oaths invoking the names of their saints referring to the ones they call the 'evangelists.' They do not hold these saints in the same reverence as a deity. And although when they invoke the name of the heavens they refer to Jesus, in any case they do not mention any name of an idol. Furthermore when they invoke the saints their mind is set

on the creator of the heavens and the earth. Indeed they share the name of the almighty with 'another thing' [Jesus] but there is no prohibition to cause them to do so for the Noahides are not prohibited to 'share.'" The text here is so close to that of Rabbi Jacob ben Meir that I fear that Katz may have mistaken it for Rabbi Isaac's. In Rabbi Yerucham's text, the quote is attributed to Ri, but the Hebrew acronym for Ri and Rabbi Jacob (ר' יעקב) could have been a scribal error. As is clear from Katz's notes, Ri was referring to oath formulations such as this one: *Per deum omnipotentem et per ista sacra quatuor evangelia*. This oath was usually performed while placing the hand over a copy of the holy scriptures. This oath formulation is mentioned during the reign of the Carolingian emperor Louis the Pious (778–840) in an oath dating back to 824; see Ferdinand Walter, *Corpus Iuris Germanici Antiqui*, vol. 2 (Raims, 1824), 368.

51. It stands to reason that the saints' names invoked were probably the local urban patron saints whose figures were well known and ever present in the medieval urban public sphere. A fine representation of these figures in an urban mercantile hub like Cologne is still visible at the Cologne Cathedral in a fifteenth-century retable by Stephan Lochner, The Altarpiece of the Patron Saints of Cologne, depicting St. Ursula her husband and the eleven thousand virgins, the Three Magi (whose relics are interred in the cathedral apsis) and St. Gereon alongside the Virgin Mary.

52. On the French Cahorsin moneylenders, see Noël Denholm-Young, "The Merchants of Cahors," *Medievalia et Humanistica* 4 (1946), 37–44. See also Kurt Grunwald, "Lombards, Cahorsins and Jews," *Journal of European Economic History* 4 (1975), 393–98, and more recently, Rowen W. Dorin, "Banishing Usury: The Expulsion of Foreign Moneylenders in Medieval Europe, 1200–1450" (unpublished Doctoral Dissertation, Harvard University, 2015), 17–18.

53. On the decline of social and legal status of Jews in western Europe, see Jeremy Cohen, *The Friars and the Jews: The Evolution of Medieval Anti-Judaism* (Ithaca: Cornell University Press, 1982). More recently: I. G. Marcus, "A Jewish-Christian Symbiosis: The Culture of Early Ashkenaz," in *The Cultures of the Jews: A New History*, vol. 2, ed. David Biale (New York: Schocken, 2002), 449–516. One of the finest overviews of this historical process appeared recently in the introduction to the Italian Jewish treatise *Sefer Malveh ve'Loveh* in the new edition by Robert Bonfil: *The Book of Moneylender and Borrower* [in Hebrew] (Jerusalem: Shazar, 2015), 44–76.

54. On the life of Meir of Rothenburg, see endnote 18 in this chapter. The matter of a rabbinic figure's stand among his rabbinic peers is age old and dates back to the Talmud: see Mishnah Tractate *Eduyot* 8:1; BT tractate *Shabbat* 60b; BT tractate *Avodah Zarah* 36a. In medieval literature, we find a famous comment accredited to Rabbi Jacob ben Judah Weil. While he officiated as rabbi in Augsburg (1429–38), Rabbi Jacob wrote about his fear of declaring that butter from a non-Jewish source is kosher: "I would permit this if I would not fear that my colleagues would mock me and refer to me as 'Jacob the permitter of forbidden things.'" (יעקב דשר איסורא) See Joseph ben Moses of Münster, *Sefer Lequet Yosher*, vol. 2: *Yoreh De'ah*, ed. Joel Catane et al. (Jerusalem: Machon Yerushalayim, 2013): hilkhot Yein Nesech section 5, 17.

55. On the blindness of Jews and the blindness of the figure of "Synagoga" (representing Jews' and Judaism's blindness to the confessional Christian truth in medieval Western art), see Moshe Barasch, *Blindness: The History of a Mental Image in Western Thought* (New York: Routledge, 2001); S. Lipton, "The Temple Is My Body: Gender, Carnality, and Synagoga in the Bible Moralisée," in *Imagining the Self, Imagining the Other: Visual Representation and Jewish-Christian Dynamics in the Middle Ages and Early Modern Period*, ed. Eva Frojmovic (Leiden: Brill, 2002), 144–52; and more recently: Sara Lipton, "Unfeigned Witness: Jews, Matter, and Vision in Twelfth-Century Art," in *Judaism and Christian Art: Aesthetic Anxieties from the Catacombs to Colonialism*, ed. Herbert L. Kessler and David Nirenberg (Philadelphia: University of Pennsylvania Press, 2011), 45–74. Sara Lipton, *Dark Mirror: The Medieval Origins of Anti-Jewish Iconography* (New York: Metropolitan Books, 2014), 55–128. Nina Rowe, "Rethinking Ecclesia and Synagoga in the Thirteenth Century," in *Gothic Art & Thought in the Later Medieval Period: Essays in Honor of Willibald Sauerländer*, ed. Colum Hourihane (Princeton: Department of Art & Archaeology, Princeton University in association with Penn State University Press, 2011), 265–91.

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