

# The Politics of the Jewish Question in the Duchy of Warsaw, 1807–1813

by John Stanley

The treatment of the Jews in the Duchy of Warsaw represents only one episode in the lengthy story of the Jewish Question on Polish soil. The period, however, does possess several unique aspects. For the first time in the nation's history the imposition of French principles created the possibility of equality between Pole and Jew. Indeed, the Constitution of the Duchy with its injunction that all were equal before the law, seemed to demand it. Yet few in either Polish government or society were ready to accept such a radical change in Poland's traditional treatment of this national and religious minority. The Jewish Question in the Duchy of Warsaw is best treated as a sequence of events which first undermined and then completely overturned the basic constitutional promises extended by the constitution of July 1807. The Jews, seven per cent of the Duchy's population, represented the largest minority in the Duchy. The incorporation of this element into Polish society would have been an important step toward the making of a modern nation which created a common citizenship for all Polish soil. That such an event did not occur is as much a result of developments in France as in Poland itself.

Napoleon's original opinions of the Jews were those of a man of the Revolution: the Jewish Question would be resolved when Jews were simply considered Frenchmen of a different religion. In the emperor's opinion, "Quant aux juifs, c'est une nation a part dont la secte ne se mele avec aucune autre; nous aurons donc le temps de nous en occuper plus tard."<sup>1</sup> The idea that Judaism might not be simply another religion was reinforced by Portalis, the French minister for religious affairs, when he presented the Concordat to the *Corps legislatif*. "Les juifs forment bien moins une religion qu'un peuple."<sup>2</sup>

It was by the three decrees of 17 March 1808 that government policy was established toward the Jews for the rest of the empire's years. The first two laws dealt exclusively with the organization of the Jewish religion within the boundaries of the French Empire. Judaism was at last recognized formally by the state and given an organization similar to that of the two other major creeds on French soil. These first two decrees organizing the Jews' religion went no further than the laws affecting the Catholic and Protestant faiths: religion was to be subordinated to the state, religious organization was to be a tool for state control. It was a heavy price to pay for state recognition, but one already paid by Roman Catholics, Calvinists, and Lutherans.

The third decree, however, discriminated against Jews in ways unknown to Catholics and Protestants. From thenceforth a Jewish lender had to prove that any loan he made was not usurious; Jews were to be considered usurers unless they could

prove the contrary. Moreover, Jews were also limited in their place of residence. Jews could only dwell in certain departments and leaving them required special permission. Jews were not expelled from the departments of the Upper and Lower Rhine (Alsace and Lorraine) where antisemitism was strongest but no new Jews were allowed to settle there. Finally, unlike all other French subjects, Jews were not allowed to provide substitutes for conscription. All of these conditions remained in force for ten years.

The regimen was strict but almost immediately exceptions were made. The decree itself exempted the Jews of Bordeaux, and the Parisian Jewish population was also relieved by an exemption granted by the minister of internal affairs. Further exceptions followed. The courts themselves kept to the bare letter of the law, refusing to extend it.

Napoleonic policy toward the Jews was harsh and in conflict with the ideals of 1789 but it was not designed as blind persecution. Influenced more by his prejudices than by the more noble ideals of his law code, Napoleon was still determined to make the French Jews into useful citizens. As always, he was willing to use any measure to attain his aim. Despite its illiberal character, the decree of 17 March 1808 noticeably diminished the claims of Jewish usury. Furthermore, the numerous geographical exceptions to the measures taken, both those included in the law itself and those added to it afterward, indicate that it was not aimed at all Jews. Indeed, those Jews most gallicized were favored over more recent immigrants from the East. There can be no doubt that the measures, no matter how abhorrent to civil liberties, were designed to bring the Jews within the scope of French society. In 1818, when the decrees expired, the Chamber of Deputies did not consider it necessary to enact any similar legislation.

The Duchy's government was naturally influenced by events in France, its midwife; but as in other spheres Prussian precedents were also influential. Prussia had regulated the Polish Jews through the *Judenreglement* of 17 April 1797. By this measure Jews were to be restricted as well as Germanized. The Governing Commission, the provisional government for the French-occupied Polish territories set up in January 1807, did nothing to counteract the *Judenreglement*, although the confusion of wartime meant that some of its articles could be evaded. The Commission, however, confirmed the cities' former privileges, including *de non tolerandis Judaeis*. Prussian practices might be softened; the regulations themselves were kept.

Owing to the larger Jewish population, antisemitism was much stronger in Poland than in France. An anonymous Polish writer summed up popular sentiment by declaring that the Jews were

a cunning and shrewd people, dealing with simpletons first by making them drunk and [then] depriving them of reason, flattering and bribing [village] elders so as to manipulate the granary and registry, servilely flattering and influencing the lord. . . while through the [Jew's] wife, ruling over all the [village] huts by being trusted by all the women and knowing all their secrets. But it is not enough to rule in the village and the manor. Already the Jew is free to serve watered drinks and sell them dearly, the manor looking on with glazed eyes. . . .<sup>3</sup>

Another writer alleged that the Jews wanted to seize the land and to evict the Poles.<sup>4</sup> The report of the royal commission appointed in 1810 found the Jew "profiting by

cheating uneducated people. . . . His bad habits are truly harmful.”<sup>5</sup> Reformers usually accepted these charges as valid and then sought to “correct” them. The economist, Dominik Krysiński, maintained that “we will civilize the Jews by turning them to their natural ability in agricultural work.”<sup>6</sup> Stanislaw Staszic thought it best to wipe out the *kahal*, a local organ of Jewish self-government, while forcibly assimilating the Jews into the Polish population by banning separate Jewish schools and bringing Jews into Christian business firms.

The only defender of the Jews was Wawrzyniec Surowiecki, a polemicist and political reformer. Rather than criticizing them for usury, he praised their business acumen, believing it should be harnessed for the nation’s good. As a result, he believed all restrictions on the Jews were harmful to the nation itself. Surowiecki wanted to liberate Jewish talents and energies: their “industry, thrift and expertise in their callings.”<sup>7</sup> While others saw their cohesiveness as a threat, Surowiecki thought it a virtue “to regard the interest of one as the interest of all.”<sup>8</sup> Any faults inherent in the Jewish nation were a result of its bad treatment, “always having to pay dearly for the air which they were permitted to breathe. Such a position would corrupt the character of the most honest people.”<sup>9</sup> It is not surprising, therefore, that the education of future generations of Jewish youth played a large role in Surowiecki’s proposed Jewish reform. Jews were to be free to live in the cities, buying land there and engaging in trade, crafts and industry. They would be able to study all the sciences, the law, and to take their legal suits before the courts. The reformer, however, in his desire to change the “nature” of the Jewish people, included a number of prohibitions. Jews would not be allowed to settle in the country unless they were engaged in either handicrafts or agriculture itself. Moreover, only Jews engaged in these two callings would be allowed to immigrate to Poland. They would not be allowed to maintain taverns either in the cities or the villages, or to advance loans to peasants, or to use unharvested crops, unborn calves or unshorn wool as collateral.<sup>10</sup> In his desire to harness Jewish capabilities to benefit Polish commerce and industry, Surowiecki was not above imposing further restrictions on the Jews. Yet, these limitations of Jewish rights were a part of a larger reform designed to incorporate, not exclude, this minority. His methods certainly were not liberal but his ends were.

French policy, Prussian law, and Polish opinion comprised the background against which the Duchy’s Jewish policy was to be formed. The Constitution declared in its fourth article that all were equal before the law; Jews were not singled out for any special treatment. Liberal proclamations, however, needed elaboration in order to have meaning. The Constitution foresaw no exceptions to its general rules, and it thus seemed that Jews and Christians must be placed on terms of complete equality, in civil rights as well as political privileges. Nevertheless, few could envision such a radical shift in the status of Jews. The first Jew to approach the king, Arno Szmulowicz of Lomza department, did not ask for the rights granted in the Constitution, but instead a confirmation of the old privileges granted to the Jews in the past. Frederick Augustus did not directly answer this request. Instead, he simply restated what the Constitution proclaimed: that religion did not provide a basis for differentiating citizens and their rights. The king, of course, was only following the policy which he believed the emperor had meant.

His own kingdom of Saxony was as backward in its Jewish policy as any state in

Central Europe but Frederick Augustus did not believe the July Constitution permitted such restrictions in his Duchy of Warsaw. Hence his straightforward reply to Szmulowicz. It is not known how Szmulowicz reacted to this proposed policy. Still, the king's Polish ministers were shocked by these royal intentions. The treasury minister, Tadeusz Dembowski, maintained that "admitting Jews to the constitution should first be preceded by a change in the Jews of all that which differentiates Jews from other citizens," by which he meant their rabbinical courts, traditional dress, schools, and *kahals*.<sup>11</sup> Feliks Lubienski, the minister of justice, thought "that the question of giving [Jews] rights of citizenship. . . must be postponed for some time."<sup>12</sup> The minister therefore suggested that the Duchy needed a law similar to the decree enacted in France, suspending civil rights for Jews for ten years.<sup>13</sup> The minister even thoughtfully provided the means for this suspension of rights, proposing that the new rule be considered a joint internal regulation of the Ministries of Internal Affairs and Justice.

In such an important matter, however, the ministers impressed upon the king the necessity of determining Napoleon's own position. Even with the model of the decree of 17 March before them, the ministers felt it best to define precisely the emperor's feelings. As the law concerning the new sejm and the communal assemblies was then being elaborated, it would be necessary to decide whether Jews should be allowed to participate in the elections.<sup>14</sup> This pretext allowed the government to determine Napoleon's attitude. Since Count Senfft, then Saxon ambassador to Paris, was with the emperor in Bayonne negotiating a convention between the Duchy and France, it was he who was ordered to discover Napoleon's policy toward any restriction of Jewish rights in the Duchy, a limitation which would be in defiance of the constitution which Napoleon himself had given the Poles. Senfft gave the proposed legislation to Champagny, French minister of foreign affairs, who, in turn, promised to give it to the emperor. Napoleon's Secretary of State Maret, always favorable to the Poles, was also consulted. Maret thought the emperor would be sympathetic to the proposal—it was, after all, in conformity with the new French law<sup>15</sup>—but he did not think the restrictions should be included in the decree summoning the sejm or the electoral procedures. Senfft dutifully reported this advice to Dresden but no definite reply was received from Napoleon himself. On 21 August he was asked to remind Champagny of his past promise, drawing Napoleon's attention to the proposal. The French ambassador to Saxony, Bourgoing, also wrote to the minister of foreign affairs that same day, noting that the elections would be delayed unless the emperor responded to the request. In the meantime, however, the Duchy's government had made their opinion a *fait accompli*. In reply to a Jew's petition for rights submitted early in 1808, Horodyski, director of public administration in Warsaw department, refused to recognize the rights granted by the Constitution since this would constitute "too great a change in the country."<sup>15</sup>

The matter was now urgent, for the time required for the elections to the 1809 Sejm was passing quickly. A decision would have to be made. It was only in September, however, that Champagny was able to respond to the Saxon ambassador: the emperor had agreed with the Polish plan to limit the rights of Jews in political affairs. Senfft asked that the emperor's opinion be put in writing but the minister replied that the oral message would have to do. With Bonaparte's opinion known, the Duchy's government had to act in accordance with it. Frederick Augustus was

outflanked in his pious declaration of equality for all citizens. The monarch declared, "I am desperate that I was unable to do anything for this nation, but the Emperor himself has given up—he for whom nothing is impossible."<sup>16</sup>

Taking Maret's advice, the government went ahead and published an election decree of 8 September without any mention of the Jews. Luszczewski, minister of internal affairs, soon wrote to the prefect of Kalisz department that "the Ministry of Internal Affairs cannot permit that Jews—born it is true on our soil but in custom and religion foreigners—be entered in the book of citizens." If the prefect were faced with any such request he was to plead a lack of instructions in the matter.<sup>17</sup>

On 17 October 1808 the first piece of legislation undermining the Constitution's fourth article became law. Similar to its French legislative counterpart, the new decree did not actually exclude Jews from the body politic. Instead, their political rights—the right to vote or stand in elections—were suspended for a period of ten years. The period was the same as in France but no group of Jews was exempted. Only those few Jews expressly admitted into political life by the king as a reward for their political or military services could be excluded from the decree's provisions. There is no doubt that the new law egregiously violated one of the foundations of constitutional life. The Jews, however, had not participated in Polish political life before the Duchy's existence. Their civil rights, in any case, were not mentioned in the decree. Yet in a rescript to the prefects Luszczewski reminded them that all Prussian regulations concerning the Jews were still in force, even when they were contradicted by the Constitution and the Code Napoleon.<sup>18</sup> The October decree was only the first in a series of acts designed not to reform the Jews but instead to return them to their legal status before the Constitution's proclamation.

On 9 November 1808, Minister of Justice Lubienski advised the king on the question of land purchases by Jews, a point originally raised by the minister of internal affairs. Lubienski drew the logical conclusion from the October decree. If a man had no political rights and was thus for all practical purposes not a citizen, he had no right to buy land in the Duchy. The minister did think Jews should be allowed to buy houses and garden plots in cities. Still, the purchase of landed estates was a matter touching the nobility and its prerogatives. There was no doubt that the nobility and the government could benefit from the possibility of a new group of purchasers: the price of land would increase and the government could levy a tax on all such acquisitions by Jews. Lubienski himself helpfully suggested ten per cent as a working figure. Moreover, the settlement of the Jews in the countryside would give them a stake in the nation's future as well as allow them to become "useful" citizens. Lubienski thought the possibility of mass purchases of estates by Jews could be avoided by providing for special authorization in each case. Lubienski's idea was sent to the Council of State but the minister's proposed solution was seen as the first step in a Jewish land grab.

The Council of State therefore suggested that the question of the acquisition of landed estates be examined only in connection with a general reform of Jewish life. The council, therefore, appointed a committee from its ranks to deal with the Jewish Question. It is highly unlikely the council actually intended this committee to formulate a general Jewish reform. It was a temporary political expedient to buy off Lubienski's potentially dangerous proposal. Nevertheless, the only basic reform ever proposed from within the government's ranks, Wojda's project, was associated with

the work of this committee.

N. F. Wojda, a master of requests in the Council of State, did not dispute the postponement of political rights for Jews. He saw it, however, only as providing time for a general reform of their lifestyle. If their moral and cultural level had been raised after a decade had passed, he saw no obstacle against giving them full rights. He wished to give definite rights to Jews who had adopted Polish habits of dress and speech. Wojda's project was no more an example of liberal ideals than Napoleon's had been. Rather the imperatives of enlightened despotism are apparent: the protection of the population, the reform of a social group in conformity with a preconceived model. Yet there can be no doubt as to Wojda's intention: Jews must be turned into Polish citizens possessing full rights. Jews who already satisfied his requirements would be admitted to citizenship immediately and he hoped that within ten years the rest of the Jewish population would follow. He also provided definite conditions for their entry into full civil and political rights. Still, the committee did not even discuss Wojda's detailed suggestions.<sup>19</sup> Its members, like the rest of the Duchy's government, had no intention of ever allowing the Jewish population as a whole to attain the fruits of citizenship. Wojda's legal proposal represents the only attempt from within the central government to develop a full scale Jewish reform. There is no trace of any other work by the committee. The rest of its work disappeared, as indeed it was expected to do.

Lubienski pleaded that the necessity of resolving the question of Jewish land-ownership was too pressing to wait for the completion of a general reform. The minister of justice knew all too well from his experience in carrying out the legal and judicial reforms just how government committees could drag on while settling nothing. In this case, however, he was in no hurry to settle anything so sweeping. The particular question had to be decided immediately. Pressed by his most trusted minister, Frederick Augustus issued, on 19 November 1808, a decree suspending the right of Jews to acquire landed estates "until our further decision."<sup>20</sup> As late as October 1811, the confused monarch noted the glaring contradiction between the Code Napoleon and this November decree and pondered its legality.<sup>21</sup>

The drift of government policy finally provoked the Warsaw Jewish community to react. On 30 November 1808 a petition was presented which declared that the political rebirth of the Polish nation had not bettered the position of Jews in any way. They still could not acquire land or a house in the city; they could not build a factory. Their daughters were not even allowed to marry Jews from outside Warsaw; such Jews did not have the right to reside in the capital. Jews were allowed to carry on a trade but were taxed heavily for this right. This group of prominent Jews, therefore, asked that the Polish Jews be treated no differently from the rest of the nation, that the promise of equal treatment in the Constitution "created by the great Napoleon" be honored, and that the right to order their religious affairs be granted. The king replied on 4 January 1809. In his address a less naive Frederick Augustus discouraged such hopes.

The Jewish petitioners did not give up, however. The next day, on 5 January, they presented another petition to Lubienski as minister of justice.

The undersigned from ancient times have tried by their moral conduct and identical costume to draw near to the remaining population and are now sure they already cease to be

unworthy of civil rights. If the wish to serve the country in which they were born or live, if the desire to draw close to the other inhabitants of this country by means of public morality and ever increasing education, if, finally, true fulfillment of the responsibility placed on them by the state or government, make them worthy of the rights of citizens, then the undersigned have no doubt they will be allowed full enjoyment of [such rights].<sup>22</sup>

The minister presented the petition to Frederick Augustus together with his own written opinion. It was true, he wrote, that all subjects were equal before the law according to the Constitution, but that was not synonymous with citizenship. Potential and actual citizenship were not one and the same. In Lubienski's opinion, only those subjects who considered the Duchy of Warsaw as their true fatherland could be considered as full citizens. The minister answered his own rhetorical questions:

Is it possible for believers in the Mosaic law, in agreement with their commandments, to consider our country as their only fatherland? Do they not aim at returning to the land of their ancestors and not view themselves as now living in a place to exile? Could they, feeling themselves alien in the countries they inhabit, enter into close contact with the native population? Many centuries have passed and they all appear sons of one country, in spite of their continuous residence in numerous lands. Even having received already the rights of citizenship, they nevertheless remain something like an alien and separate nation.<sup>23</sup>

External changes – in clothing, custom, or language – were insufficient. An internal criterion was the most important qualification and naturally only the government itself would decide if it had been fulfilled.

Jews still presented personal petitions asking to be given the rights of citizens. Michal Rawski, one such petitioner, presented his address on 21 March. He listed his virtues: honesty, wealth, charitable donations, and cited testimonies of his character from high government officials. A merchant banker from Inowroclaw, Solomon Girsz, presented a similar petition. He had received an education in a Christian school, dressed like a Pole, and could boast patriotic acts. He too gave money for the public good. Yet his request was answered with a statement that the council still had not established “the conditions through observance of which individuals of the Mosaic faith can benefit from the rights of citizens.”<sup>24</sup> When the banker sent another petition the following year, requesting that the government publish these conditions soon, he was curtly told that his petition was “premature.” The government had created a vicious circle. Jews could only have political and civil rights when they had fulfilled the appropriate conditions. Still the government refused to outline these conditions so Jews continued to be denied full rights of citizenship.

Instead of widening Jewish rights, the government began to insist on the enforcement of the Prussian laws which had been tacitly ignored since the Duchy's founding. On 17 July 1806 the Jews had been banned from living on Warsaw's main streets although the order had not been enforced. In December 1808 the Jews reacted by requesting permission to remain in their homes. The prefect took it upon himself to enforce the Prussian regulations, however. The minister of police had already explained to the king the necessity of evicting Jews from streets forbidden to them, but he required a royal decree to reinforce his authority. The minister realized that the Jews played a large role in providing credit to the government. He was therefore content that the Prussian regulations be suspended and that the police only enforce those laws concerning the number of Jews in any one building. Frederick Augustus once again transferred the ministerial proposal to the Council of State.

The council, which was so lax in formulating the conditions for Jewish citizenship, found itself able by 16 March 1809 to issue the decree concerning the residence of Jews in the capital. The actual eviction of the Jews from the main streets was postponed until 4 October but a comprehensive system of restrictions was arranged. Only two Jewish families could live on any one of the forbidden streets and the head of the household had to satisfy stringent conditions. He had to have a clear capital of six thousand zlotys, and be either a banker or else be engaged in a "proper trade." He himself must know how to read and write Polish, French, or German, and send his children to a public school from the age of seven. He was definitely not allowed to wear traditional Jewish costume. In addition to these two families, however, a Jew engaged in the sciences or the arts—doctors and artists were cited as examples—could also live on the forbidden streets providing he also fulfilled the other requirements. Thus, Jews were, for the most part, excluded from the most important streets in the New and Old cities, such as Długa, Bielanska, Miodowa, Senator-ska, Krakowskie Przedmiescie, and Nowy Swiat. Jews could neither manufacture nor trade in alcohol on these streets. To further limit the Jewish population in the city center, it was decided that an apartment of two to three rooms could be rented to one family alone and one of four to five rooms to only two families.

The Christian population of Warsaw was itself divided in its reaction to this measure. The secretary of state reported to the Council of Ministers on 22 August that a petition had been received from a delegation composed of both Christians and Jews asking for a postponement of the enforcement of the law until a "more appropriate time." On the other hand, the municipal government itself offered a petition asking that the law be enforced, accusing Christians opposed to it of simply being interested in the profit they could gain from renting apartments to Jews. The Jews themselves petitioned Frederick Augustus on 24 August seeking to prevent the enactment of the decree. The petitioners identified themselves as merchants who required security and proper storage for their goods and complained that the districts in which they were to be resettled had both inadequate warehouses and a hostile population which would threaten their property. They indicated their usefulness to both the Duchy of Warsaw and the Kingdom of Saxony and pointedly remarked that "in relation to public duties we are recognized as citizens but simultaneously counted unsuitable to enjoy the blessings of the law."<sup>25</sup>

All these petitions and requests for action were sent in due course to the Council of Ministers. The result, however, was neither the postponement of the law nor a softening of its provisions. Instead a new, more detailed decree was issued on 7 September 1809 distinctly supporting all previous legal restrictions and insisting that the forbidden streets be not only prohibited to Jewish residence but also to Jewish commerce. Privileged Jews were still allowed to live on any of the forbidden streets. It was decided, however, that those Jews who wished to build a house would have to construct it of stone with a height of two stories. The Council of Ministers notified Frederick Augustus that those Christians opposed to the law would have to sacrifice their petty concerns for the common good. As for the Jewish petitioners, the council simply decided they were wrong. The new districts would be more comfortable for them and the Christian owners (one of whom was Lubienski) would reap profits from the transfer.

Taxes were another source of Jewish discontent. Lubienski noted that the Prus-



sians had demanded of the Jews a consumption tax plus a tax worth 35,000 talars on kosher meat. A toleration tax which was set at 10 talars for the richest families, and 2½ for the poorest, brought in another 12,000 talars, while permission to marry cost 25 talars. The minister considered that the "Jews pay too many taxes" and transferred the matter to Luszczewski, together with his own recommendations. This order was issued in February 1808, before Napoleon's views were known, and it is certain Lubienski was attempting to follow the French, "having particularly before our eyes the example of that nation and that great man from whom we have taken the law."<sup>26</sup> Despite these favorable beginnings, the government in its need did not hesitate to institute special taxes on Jews. The kosher meat tax had been meant as a temporary expedient for raising money to equip Jewish recruits. It developed, however, into a permanent source of income. For the marriage of a minor a Jew had to pay 360 zlotys. Even though the tax paid by Jews visiting Warsaw was abolished, Marian Godlewski, an opposition member of the sejm, boldly condemned the tax on kosher meat as a direct violation of the freedom of religion provided in the Constitution. The Duchy's government desperately required money, however, and its needs were a more powerful stimulant than any scruples over religious discrimination.

The *Judenreglement* of 1797 had prohibited the Jews from either acquiring real property or changing their place of residence without the authorities' permission. The Duchy's government did not issue a law either confirming or counteracting this provision, but instead went about directly enforcing it. Although Jews were supposedly allowed to own a house in the city, Warsaw was exempted from this general rule. Furthermore, it was decided that a Jew who did not already own a house, or a factory, or a business without debts could not buy a stone house. Even those fulfilling these conditions had to have the special authorization of the Ministry of Internal Affairs. All laws restricting residences and occupations had so far applied only to Warsaw, but it was a natural step that other cities should either petition or be encouraged to petition for the same rights. Wschowa, in Poznan department, was the first city after Warsaw to apply the law restricting the Jews to a separate district. The minister of internal affairs supported their position and only the intervention of Frederick Augustus allowed a few concessions to the Jews of Wschowa: they could therefore build wooden houses rather than stone buildings on the forbidden streets. The next city to be considered for special Jewish laws was Plock. The Council of Ministers in August 1811 suggested to the king that certain streets be chosen for the residence of the Jews. The Jewish district in Plock had been destroyed by fire but the population showed no sign of desiring to rebuild and move back to it. "Jewish untidiness posed a threat to the city."<sup>27</sup> On 14 August Frederick Augustus returned the ministerial project to the council with his opinion that "it would be too severe and unjust to settle the Jews without paying attention to the date of the house rental, and to settle them in places which had no houses ready." The monarch requested the project be changed in keeping with his suggestions. The minister of internal affairs, however, simply added a few clarifications to the proposal and it became law on 9 November 1811.

Luszczewski realized that a city-by-city approach to the problem could drag on for decades. After discussing the matter with Lubienski, the minister of internal affairs sent orders to the departmental prefects to draw up projects to submit to the council. Among the first cities to complete their projects were Makow and

Przasnysz, both in Plock department, which were rewarded with separate decrees issued on 29 January 1813 creating legally distinct Jewish ghettos.

Of course the most important Jewish families, having fulfilled the conditions of the decree, were allowed to live on Warsaw's forbidden streets. Jakubowiczowa, Rosen, Kronenberg, Saulsohn, Bernsztejn, Gordon, Sonnenberg, and Salinger were among the important Jewish bankers and merchants living in central Warsaw. There were doctors and artisans who also gained permission by meeting its conditions.<sup>28</sup> Exceptions to these conditions, however, were extremely small in number. Only three families were known to be specifically exempted from them, for either financial or military services.

The government also sought to enforce conscription among the Jews but military service was an extremely unpopular duty. The decrees of 9 May and 10 November 1808 instituting conscription foresaw Jewish participation in the military on an equal footing with Christians. A few Jews were active in the army even before conscription. Berek Joselewicz, a participant in the Kosciuszko-led uprising, a member of the Polish Legions, and an officer in the Duchy's army who perished in the Battle of Kock is the most celebrated example. There are other examples, of course, but these men were exceptions.

Only one rabbi and one cantor in each community were granted exemptions from the conscription laws. All others between the ages of twenty-one and twenty-eight were subject to the draft. Draft evasion carried a fine of 1,000 zlotys and the *kahal* was held responsible. Orthodox Jews, the largest part of Poland's Jewish population, were opposed to universal conscription. They regarded the incorporation of Jews into the Polish army as inevitably requiring Jewish soldiers to break their religious commandments and traditions. In 1808 the Jewish community had been required to supply 168 recruits in Warsaw and to raise 200,000 zlotys to equip them. Most Jews, however, regarded military service as one more burden placed on a population which was only considered a part of the citizenry for the purposes of taxation. Recruiting was always difficult in the Duchy and among the Jews it was still worse. By 1812, however, it was still easier to find recruits among the Polish peasant population than to raise money to equip them. A compromise was therefore offered: in return for exemption from compulsory military service the Jewish community would pay 700,000 zlotys. Jozef Poniatowski, minister of war, felt for his part that if the Jews were to be exempted from political life for ten years then a military exemption of similar duration was justified.<sup>29</sup> There were Jews who condemned this exemption as unworthy of men trying to become Polish citizens, but the majority of the community was glad to be able to pay their way out of a war toward which they felt only indifference. Despite the advantages accruing to the Jewish community as a result of the exemption, it only served to perpetuate popular misconceptions. The preface to the decree—which Frederick Augustus ordered deleted from the published law—treated the Jews as unfit material for the army, maintaining that the important duty of defending the nation “could not quite yet be entrusted to them.”<sup>30</sup>

More anti-Jewish laws were enacted during the last year of the Duchy's existence. On 3 April 1812 a decree was issued disqualifying Jews from leasing state lands. On 30 October another decree made it more difficult for Jewish immigrants to benefit from the concessions granted to foreign tradesmen settling in the Duchy. Unlike earlier anti-Jewish laws, these decrees were published in the *Diary of Laws*

(*Dziennik Praw*).

Since Jews ran many of the taverns in the countryside as well as in the cities, and were heavily involved in distilleries and breweries, the connection between Jews and drunkenness among the Christian population was firmly established in the minds of many thinking Poles. Minister of Police Sobolewski, maintained that Jewish control of the trade in alcohol encouraged the drunkenness of the Christian population and so encouraged crime in the nation. He believed the problem pressing enough to be settled before any general solution to the Jewish problem. The minister recognized that there might be opposition to any decree expelling the Jews from this trade, particularly on the part of the landowners who sold their grain to be converted into alcohol and who controlled the taverns on their property. Sobolewski assumed it would be best to settle the problem before the Lithuanian provinces were reunited with the Duchy. For he knew that the largest group of Jews was concentrated in Lithuania and he feared their influence once this region had been incorporated into a reconstituted Poland. A law enacted before the conquest of Lithuania would, therefore, present a *fait accompli* to both the Lithuanian Jews and the nobility which supported them in the alcohol trade. On 30 October 1812, therefore, the decree was enacted forbidding the Jews to be involved in any way with either the manufacture of or trade in alcohol as of 1 July 1814.<sup>31</sup>

It is obvious from the various projects enacted into law that these measures—the law on forbidden streets, the exemption from conscription, the law forbidding any ties to the production or sale of alcohol—were not attempts to bring a general reform of the Jews' lifestyle. Rather they were designed to avoid such a reform. Although the Council of State found itself able to define the conditions necessary for Jews to live on a forbidden street in the Polish capital, it was never able to fix conditions necessary for their enjoyment of political rights. With few exceptions, the government was interested neither in incorporating nor even assimilating the Jews into Polish political and social life. Instead, it was concerned with limiting the effect of the Jewish population on Polish society. Although a committee was appointed to explore an overall Jewish reform, it decided not to discuss Wojda's project, the only proposal which actually fulfilled the mandate formally set by the Duchy's government. Surowiecki had hoped to use the specific talents and abilities to benefit a Poland reborn. The government only sought to restrict the Jews from any effective role in the new state. The authorities were solely interested in limiting the wide possibilities opened up by the July Constitution; the government evaded a general solution to the Jewish Question. Unable completely to deny the rights of Jews as citizens, they systematically limited those rights with one law after another. It was a policy designed not to promote assimilation but alienation.

Yet the large Jewish population was neither a social nor even a political monolith. Although the Duchy of Warsaw was overwhelmingly an ethnically Polish state, the Jews did represent the largest national minority. The Jews assumed a special importance, however, owing to their concentration in the cities. Only 34 per cent of the Jewish population was found in the countryside. Thus, the vast majority of Jews were concentrated in the urban areas. In the eastern departments—Plock and Lomza—half of the urban population was Jewish. In 1808 the Jews represented 27.9 per cent of the Duchy's urban dwellers.<sup>32</sup>

This urban population contained within itself classes which mirrored the divi-

sions within the Polish society. The Jewish financiers, moneychangers, and powerful merchants who occupied such important positions in the Duchy's economic life were naturally the exceptions in Jewish society. It is no surprise to learn that over 90 per cent of the capital's Jewish population belonged to the poorest tax-paying category. It is obvious that most of the Jewish population was not in any way better off than the city's Polish population. Unfortunately, there are no detailed studies of the Jewish populations in other cities of the Duchy. The Warsaw Jews, however, represented the largest concentration of wealthy Jewish individuals for the capital was the center for government contracts and political influence. In the countryside Jews were engaged in innkeeping and in handicrafts and peddling, hardly lucrative activities.

The economic divisions within Jewish society were apparent in the political positions of the Jewish community. Even before the entry of the French troops into Warsaw there had been Jews influenced by the *Haskalah*, the Jewish reform movement begun by Moses Mendelssohn and centered in Berlin. Having already given up their traditional dress, speaking the language of and identifying with the nation in which they lived, these Jews believed the Constitution applied to them as it did to all other citizens. It was these enlightened Jews, emigrants from Germany during Prussian rule, who petitioned the government to admit them to political rights, maintaining that they were not a separate people but rather Poles of the Mosaic faith.<sup>33</sup>

Jews who fought in the army have already been mentioned, but most of this small group were from the small circle of wealthy merchants and moneylenders.

They want like others to submit to conscription; they equally want to pay taxes like other citizens, and they all follow the laws which are decreed for the other inhabitants. Finally, wanting simply to be in every way citizens, they are glad and ready to make a declaration (of citizenship) and no longer to depend on those who will not be admitted to it.<sup>34</sup>

This petition of 9 January 1809 was signed by Warsaw's most prominent Jews. In fact, the same names appear repeatedly on the petitions to the king, the ministers, and the senate. It has been estimated that the "enlightened" Jewish population consisted of only twenty-six families.<sup>35</sup>

The government, it is true, did make some concessions to them. As has been seen, they were allowed to live on the forbidden streets. Sonnenberg was even allowed to keep his traditional dress while living on such a street. More important were exemptions from the special Jewish taxes.<sup>36</sup> None, however, was given any political rights and their civil rights were clearly at the government's mercy.

The vast majority of Jews, though, were poor, uneducated, and Orthodox in their customs and religion. As a result, the Hasidic *tsaddikim*—Israel Kozhenitzer, Jakub Isaac Lubliner, Szejner Zelman—were extremely influential. All were anti-French, fearing Napoleon's Grand Sanhedrin as a plot to destroy Jewish piety. The Berlin enlightenment was viewed as atheistic; Napoleon was not a Messiah but rather a modern Haman. As Zelman put it, "If Napoleon is victorious the material state of the Jews will be truly better than at present but their hearts will be immediately separated from their Heavenly Father."<sup>37</sup>

The Hasidic leaders had great influence in the Orthodox Jewish community. Any secularizing influence, such as the granting of equal rights, was a threat to the control they exercised over their followers. They viewed equal rights as simply another guise for taxing Jews while destroying their religion. When Frederick

Augustus suspended political rights for Jews in 1808 the Hasidim rejoiced.<sup>38</sup> No further contact with Christians would be necessary. While the Jews suffered under an especially strict tax system, the Hasidic leaders saw this financial burden as a cheap price to pay for their freedom from further interference and influence from the outside world. Although admission to the regular court system had been one of the few concessions made to constitutional legality, the Jews did not take advantage of it. The procurator of the Plock civil court related that "believers of the Mosaic faith, and particularly their rabbis, in spite of the constitution and contemporary judicial organization, consistently usurp the court's jurisdiction by intervening in the settlement of disputes between individuals of this religion, evading the weight of the authorities and the constitution."<sup>39</sup>

The closed world of Orthodox Judaism had to be preserved. Above all assimilation was feared. It is not surprising therefore that it was the Hasidic leaders who approached Poniatowski to plead for an exemption from universal conscription. They offered to pay a tax rather than intermingle with Christians in the army. When their offer was not accepted initially, draft evasion and the bribery of officials made it difficult to recruit Jewish conscriptions. The Orthodox thus played into the hands of antisemites in the Duchy's government. They assured the ministers that most Jews had no use for these strange new ideas of equality and liberty, that separate paths for Christians and Jews were best for both peoples.<sup>40</sup>

The government's antisemitic policies had a distinct effect on the Jewish community's attitudes. In 1806 when the French entered Poznan, the Jews of that city had proclaimed a holiday and danced in the streets.<sup>41</sup> The Warsaw Jews had even composed a hymn to the emperor. Napoleon had taken advantage of this pro-French attitude to provision his troops. By 1812, however, the attitude of Jews toward the Duchy's government had changed completely from that implicit at its founding. The Russians were quite willing to cooperate with the Hasidim. In Lithuania and Belorussia, there were practically no enlightened Jews and Szejner Zelman, the Hasidic *tsaddik*, cooperated fully with the Russian authorities. The Russian government had enacted its own antisemitic laws but ironically these measures fulfilled Orthodox expectations and allowed the Jews to continue to inhabit their own world. As a result, an understanding between the Russian government and Jewish community had occurred which was not duplicated in the Duchy.

The campaign of 1812/13 in the western gubernias of the Russian Empire give numerous examples of Jewish cooperation with the Russian armies. In Bialystok, Halpern, a Jewish merchant, personally received a ring from Emperor Alexander I for information he gave to the Russian armies during the campaign.<sup>42</sup> When the Russians invaded the Duchy's territories, the Jews were the only inhabitants to greet them openly, waving banners embroidered with Alexander's monogram.<sup>43</sup>

The ostensible purpose of the Duchy's government had been to bring the Jews closer to the rest of Polish society and to make them useful citizens. There can be no doubt that it devoted much attention to the Jewish Question, far more in fact than to the peasantry. In the last year of the Duchy's existence, the government was still grinding out proposals to enclose the Jewish population in ghettos throughout the country, passing laws eliminating them from the innkeeping trade, and excluding them from the countryside. Despite the time and effort the government obviously expended on the problem, the tools it used were designed not to bring the Jews into Polish society but to separate them from it, not to make them useful citizens but

rather to keep them from competing with Poles in commerce and manufacturing.

The government followed this policy for a variety of reasons. Certainly fear of Jewish competition and skills enabled them to win the support of Polish craftsmen and merchants. An additional reason given for creating forbidden streets was to people the suburban districts of Warsaw. It is difficult to escape the suspicion, however, that these were secondary reasons. Jews were viewed as barely human and ill treatment was common. A French war commissioner noted that Jews were rounded up for forced labor under the threat of having their beards shaven.<sup>44</sup> Barante, a French officer, witnessed a beating because a Jew did not understand a Polish officer.<sup>45</sup> It is obvious Jews were treated no better than peasants.

The government did not attempt to differentiate among Jews, and took advantage of the wide division in their ranks between the poor and the wealthy. The 4 per cent at the top had as few political rights as the 90 per cent at the bottom. Even when the enlightened Jews separated themselves from their co-believers, abandoning any pretense of sympathy for those who were not interested in political and civil rights, the government did not respond. Despite these differences, there is no question that religion, language, and cultural traditions united the Jews of Poland. The legal restrictions only bound those ties tighter still. The government's policy served to reinforce the separateness of Jews, simultaneously playing into the hands of the Hasidim while taking advantage of the latter. Hostility and discrimination had cemented the Jews together, and further repression was hardly the solvent for these bonds.

The assimilation of the Jews on an equal footing with Christians in a common Polish nation was impossible as long as this minority was treated in a radically different manner. No common citizenship, with equal rights and responsibilities encompassing all faiths and nationalities dwelling within the boundaries of the Duchy, was possible so long as the government pursued policies designed to exclude the Jews from national life. The government's policy, therefore, interfered with the creation of a modern Polish nation. It also slowed the process of economic development. The wealthy Jews represented the aristocracy of the cities. The government contractors, bankers, and merchants were the most important burghers in the Duchy. A self-reliant bourgeoisie was an impossibility as long as this element was deprived of full rights. All the aid and attention the government devoted to the cities in order to encourage commerce could hardly succeed when the most successful merchants lacked political and civil rights.

It is true that the government's policy was not exceptional in Europe. It received permission for its actions directly from France. In Saxony, Jews had as few rights as in the Duchy. Indeed, in no state in Europe were Jews completely accepted as citizens. In Europe discrimination on a religious basis was the norm. It was not until 1828 that Roman Catholics in England won political rights; in Spain it was decades before any non-Catholic was given rights. In the Duchy's favor it must be admitted that Jews did come before the courts on an equal footing with other citizens, something Prussia had not sanctioned.<sup>46</sup>

The Duchy's response to the Jewish Question affected more than the Jews alone. Its effect on Polish hopes was evident by 1812 certainly. The Duchy's Jewish policy slowed the formation of the Polish nation. It interfered with the development of a money economy both in the countryside and in the city. The government's atti-

tude crippled the development of urban life by depriving its most prominent members of political rights. The Jews had promised much to a government which granted them rights and privileges. In response, the Duchy's government kept this large national minority outside the development of the Polish nation, weakening social and economic development.

The Duchy had pursued policies which were to last decades after its disappearance. This particular tradition, however, served national development as little as it did human rights. It was a tradition in keeping with Poland's treatment of the Jews since the Counter-Reformation. Polish political tradition had triumphed over French innovations. In limiting Jewish rights, this traditional view demonstrated its myopia, presenting only the most fleeting of advantages but inflicting damage on Polish-Jewish relations which lasted for generations. The Duchy's government had refused the opportunities to them for widening the social basis of political life, for incorporating new elements into the body politic. This negative answer constituted its solution to the Jewish Question.

#### NOTES

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