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 **Jewish Foodways and Religious Self-Governance in
America: The Failure of Communal Kashrut Regulation and
the Rise of Private Kosher Certification**

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In lieu of an abstract, here is a brief excerpt of the content:

Jewish Foodways and Religious Self-

Governance in America:

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MORE PRODUCTS in the typical American supermarket are labeled kosher than are labeled organic, natural, or premium. Generating more than \$12 billion in annual retail sales, kosher food is big business. Surprisingly, of the estimated twelve million American kosher consumers—individuals who specifically seek out kosher-certified foods—only 8 percent are religious Jews who eat exclusively kosher food. Most choose kosher food for reasons related to health, food safety, taste, vegetarianism, and lactose intolerance or to satisfy non-Jewish religious requirements such as *halal*.¹ The popularity of kosher food is part of a more general infiltration of traditional Jewish foodways into American culture, a phenomenon reflected in the successful marketing slogan “You don’t have to be Jewish to love Levy’s real Jewish Rye.”

Kosher certification has been a medium for influence between Jewish and American culture in both directions. At the same time that kosher certification illustrates the infiltration of traditional Jewish foodways into the American mainstream, the turbulent history of kosher certification in the United States demonstrates how quintessentially American legal and economic institutions have shaped Jewish communal self-governance. Religious liberty and free markets in America undermined the thousand-year-old *kehillah* model of kosher regulation, which was based on state-supported centralized communal control over religious standards and economic activity. These same features of American liberalism nurtured **[End Page 38]** the emergence of a highly successful system of private entrepreneurial kosher certification agencies.

In the Old World, civil authorities throughout the Diaspora granted Jewish communities autonomy, which frequently included full powers of

internal legislation and regulation. Governance by a community council, or *kehillah*, frequently included civil and criminal jurisdiction, as well as administration of standard municipal functions. *Kehillah* legal authority was comprehensive and exclusive: it covered the full range of internal administrative functions, and all the Jews in a particular locality fell under its jurisdiction.²

Kehillah regulation of kosher trade rested on the powers to grant exclusive licenses to slaughter meat within a community and to prohibit the importation of meat slaughtered outside the community. The local ritual slaughterer—*shohet* (plural, *shohetim*)—was appointed and employed by the *kehillah*. Meat dealers seeking kosher slaughter paid the *kehillah*, which paid the *shohet* a standard fee, regardless of whether an animal turned out to be kosher or *treyf*. This system aimed to avoid the conflict of interest that would arise if the *shohet* were paid directly by the meat dealer, who might pressure him to lower his standards in order to assure that the *shohet* would declare the dealer's meat kosher, thereby allowing the dealer to obtain a premium for it. The job of *shohet* was a valuable asset that included exclusive slaughtering rights, tenure, retirement benefits, and transferability of the office to heirs. These features of *kehillah* regulation made *shohetim* eager to maintain high standards and a good reputation to avoid any risk of dismissal. In addition, the halakhic principle of *shehute huts* (outside slaughter) prohibited importation of meat slaughtered outside the community and strengthened *kehillah* control over kosher standards.³

Jews attempted to establish the *kehillah* system in America in the form of what Jonathan Sarna has termed the “synagogue-community.” During the colonial period and for several decades after independence, each locality in America had a single Jewish congregation, run by a lay board, which hired a community *shohet*. Like the *kehillah*, each synagogue-community exercised exclusive jurisdiction and monopoly power over [End Page 39] kosher slaughter.⁴ This system of centralized community control suffered a serious blow as a result of the Abrahams affair in 1813.

In that year, the trustees of Shearith Israel, the sole Jewish congregation in New York City, refused to reappoint Jacob Abrahams as the congregational *shohet*, following complaints about his performance, and they appointed another *shohet* in his place. In defiance, Abrahams continued to slaughter privately and sold his meat to butchers not approved by the congregation but who advertised it as kosher. The trustees petitioned the...

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1. Lubicom Marketing Consulting, “The Kosher Food Market 2011,” www.lubicom.com (accessed June 4, 2015).

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