

**CHALLENGES TO SHECHITA AND ITS PROTECTION
BY GOVERNMENT AND LEGISLATION
IN LATE 20TH CENTURY BRITAIN**

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Foreword

Rabbi Kesselman's dissertation makes a notable contribution to the understanding of a persistent problem for Britain's Jewish community - challenges to shechita. So far, periodic threats to the Jewish method of animal slaughter have always failed. Rabbi Kesselman explains why.

Starting from a scholarly analysis on the law and practice of the Jewish method, the author reviews the provisions in legislation which recognise the religious requirements of the Jewish community and protect the performance of shechita and the observance of Jewish dietary law. He demonstrates how successive British Governments have resisted efforts to ban shechita.

A no less significant feature which emerges from this work is Rabbi Kesselman's contribution to the protection of shechita, through his legal submissions to and discussions with successive ~~ministries~~ on this subject. This study is an important work for its treatment of the theoretical and practical aspects of shechita, as affected by legislation. It presents a case for the humaneness of the Jewish method with authority and compelling presentation.

*Department
of Health*

Lord Janner of Braunstone, QC

A large, stylized handwritten signature, likely of Lord Janner of Braunstone, QC.



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The frequency of the agitation against *Shechita*, whether occasioned by animal welfare organisations or manifestations of anti-Semitism, and sometimes both, necessitates access to accurate technical information and expert opinion.

All those involved in countering attacks on *Shechita* will be indebted to the author of this important contribution to the crucial debate. Rabbi Neville Kesselman, an intrepid fighter for the Jewish religious cause, has examined the instances of challenges to *Shechita* in Britain in the decades towards the end of the 20th century. With scholarly precision and care he gives us an incisive account of the attacks on various fundamental aspects affecting *Shechita* and their effective rebuttal.

In that Jewish communities around the world are pressurized from time to time regarding *Shechita*, this book provides not only an academic record but is a valuable and forthright example of how best to counteract these attempts.

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APPROBATION - HASKAMAH

January 2002 - Shevat 5762

It affords me great pleasure to write an approbation to the superb booklet "Challenges to Shechita and its Protection," compiled by Rabbi Neville Kesselman, Barrister-at-Law (of Gray's Inn). The work is an absolute masterpiece and will no doubt serve as the text-book, should shechita at some future time require, G-d forbid, protection again.

Rabbi Kesselman did not merely compile an erudite, professional dissertation, he actually acted according to his writings. I can testify to this from first-hand knowledge, as I was privileged some twelve years ago to work closely with Rabbi Kesselman in defence of shechita. The future of kosher meat consumption in Britain hung delicately in the balance, as the opponents of shechita launched a fierce attack against the time-hallowed practice of the Jewish method. Rabbi Kesselman, in conjunction with his able and devoted team of assistants, contributed immensely and decisively to proving to Government and Parliament, that shechita is a perfectly humane method of slaughter.

We herewith wish to put on record our deep appreciation to successive British governments for accepting these compelling arguments.

Furthermore, British governments have always recognized the religious obligations of the Jewish community in regard to shechita in particular, as well as to religious observance in general. They have always respected the right to freedom of religion of the Jewish community as well as the right of all other religious faiths.

We wish Rabbi Kesselman great success in the publication of this magnificent dissertation as well as in all his endeavours for the good of the community.

(Dayan) G. Krausz

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[Handwritten signature]
[Handwritten signature]

Professor Chimen Abramsky
Highgate, London N6

APPROBATION

12 December 2001

Dear Rabbi Kesselman,

Many thanks for giving me the opportunity to read your very learned monograph "Challenges to Shechita". I learned a lot on the political-legal battles on the related issues to shechita. It should be published for a wider public.

As a student of history, opposition to shechita can be subdivided into three categories: (1) those who oppose it on the ground of cruelty to animals (tsa'ar ba'alei chaim); these are a very small minority; (2) anti-semitic governments and groups; these form the majority; (3) a mixture of (1) and (2), these are mostly confused and speak in pseudo-scientific terminology.

Once again, many thanks for letting me read it.

*With best regards
yours sincerely
Chimen Abramsky*

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CHALLENGES TO SHECHITA AND ITS PROTECTION
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ABSTRACT

This dissertation will investigate the modern study of shechita (the Jewish religious-humane¹ method of food animal and poultry slaughter) in the light of the principles of Jewish law (halacha) and the regulation of the method by United Kingdom legislation in the late twentieth century.

Also examined are periodic attempts by the anti-shechita lobby to persuade various British governments to introduce legislation to repeal the exemption from stunning. This exemption permits the performance of shechita. A repeal would end the practice of the Jewish method in the United Kingdom and deprive British Jews of their right to eat fresh kosher meat and poultry and their products prepared in accordance with religious requirements.

Moreover, other aspects of the laws of kashrut (Jewish dietary law) have been protected by United Kingdom legislation in recognition of those religious requirements and these statutory provisions will be noted.

The dissertation will examine the proposition that successive British governments have recognised the religious obligations of the Jewish community in regard to shechita and kashrut and have resisted arguments to impose, by law, a ban on the Jewish method, or to allow any other interference with the observance of Jewish dietary law.

CHAPTER 1

SHECHITA

Shechita is the Jewish religious-humane method of food animal and poultry slaughter which stuns, despatches and exsanguinates in one operation and fulfils all the requirements of humaneness. It is a cardinal tenet of the Jewish faith that the laws of shechita were Divinely ordained to Moses at Mount Sinai (*Halacha LeMoshe MiSinai*).² Kindness to animals and birds is a core value of Judaism.³ The time-hallowed method of shechita has been a central pillar in the sustaining of Jewish communal life for millennia.

Shechita has been described as "Jewish ritual slaughter". It is a description as inaccurate as it is offensive to those familiar with shechita. There is nothing ritualistic, sacramental or cultural about the Jewish method. The principal laws of shechita provide that if meat is to be eaten, the Jew is duty-bound to despatch an animal or bird in the most humane way possible.

The description of shechita as "the Jewish religious-humane method of food animal and poultry slaughter" was formulated by the author in 1990⁴ and expressed in correspondence in 1998 with the Rt. Hon. Dr. Jack Cunningham, M.P., Minister of Agriculture, Fisheries and Food.⁵ This description was adopted by the Minister and was the first occasion that the humaneness of shechita was conceded at ministerial level.

Sources of Jewish law for shechita

The Biblical reference to shechita is stated in Deuteronomy XII, 21:

"Thou shalt kill of thy herd and of thy flock,
which the Lord hath given thee *as I have commanded thee (ka'asher tzivisicha)*"

This verse indicates the Divinely legislated laws of shechita.

Grunfeld has observed:

"Since such a commandment is nowhere mentioned in the Pentateuch, it must have been communicated orally to Moses by the Divine Lawgiver. Here we have a classical example of the inseparable unity and contemporaneous revelation of Written and Oral Law which are both of Sinaitic origin and equally binding on the Jew."⁶

The specific laws of shechita are analysed and enunciated in the Babylonian Talmud, Tractate *Chullin*, Chapters 1-2, and the laws are codified by Moses Maimonides in *Mishneh Torah, The Book of Holiness, Hilchot Shechita* (Laws of Shechita), 1-14, and by Joseph Karo in *Shulchan Aruch (Code of Jewish Law), Yoreh Deah, Hilchot Shechita*, 1-28.

Shechita defined in English law

The United Kingdom legislation currently in force, which regulates and protects shechita is The Welfare of Animals (Slaughter or Killing) Regulations 1995 (Statutory Instrument 1995 No. 731) (hereinafter referred to as "WASK 1995").⁷

Paragraph 2 (a) of Schedule 12 to the Regulations defines shechita as:

"... slaughter without the infliction of unnecessary suffering by the Jewish method for the food of Jews by a Jew who holds a licence granted by the Minister or by a local authority and who is duly licensed in England and Wales by the Rabbinical Commission for the Licensing of Shochetim⁸ or in Scotland by the Chief Rabbi".

Shechita defined in the law of the United States of America

It is noteworthy that the legal position of shechita in the U.S.A. differs substantially from its position in the United Kingdom. Under United States Federal law, shechita is defined by statute as a humane method.

Section 2(b) of the 1958 Livestock – Humane Methods of Slaughter Legislation enacts:

“... the following methods of slaughter are hereby found to be humane.... by slaughtering in accordance with the ritual requirements of the Jewish faith”

[Laws of 85th Congress – 2nd Session, August 27 1958, Public Law 85 – 765; 72 STAT. 862]

A consequence of this definition is that shechita-slaughtered meat which the religious authorities have disqualified as food for Jews, for reasons of kashrut, may be diverted to the general market in the United States. The diversion of this meat is accepted by the public without objection and by the civic authorities without restriction.

In the United Kingdom, shechita is not yet defined by law as a humane method but is permitted only as an exemption from the general requirements of the law. The anti-shechita lobby continues to demand, inter alia, that all carcasses and cuts prepared from animals and birds slaughtered by a religious method and offered for sale down to and including the retail level, be identified and labelled to indicate the method of slaughter. The pro-shechita lobby argues that such a measure is discriminatory, misleading and racist. In 1985, the Farm Animal Welfare Council (FAWC) recommended that such labelling be required by law (see p.42, post.) It is an objective of the Campaign for the Protection of Shechita (CPS) that the legislation be amended to define shechita as a humane method of slaughter.

CHAPTER 2

SPECIES OF ANIMALS AND BIRDS

Animals permitted (kasher) for food by Jewish law

Biblical law⁹ restricts shechita to specific and limited species of animals whose flesh may be eaten. The permitted animals of the mammalian family include both domestic (*behema*) and wild (*chaya*) animals.

The signs of the permitted mammals are that they have split (cloven) hooves and ruminate. In the split-hoofed animal the centre of gravity rests on the axis which passes between the hooves. As a result, the space between the hooves widens, and there is a small secondary lowering while standing.

In the ruminating animal, a complex system of three stomachs (including the reticulum) before the true stomach may be seen. In these animals no incisor teeth are found in the upper jaw. All animals with split hooves belong to the order of arthodactyla. This order is divided into three sub-orders, namely Nonruminantia, the Tylopoda and the Ruminantia. The animals which may be eaten belong only to the third group. Animals of this group are herbivores. They include the families Cervidae (deer-like animals), and Bovidae (cattle and antelope-like animals).¹⁰

Permitted species are deer, cattle, sheep and goats. Solipeds, pigs and rabbits are forbidden species whose flesh may not be eaten.

Birds permitted (kasher) for food by Jewish law

Biblical law specifies those species of birds which may not be eaten.

Every bird of prey is forbidden. Talmudic and Rabbinic law discuss the criteria (*simanim*) based on ancient tradition (*massoret*) which classify permitted and forbidden species of birds.¹¹

A profound spiritual purpose may be discerned in this aspect of Jewish dietary law: a Jew is permitted to eat meat, but may eat only of those species which are themselves vegetarian.

Animals and birds defined by English legislation as permitted for shechita

Parts I to IV of Schedule 12 to the Welfare of Animals (Slaughter or Killing) Regulations 1995 make provision for slaughter by the religious method for Jews. The following definitions are given in paragraph 1 to Schedule 12:

" 'animal' means any sheep, goat or bovine animal;

'bovine animal' means any ox, bullock, cow, heifer, steer or calf, or any calf which is too large to be restrained manually for slaughter on a cradle or table;

'bird' means any turkey, domestic fowl, guinea-fowl, duck, goose or quail. "

It will be observed that deer have been excluded. Although the deer is a permitted (kasher) animal for Jews, English law does not permit shechita for deer, and Jews in the United Kingdom are unable to obtain kasher venison.¹²

Animals and birds halachically disqualified (non-kasher)

An animal or bird which has died or which has been slaughtered or killed by a method other than by shechita is called "*nevela*" or decayed. It is forbidden to eat the meat of such an animal or bird. An animal or bird which was attacked by another animal or bird, or was involved in an accident, causing external or internal injury which would be fatal is called "*treifa*" or torn. It is likewise forbidden to eat the meat of such an animal or bird.

If, upon inspection and examination after shechita, an animal or bird is found to have a disqualifying organic defect, either externally or internally, it is *treifa* and may not be eaten. The meat of animals having anatomic irregularity or injury or suffering diseases (e.g. Bovine Spongiform Encephalopathy (BSE) or E.Coli 0157) injurious to humans, may not be eaten.

Halachic prohibition against stunning

For the above reasons, any form of mechanical, electrical, gas, or chemical stunning of an animal or bird, before or during shechita, renders it non-kasher and is forbidden as food to Jews. Shechita may be performed only on a living, healthy and uninjured animal or bird.¹³ The shechita incision is, inter alia, an effective stun, per se (see p.27, post).

Post-mortem inspection and examination required by halacha

A shochet is also a bovine pathologist (*shochet u-bodek*). He must conduct a pathological anatomical examination of the organs severed by the shechita incision (*bedikat hasimanim*).¹⁴ His duties include inspection and visual and tactile examination of the internal organs and limbs of an animal after shechita, in order to ascertain whether there are any disqualifying (non-kasher) malformations or injuries. He must conduct a thoracic examination for abnormalities, pleural adhesions, punctures, or viscous threads between the lungs and the rib cage (*bedikat harey'a*).¹⁵ This thoracic examination necessitates inflating the lungs and immersing them in water to ascertain if there are punctures in the lungs. English law prohibits such inflation. However, without inflation and examination, halacha disqualifies an animal as food.

Statutory exemption from the prohibition against pleural inflation

By virtue of the provisions of The Fresh Meat (Hygiene and Inspection) Regulations 1995, it is prohibited to inflate in any manner the carcass or any part whatsoever of any animal intended for human consumption:

"... save that this shall not apply in the case of the slaughter by the Jewish method of animals intended as food for Jewish persons provided that any organs so inflated are not intended for human consumption".

[Paragraph 2(b) of Part II to Schedule 7 to The Fresh Meat (Hygiene and Inspection) Regulations 1995 (Statutory Instrument 1995 No. 539)]

This statutory exemption permits inflation and examination of the lungs (*bedikat harey'a*) and is an example of the intention of Parliament to permit British Jews the freedom to conduct halachic post-shechita examination, in addition to their freedom to perform shechita.

Post-shechita rules of kashrut (Jewish dietary law)

Even after shechita, inspection and examination, the laws of kashrut provide that the meat of animals and birds must not be cooked or eaten until the stringent rules for kashering have been carried out, in order to remove any remaining blood from the meat.

These laws of kashrut have been ordained because a primary Biblical law is the absolute prohibition against consuming blood as stated in Genesis IX, 4:

"Only flesh with the life thereof, which is the blood thereof, shall ye not eat"

and in Deuteronomy XII, 23:

"Only be stedfast in not eating the blood; for the blood is the life; and thou shalt not eat the life with the flesh"

These laws require, inter alia, the removal from the meat of specified fat, sinews and veins (porging - *nikkur*). The meat must then be soaked for half an hour in cold (not icy) water to dissolve away surface blood and to soften the meat so that salting will be effective. Immediately thereafter, the meat is covered with a sprinkling of medium grain salt and remains so salted for an hour, then thoroughly washed off (*hadacha rishona, melicha, hadacha acharona*).¹⁶ The alternative method of kashering meat (and the only method for kashering liver) is roasting on an open fire which allows the blood freely to drain off.

Statutory exemption from the immersion chilling provisions for poultry

The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 provide a general rule that after slaughter, removal of feathers and evisceration, a poultry carcass must pass through one or more tanks of water or of ice and water at temperatures between +16°C and +4°C.

At very low temperatures, the chilling procedure causes blood to congeal in the meat and prevents the kashering process of removal of all blood through soaking, salting and washing-off. In order to protect and preserve the kashering process required by halacha, legislation has provided an exemption. The immersion chilling process does not apply in the case of poultry slaughtered by the Jewish method for the food of Jews, where there is to be:

“... salting and subsequent washing-off of the salt, carried out under the supervision of the Local Board of Shechita or, in the absence of any such Board, of a Committee appointed for the purpose by the local Jewish congregation established in accordance with Jewish law.”

[Paragraph 11(1) of Schedule 8 to The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 (Statutory Instrument 1995 No. 540)]

This is a further example of the intention of Parliament to permit British Jews the freedom to prepare meat in accordance with Jewish dietary law, in addition to their freedom to perform shechita.

CHAPTER 3

THE *CHALAF* - THE INSTRUMENT OF SHECHITA

In Hebrew, the conventional noun for "knife" is "*sakin*". However, the instrument employed to perform shechita is designated the unique and significant name of "*chalif*" or "*chalaf*". It is so named because it is the instrument which transforms or "changes" (*machalif*) the state of that which is forbidden into that which becomes permitted. The designation "*chalaf*" (so described hereafter) is used exclusively in reference to shechita, and in the plural form are called "*chalafim*".

As noted, Biblical law absolutely prohibits eating the flesh of an animal or bird while it is a living creature. Today, we accept such a rule as a civilised norm. It was not always so. In ancient times, the pagan cruelty of eating a limb from a living creature (*eiver min ha'chai*) was proscribed by the Noachide Laws in Genesis IX, and this Biblical prohibition remains binding on all mankind.¹⁷

For Jews, the flesh of kasher animals and birds is permitted for food only after the creature has been effectively stunned, rapidly despatched, and efficiently exsanguinated in accordance with the Divine humane laws of shechita. The transformation of the state of a creature from the prohibited to the permitted, is effected by a *chalaf*, through the performance of shechita.¹⁸

Setting and inspecting the *chalaf*

One of the laws of shechita, *Ikkur* – the prohibition against tearing (see page 26, post) – provides that the trachea and oesophagus must be incised and not ripped or torn. The slightest notch in the blade will cause tearing. The instrument must be large enough for the size of the animal and be very sharp and very smooth. For these reasons, halacha requires a shochet to examine the *chalaf* for smoothness and sharpness before and after each shechita (*bedikat hasakin*).¹⁹

The quality of the *chalaf*

The *chalaf* is of more than surgical sharpness and smoothness, with a perfect edge; without the least perceptible unevenness, indentation or roughness. If any unevenness is felt, the *chalaf* has to be smoothed on a special honing stone (*hash'chaza*) and again examined before use.

Halachic examination of the *chalaf*

The examination performed by a shochet is to pass the blade forward and backward over his finger – flesh and nail (*abisra ve'atufra*) – twelve times²⁰ to test its sharpness and smoothness; over the flesh, because the oesophagus is fleshy, like the finger; over the nail, because the trachea is cartilaginous and hard, like the nail. The *chalaf* must be more than twice as long as the breadth of the neck of the animal. Hence, shochetim have three different *chalafim*, one for birds, one for large cattle, and one for small cattle.

A challenge to the integrity of the *chalaf* (1994)

On December 15 1994, the Ministry of Agriculture, Fisheries and Food (MAFF) issued a Consultation Document on Draft Proposals to Implement [European] Council Directive 93/119/EC on the Protection of Animals at the Time of Slaughter or Killing.

In it, the Government stated its intention that the Draft Regulations (to be made under Section 2(2) of the European Communities Act 1972), would replace all existing slaughter or killing legislation so as to provide in one document all regulatory provisions covering the United Kingdom. Separate implementing legislation would be made for Northern Ireland by the Department of Agriculture for Northern Ireland.

Regarding religious methods of slaughter, the Ministry declared:

"The EU Directive permits religious slaughter and, when drafting the new Regulations, the object has been to carry forward our existing provisions *in as unchanged a form as possible* within the terms of the Directive" (my italics)

Proposed wide statutory duty to inspect the *chalaf*

Although the Draft Regulations proposed re-enactment of provisions in legislation in force in 1994 (viz. The Slaughter of Animals (Humane Conditions) Regulations 1990), the Government proposed a new measure which, if enacted, would allow interference with the religious duty of a shochet to inspect the *chalaf*. The proposed measure placed a statutory duty, not only on a shochet but on:

"any person engaged in the slaughtering by a religious method before each animal is slaughtered, to *inspect* the knife to be used and *ensure* that it is not used unless it is undamaged and of sufficient size and sharpness to be capable of being used to slaughter the animal in the prescribed manner". (my italics)

[Paragraphs 6 (a) and 6 (b) in Part II of Schedule 12 to the Consultation Document]

Objections to the proposed legislation

The Government invited comment from interested parties on its Consultation List. Legal submissions and proposed amendments were submitted to the Ministry on January 4 1995.²¹ Against the proposal, it was argued that the form of words "any person engaged in slaughtering by a religious method" would allow interference with the duty of a shochet to inspect his *chalaf* and such a measure would prevent the performance of shechita.

Requested amendment of proposed legislation

Amendment to the proposed legislation was requested in order to eliminate this interference. It was argued that any statutory duty to inspect a *chalaf* should devolve solely on a shochet as *the person who slaughters by a religious method* and should not devolve on any other person engaged in the slaughtering process.

Moreover, it was argued, that a certificate of competence issued by the Rabbinical Commission for the Licensing of Shochetim to a shochet under the Regulations, and a registered licence granted to him by the Minister, or by a local authority, are conclusive evidence of his competence to slaughter by a religious method and to set and inspect his *chalaf* in accordance with halachic requirements.

An interference with shechita

A shochet specifically *slaughters* by a religious method; he is not simply *engaged in the slaughtering process*. The form of words "any person" was too widely drawn, since the duty to inspect would devolve on *any* person engaged at any stage of the slaughterhouse procedures.

The form of words "any person" would permit an interruption of, or interference with, the shechita process by "any person engaged" in a slaughterhouse operation. For example, a slaughterhouse employee operating a restraining pen, could legitimately claim to be "any person engaged in the slaughtering" and demand to inspect the *chalaf*. Without training, expertise or qualification, such a person could manhandle and damage the *chalaf*, whether from malice or otherwise, and render it disqualified from use.

The duty to inspect the *chalaf* was also proposed for "any person engaged in the slaughter of any bird" and similarly threatened interference with poultry shechita.

Statutory language to be unambiguous

The language of the statute had to be unequivocal, unambiguous and permit no adverse construction or misinterpretation. The requested amendment ("any person *who slaughters* by a religious method") was a necessary safeguard against unwarranted interference with the performance of shechita. In reply, the Government, recognising the exclusivity of the religious duties of a shochet, agreed the amendment.

When the legislation (WASK 1995) was enacted, the shechita provisions provided that the statutory duty to inspect the *chalaf*, for animals and birds, devolves exclusively on a shochet. The form of words enacted in the Regulations provides that the duty to inspect the *chalaf* devolves on:

"any person who slaughters by a religious method"

and not on any person engaged in the slaughtering by a religious method.

[Paragraphs 6(a) and 9(a) of Schedule 12 to The Welfare of Animals (Slaughter or Killing) Regulations 1995]

A challenge to the integrity of the *chalaf* (1998)

In March 1998, the author was informed that shochetim employed by the London Board for Shechita were being threatened with criminal prosecution by officials of the Meat Hygiene Service (MHS, an agency of MAFF) for refusing to sterilise their *chalafim* in hot water at not less than 82°C.²²

The demand of the Meat Hygiene Service

Officials of the MHS claimed that *chalafim* for shechita on animals must be sterilised in hot water by virtue of the provisions in paragraph 3(d) of Part I of Schedule 7 to The Fresh Meat (Hygiene and Inspection) Regulations 1995. The officials also claimed that *chalafim* for poultry shechita must similarly be sterilised by virtue of the provisions in paragraph 2(c) of Schedule 6 to The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995.

It was significant and alarming that although the Regulations came into force in 1995, it was clearly the practice of the MHS not to require *chalafim* to be so sterilised until 1998, some three years later. *If* there ever was a duty to enforce the Regulations for sterilisation of *chalafim*, the MHS was in dereliction of duty through inordinate delay.

Refusal of Shochetim to comply

Shochetim maintained that immersing a *chalaf* in water at such a temperature would damage the sharpness and quality of the special steel and cause the handle to become loosened from the blade. A *chalaf* would then halachically be disqualified from use for shechita. This would prevent the performance of shechita and halt the supply of fresh kosher meat and poultry and their products to the Jewish community. Shochetim refused to immerse *chalafim* at that temperature, maintaining that *chalafim*, in any event, are cleansed thoroughly in running potable water and wiped before each shechita. Even according to English law, a shochet using a *chalaf* so damaged, commits an offence against regulations 6(a) and 9(b) of Part II to Schedule 12 of WASK 1995, which require him to inspect and ensure the sharpness of a *chalaf* before each shechita. Such an offence (prosecuted under the penal provisions of regulation 26) renders him liable on conviction in a magistrates' court to a maximum fine of £5,000 and/or imprisonment for three months. He is also liable to suffer revocation of his licence.

Attempts to enforce the legislation

On March 12, 1998, the Director of Operations of the Meat Hygiene Service issued written instructions to all Regional Directors in a directive headed:

"Shechita - Disinfection/Sterilisation of Knives

...It is alleged that the Shochetim contend that the hot water destroys the edge of their knives making it impossible to carry out the ritual incision in compliance with religious law. This seems unlikely, and in any case, is irrelevant... I would be grateful if you would ensure that no exemptions are permitted under this requirement and that, in the case of red meat species, the knives used for ritual slaughter are sterilised in hot water at not less than 82°C after cleaning and sharpening between each animal slaughtered. In the case of poultry, knives should be washed and sterilised frequently."

Later, on May 13, a similar directive was issued by the Regional Director to all Official Veterinary Surgeons and Senior Meat Hygiene Inspectors, adding:

"I would remind you that you must ensure that no exemptions are permitted under this requirement...you must follow the hierarchy of enforcement and ultimately take formal action by referring recommendations for prosecution to me at the Regional Office."

Those directives were as insensitive as they were inaccurate and indeed, as later shown, arguably ultra vires and unlawful.

Threat to shechita in the United Kingdom

This grave situation was not local and threatened the continuation of shechita and the supply of fresh kosher meat and poultry and their products to Jewish communities throughout the United Kingdom. The matter was raised by the author in correspondence with The Rt. Hon. Dr. Jack Cunningham M.P., Minister of Agriculture, Fisheries and Food. There followed an exchange of letters²³ and a subsequent meeting with officials of his Ministry.

Interpreting the legislation

In order to establish that enforcement by MHS officials was ultra vires and unlawful, it was necessary to conduct a detailed analysis of the relevant EU and UK legislation. The statutory hot water sterilisation provision expressly applies only to "equipment and implements *which come into contact with fresh meat*". (my italics)

"Fresh meat" defined

The term "fresh meat", is interpreted in regulation 2 of Part I to The Fresh Meat Regulations and does not include an animal or bird before or during slaughter and by necessary implication, excludes them. The words "animal", "carcase", "fresh" and "meat" are given explicit statutory meaning. According to the legislation, an animal is not a carcase until after bleeding, evisceration, removal of limbs, removal of head, tail and udder, and flaying. Thereafter, declares the legislation, it is produced as "fresh meat".

In the case of a bird, the legislation declares that it is a carcase after bleeding, plucking and evisceration and thereafter is produced as "fresh meat".

There is reference in paragraph 2(b) of Schedule I to The Poultry Meat Regulations to:

"... facilities for disinfecting tools with water at not less than 82°C in rooms where fresh meat is produced, worked on or stored and in areas and corridors through which such meat is transported"

Indeed, the very titles of the legislation – "Fresh Meat" and "Poultry Meat" Regulations – evince a parliamentary intention to exclude live animals and birds, which arguably cannot be described as "fresh meat".

The Minister's case

The Minister argued that the hot water provision in the legislation was intended to prevent possible cross-contamination and was enacted pursuant to the EU hygiene requirements of the Fresh Meat Directive (64/433/EEC). The Minister stated:

"I can assure you that the Meat Hygiene Service has every respect for the rights of the Jewish Community. The directive...to which you refer was simply a reminder to MHS staff of the requirements of the legislation regarding knife sterilisation. My colleagues and I have instructed the MHS to enforce the meat hygiene legislation rigorously to ensure the protection of public health".²⁴

The case against the Minister's interpretation

For the Jewish community, in response, it was argued that the Minister's officials were incorrect in the advice they gave him. There is no reference in any of the Regulations to instruments of slaughter or killing in the context of disinfecting or sterilising. There is no provision for disinfecting or sterilising the captive bolt, which is a killing instrument. Furthermore, Parliament did not intend to include the pithing rod (another killing instrument) in the hot water provision since pithing rods are referred to in a separate part of the legislation (viz. paragraph 1(c) in Part II of Schedule 7 to The Fresh Meat Regulations). Pithing rods are not defined as "equipment and implements which come into the contact with fresh meat".²⁵

The response emphasised the fact that the instrument of shechita, the *chalaf*, never comes into contact with fresh meat. The response made the following concession:

"We entirely support the principle of hygiene in the spirit of the legislation. We note that in the interpretation provisions in regulation 2 in Part I of The Fresh Meat Regulations "*disinfect*" means "*to apply hygienically satisfactory chemical or physical agents or processes with the intention of eliminating micro-organisms*". Provided the process of disinfecting a *chalaf* does not damage and/or blunt it in any way that would be contrary to Jewish religious law, we are sure that the Jewish religious authorities would consider adopting such a process of disinfecting."²⁶

It was also argued against the Minister's interpretation, that Parliament, when exempting the licensing of shochetim and the performance of shechita from normal statutory requirements, cannot have intended to subject the shechita instrument itself to such statutory requirements as to render it disqualified from use.

Lack of consultation prior to enactment

A further argument was presented against the Minister's case. The statutory exemptions which shechita enjoys, were enacted only after successive ministers had consulted the Jewish religious authorities on measures proposed for legislation affecting shechita. Failure to consult interested parties, may render legislation enacted by the Legislature, liable to review by the Judiciary. Prior to enactment of the provisions for the sterilisation of equipment, there was no consultation with the religious authorities regarding the sterilisation of *chalafim*.

In regard to the sterilisation of *chalafim*, there was no halachic objection in principle. The objection was only against hot water sterilisation which would cause damage to the *chalaf* and disqualify it from use. Because of lack of consultation prior to enactment, the hot water provision in the legislation, *if it was intended to apply to chalafim*, was ultra vires the Minister's powers and could be judicially reviewed by the Divisional Court of the Queen's Bench Division of the High Court of Justice.

Moreover, it was intimated, that if the Minister maintained *his* interpretation of the statute, he might be challenged in civil proceedings for judicial review in the High Court.

Meeting with Minister's advisors and MAFF officials

After the Minister had studied the legal submissions,²⁷ a meeting was convened at Ministry headquarters in Whitehall on July 22 1998 between representatives of the Jewish community and the Minister's advisors and officials.²⁸

During discussions, ministry officials conceded that the legislation in respect of the means of disinfection/sterilisation of equipment was open to interpretation, and that it might be possible to utilise alternative means rather than insisting on using hot water at 82°C.

The Minister reconsiders his interpretation

In view of the difficulties expressed in correspondence envisaged arising from the strict enforcement of the rules, the Minister had again looked at the matter very closely with veterinary and legal advisors. They recognised that:

"There are fundamental differences in the way in which Shechita takes place that reduce the possibility of cross-contamination due to the open nature of the wound and the great outflowing of blood from the vessels cut".²⁹

Proposed resolution

The Minister proposed to the Jewish delegation a resolution of the problem which included the following terms:

1. The requirement to sterilise the *chalaf* in hot water would not be enforced.
2. Instead, a cold water chemical disinfectant and sterile wipe would be used to sterilise the *chalaf* between use.
3. Time would be allowed for the National Council of Shechita Boards to investigate which appropriate disinfectants could suitably be used on *chalafim* without causing any damage to the blades.
4. Pending agreement as to the disinfectants to be used, it would be acceptable for *chalafim* to be cleansed between each shechita with disposable towels and running potable water only.

The Rabbinical Authorities present at that meeting accepted the proposals. Between contending parties, dialogue is essential in these religious matters. The meeting brought about a greater understanding on the part of the Ministry. As the head of the Meat Hygiene Division of MAFF later stated:

"It was good to have the opportunity to meet you and your colleagues and to learn, at first hand, more about the laws and practice of shechita, as well as the practical difficulties likely to arise from the sterilisation of the *chalaf* in hot water (at 82°C)".³⁰

Amendment of MHS Operations Manual (1999)

On February 22 1999, the Joint Safety and Standards Group of MAFF and the Department of Health issued to MHS staff the following amendment to Section B of Chapter 5 of the MHS Operations Manual:

"Sterilisation of the slaughter knife used for Shechita

The normal public health and statutory requirements relating to the sterilisation of slaughter knives between each use (ie. sterilisation in hot water at not less than 82°C) do not apply in respect of slaughter knives (*chalofim*) used for Shechita, provided the following requirements are observed:

Between each animal, the slaughter knife is cleansed, using running potable water and disposable paper towels or wipes..."

The resolution of this crisis is yet a further example of Government recognising and respecting aspects of Jewish law in regard to shechita.

CHAPTER 4

THE SHECHITA INCISION (THE *CHITUCH*)

Avoidance of five impediments to halachic incision

Halacha prescribes five principal laws for the performance of the incision.³¹ Breach of any of these laws invalidates the shechita and disqualifies an animal or bird as food:

Shehiya - there must be no delay or interruption in the process of shechita, ie. in the movements of the *chalaf*. Provided there is no delay or interruption, halacha does not restrict the number of to and fro movements required to incise the prescribed organs and vessels.

Derassa - the process of shechita is performed by moving the *chalaf* to and fro without downward pressure. The animal must be restrained and immobilised so that its neck does not press on the *chalaf*.

Chalada - there must be no stabbing with the *chalaf* which must be uncovered during the entire process. For this reason the *chalaf* has a sufficiently long and broad blade, without sharp pointed ends.

Hagrama - the place of the incision is between the larynx and the lower part of the trachea and oesophagus, located in the thoracic cavity. In the case of a bird, the incision is not lower than the upper end of the crop.

Ikkur - the trachea and oesophagus must be incised and not ripped or torn. The *chalaf*, therefore must be very sharp and very smooth. The least notch in the blade will cause tearing. For this reason the *chalaf* is inspected for smoothness and sharpness before and after each shechita (see p.12, ante).³²

Homa's classic description of the incision (1967)

After a bovine animal has been restrained in an approved upright restraining pen, shechita is performed by a shochet with a *chalaf* by rapid, uninterrupted movements at the front of the neck. The incision has been given a classic description by Homa:

"... The movement of the knife which causes no pain and takes a fraction of a second, cuts through the soft structures anterior to the cervical spine, severing the trachea, the oesophagus,³³ the two vagus nerves, as well as both carotid arteries and jugular veins, the main blood vessels supplying and draining the head and brain".³⁴

Abolition of consciousness

Consciousness in an animal, as in man, is maintained only when there is an adequate concentration of oxygen in the brain tissue. This is provided by arterial blood. The main blood supply to the brain is through the carotid arteries. Severance of these blood vessels immediately ends this supply.

The rapid bleeding (exsanguination) from these arteries, as well as from the jugular veins, produced by the incision, causes a sudden substantial fall in blood pressure throughout the body. Homa states that it drops to twenty five percent within three seconds.³⁵ The shechita incision simultaneously stuns (ie. abolishes consciousness), despatches the animal and exsanguinates.

Anoxia

Depriving the brain of oxygen (anoxia) produces loss of consciousness. This state may be accelerated by loss of cerebro-spinal fluid.³⁶ The sudden substantial and rapid fall in blood pressure is highly significant in determining whether blood can still reach the brain by another route. In addition to the two large carotid arteries supplying blood to the brain, there are two smaller vessels - the vertebral arteries - passing along the spinal canal and therefore not severed during shechita.

Anastomosis of the Circle of Willis in ruminants

A unique feature in the case of ruminant animals is that before reaching the network (anastomosis) of blood vessels at the base of the brain (the Circle of Willis), the vertebral arteries on each side join up with branches of the carotid arteries. Significantly, when the carotids are severed during shechita, the blood from the vertebrals, which would otherwise go to the brain, follows the line of least resistance and flows out from the severed ends of the carotids so that no blood reaches the brain. Because of the special anatomical relations of the blood vessels to the brain in ruminants, in which blood from the vertebral arteries normally reaches the brain through the continuation of the carotids, the blood supply to the brain from the vertebrals, as well as from the carotids, is terminated as a result of the shechita incision. This is confirmed by the fall to zero of the blood pressure in the Circle of Willis on severance of the carotids at shechita. The brain is thus deprived of vital oxygen and this causes immediate unconsciousness.

Humaneness of the incision examined

When examined physiologically, the five principal laws of shechita (p.26, ante) reveal an intention and design to eliminate pain during the rapidity of the incision. Based on a review of the evidence supportive of shechita (and in the absence of credible evidence to the contrary), it is a major argument of this dissertation that *shechita accomplishes what other methods of stunning attempt: immediate and irreversible abolition of consciousness until death supervenes.*

It is the shechita incision which has been the main focus of anti-shechita agitation from the beginning to the end of the twentieth century. This agitation has led to shechita being unfairly and inaccurately described as inhumane. The anti-shechita lobby has made an assumption, despite evidence to the contrary, that stunning by pole-axe, captive bolt, electricity or gas, is humane when compared with the shechita incision. A grave challenge to the integrity of the incision occurred in 1985, when the Farm Animal Welfare Council recommended legislation to limit the incision to a "single reciprocal cut". This interference is considered in Chapter 5 (see, p.43, post).

Against the anti-shechita argument, it is significant to note the conclusions of respected scientific authorities (see pp.31 - 34, post) who have observed and examined shechita and declared it to be a humane method. Following those conclusions, it is arguable that there are opponents of shechita who hold opinions which are biased and misinformed and who are motivated by considerations other than the welfare of animals.

CHAPTER 5

SHECHITA - CHALLENGE AND DEFENCE IN 20TH CENTURY BRITAIN

The Admiralty Report (1904)

On May 10 1904, the Admiralty published the Report of a Special Committee appointed to examine the humane slaughter of animals. The Report was presented to both Houses of Parliament. Two physiologists, Sir Michael Foster and Professor E.H. Starling, presented their findings and concluded that:

"The Jewish system fails in the primary requirement of rapidity, freedom from unnecessary pain and instantaneous loss of sensibility and that it compares very unfavourably with the methods of stunning recommended by the Committee".³⁷

The Admiralty Special Committee recommended legislation prohibiting shechita until stunning by pole-axing was made compulsory.

Response of the London Committee of Deputies

On October 30 1904, the London Committee of Deputies of the British Jews (forerunner of the Board of Deputies of British Jews) appointed a Special Committee whose terms of reference were to examine the Admiralty Report and to obtain eminent physiological and expert opinions with regard to the Jewish method.

The Special Committee requested Mr. T. H. Openshaw, Surgeon at the London Hospital to inspect shechita and report his findings.³⁸ At Birkenhead he inspected shechita on forty head of cattle and slaughter by pole-axing. His four page report, dated December 9 1904, found that the pole-axing performed by the average slaughterer was by no means a quick and painless death. As to shechita, he found that the incision of the deeper parts was probably not painful and that the act of bleeding was not painful. He also found that as a result of the sudden division of both carotids, a sudden profound cerebral anaemia immediately resulted which prevented the animal feeling pain and that consciousness was rapidly dulled and soon lost. Openshaw concluded:

"I am absolutely in accord with the statement – 'to charge the Jews with cruelty in this matter, ie. the killing of animals, is grossly unjust.' " ³⁹

The Special Committee also requested Dr. Leonard Hill, Lecturer in Physiology at London Hospital Medical College⁴⁰, to inspect and report on shechita at Deptford and Birkenhead. He timed the whole operation of shechita in twenty cases. His report dated March 12 1905, concluded that in each case:

"I feel certain that all consciousness is abolished if not instantly ... within at most three seconds. I am of the opinion that the Jewish method of slaughtering is as humane as any method yet practised and that there is no justification for the proposal to prohibit the Jewish method of slaughter."⁴¹

Rebuttal of Admiralty conclusions

Openshaw and Hill rebutted the conclusions of the Report of the Admiralty Special Committee, observing that:

"In no single case could Sir Michael Foster and Professor Starling give the actual duration of consciousness and, what was infinitely more important, they totally avoided all reference to the duration of *the pain* (if any) caused in each case to the animal."⁴²

Report of the Special Committee to London Committee of Deputies (1905)

On May 23 1905, the Special Committee submitted its conclusions to the London Committee of Deputies of the British Jews. It found that the Report of the Admiralty Committee condemning shechita, was based on incomplete observations and in the absence of sufficient evidence. No effort was made to obtain skilled evidence in support of the Jewish method and such evidence as was indirectly available was prejudiced by the attitude of the Committee towards it. The Report concluded:

"... that the mass of evidence obtained by your Committee proves conclusively (1) That the Jewish method is certain, rapid and humane, and far superior in each of these qualities to the method of pole-axing recommended for adoption for general use by the Admiralty Committee. (2) That the Jewish method has also the advantage of producing meat which is more nutritious and less likely to taint."⁴³

The legislation to compel stunning recommended by the Admiralty Special Committee was never enacted.

Shechita further examined: *The Lancet*; Bayliss; Lovatt-Evans; (1923-1955)

In 1923, *The Lancet* reported on methods of slaughter. Regarding shechita, the medical journal observed that the Jewish method of slaughter "seemed to be quite humane and that this mode of killing appeared quite merciful." It recorded that 285 veterinary surgeons agreed in declaring that the Jewish method of slaughter was devoid of cruelty. The report concluded:

"... most experts agree that the animal becomes unconscious within three seconds after the throat is cut and the real matter at issue seems to be whether the pain produced by a severe blow that smashes the cranial bones and penetrates the brain is more or less than that produced by a sharp knife making a deep incision."⁴⁴

In 1923, Sir William Bayliss, Professor of General Physiology at University College London, examined shechita and expressed his opinion that:

"The effect of the cut is to produce unconsciousness by instantaneous cessation of the supply of fresh blood to the brain, and to drain the body of blood ... the bleeding animal is throughout incapable of sensation. I can see no justification for raising objection to the Jewish method."⁴⁵

Sir C. Lovatt-Evans, Emeritus Professor of Physiology at the University of London, examined shechita and reported in 1955:

"My opinion as a physiologist is that I should think this method is as humane as any other method in use or likely to be brought into use for the purpose."⁴⁶

Significant scientific evidence: Dukes (1958); Schulze (1985)

H. H. Dukes, Professor of Physiology, Veterinary Department, Cornell University, concluded in 1958, that consciousness will have been lost within two seconds of the incision. He based his findings on the sudden drop in blood pressure in the vertebral arteries alone.⁴⁷

W. Schulze, Professor of the Veterinary School, Hanover, Germany, experimented on animals at shechita. Using EEG readings, he concluded in 1985, that no trace of pain was exhibited during and after the shechita incision.⁴⁸

Observations on stunning methods

It is not within the remit of this dissertation to review in detail conventional stunning methods. The opponents of shechita recommend that these methods be imposed on the Jewish community. Such an imposition would put an end to shechita in the UK since shechita may not be performed on a fatally injured animal or bird (see p.7, ante). The recommendation betrays inconsistency and bias on the part of those opponents. They cannot be unaware of the fact that throughout the twentieth century, the methods of stunning by pole-axing, by captive bolt shooting, by electrocution and by gassing, have been criticised by various animal welfare agencies who have found evidence of inefficiency and inhumaneness in their use.

RSPCA survey (1990)

In 1990, the Royal Society for the Prevention of Cruelty to Animals (a registered charity), published a survey which found that many animals in British abattoirs suffer painful deaths because they are not fully stunned before slaughter. The survey found that 6.6 percent of animals "showed evidence of being less than fully effectively stunned". In young bulls, the incidence of poor stunning rose to 53 percent. The RSPCA's assistant chief veterinary officer said:

"The findings vindicate our long-standing concern about the inadequacy of stunning methods and the extra stress they cause to animals."⁴⁹

RSPCA attack on shechita (1995)

The RSPCA had on previous occasions in the twentieth century, attacked shechita. Notwithstanding evidence of inhumaneness found in stunning and its published criticism, in 1990, of the methods used, the RSPCA launched a renewed attack on shechita. In July 1995, the RSPCA issued a pamphlet to the public which urged its readers to lobby Members of Parliament to introduce legislation to compel stunning before shechita. In blatant disregard for religious freedom and in terms calculated to stir up anti-shechita agitation, the pamphlet stated that:

"Where religious beliefs are directly responsible for animal suffering, that right [to religious beliefs] has to be challenged ... in the light of new scientific knowledge religious traditions might be changed to secure an animal's welfare before and during slaughter".

Commenting on the RSPCA's pamphlet, *The Jewish Tribune*⁵⁰ observed:

"Those who oppose shechita are in fact trying to restrict the freedom to practise religion, whether they admit it or not. Shechita has been proved again and again to be at least as humane as other forms of slaughter. What is more, the very methods they wish to introduce to "alleviate" the "pain" of shechita have been proved to be ... the cause of even added pain and distress to animals."

Mr Eldred Tabachnik QC, President of the Board of Deputies of British Jews, commenting on the RSPCA's anti-shechita campaign announced:

"We will defend the religious and civil rights of our community including the right to practise shechita ... there is no convincing scientific evidence that bears out the claim that shechita is cruel."⁵¹

Dayan Berel Berkovits of the Beth Din of the Federation of Synagogues, London, branded the RSPCA as "dishonest" and added:

"They are making emotive statements, which are unsupported by science."⁵²

Action against RSPCA (1996)

On September 4 1996, the Campaign for the Protection of Shechita (CPS), requested the Charity Commission of England and Wales to give an opinion on the question whether the activities of the RSPCA in this area were an interference with the freedom of religious practice of the Jews of Britain and incompatible with the RSPCA's charitable status.

The Charity Commission received substantial legal submissions from the CPS and from the RSPCA (who instructed Leading Counsel), regarding the law on charitable purposes, on human rights, and on race relations. Each side responded to the submissions of the other.

Against the RSPCA, it was argued that an attempt to compel stunning is discriminatory against Jews within the meaning of Section 1 of the Race Relations Act 1976, since they would be prevented from eating fresh kosher meat or poultry or their products.

Legal submissions of the CPS included reference to the landmark judgement of Lord Denning, Master of the Rolls, sitting in the House of Lords in 1983, who declared:

"There must be no discrimination against the Jews in England. Anti-semitism, which has produced great evils elsewhere, must not be allowed here."⁵³

The CPS submitted, inter alia, that the activity of the RSPCA procured a breach of Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, November 4 1950), to which the United Kingdom is a High Contracting Party:

"Everyone has the right to freedom of religion, this includes freedom ... in community with others to manifest his religion or belief ... in practice and observance."

The RSPCA denied that it had breached the Public Order Act 1986, which prohibits distribution of material likely to stir up racial hatred.

After a year long investigation by the Charity Commission, the RSPCA was persuaded to end its campaign to introduce a change in the law that would require animals and poultry to be stunned before shechita.

In September 1997, the Charity Commission gave its opinion that the early policy of the RSPCA involving a requirement of pre-stunning, appeared to be inconsistent with shechita but that the policy had now evolved to a stage where the RSPCA would no longer suggest any requirement that was inconsistent with shechita or unacceptable to the Jewish community, confining its demand to the introduction of post-cut stunning.

Reporting to the CPS, Mark Seymour, for the Charity Commission, stated:

"I do believe that the representations you have made have enabled the RSPCA to review and clarify its policy and practice in this area which should facilitate a constructive dialogue with the Jewish community with the possibility of reaching an accommodation between the parties."⁵⁴

The RSPCA did not succeed in its recommendation to compel stunning and no Member of Parliament introduced legislation to change the law on the exemption from stunning enjoyed by shechita.

Other challenges to shechita in late 20th century Britain

Between 1955 and 1984 no less than six private members' Bills were presented to Parliament, by M.P.s and peers of various political persuasions with the object of restricting the practice of shechita, to a greater or lesser extent. None was accorded a second reading and two (1968 and 1984) were even denied the customary first reading.⁵⁵ A most serious challenge to shechita in late twentieth century Britain occurred in 1985 (see pp. 40 – 43, post).

House of Lords debate on shechita (1962): Lord Somers and Lord Cohen

A notable debate took place in the House of Lords on December 3 1962. Lord Somers presented his Slaughter of Animals Bill, to compel stunning before shechita. Lord Cohen of Birkenhead, an eminent physician, delivered a speech that was a tour de force. He described the inhumaneness in stunning methods found by veterinary experts and their criticism of the captive bolt and electrocution and how:

“ ... the electric current may produce a condition known as ‘missed shock’ in which the animal, though paralysed, is fully conscious.”⁵⁶

In defence of shechita, he delivered a resumé of the opinions of physiologists supportive of the Jewish method and emphasised the lack of convincing scientific evidence against it. He also described how anti-shechita legislation ran parallel with anti-semitism, particularly in Nazi Germany. Lord Cohen concluded:

“Let me say this, finally. The passing of this Bill would plunge into deep sorrow tens of thousands of loyal Jews in this country, who for over 3,000 years have ordered their lives in the uninterrupted tradition of what they regard as Divine truth.”⁵⁷

Lord Somers later withdrew his Slaughter of Animals Bill.

The Farm Animal Welfare Council (FAWC)

In 1979, in deference to the demands of the animal welfare lobby, the newly elected (Conservative) Government established a Farm Animal Welfare Council (FAWC).

FAWC Report 1984

In 1984, FAWC published its Report and Recommendations on animal welfare at slaughter, (hereinafter called FAWC 248.)⁵⁸ FAWC reported instances of inefficiency and inhumaneness in conventional stunning methods by captive bolt, electrocution, and gassing, and found their use to be contrary to the principles of animal welfare. Among several useful recommendations to improve welfare at slaughter generally throughout the UK, FAWC recommended that the Government conduct further research and development, without time limit, to improve these methods.

FAWC Report 1985

It became a matter of grave concern to the Jewish community, when in the following year, 1985, FAWC published its Report and Recommendations on religious slaughter methods (hereinafter called FAWC 262.)⁵⁹ Comments on the Report were invited by Government and were submitted by the Campaign for the Protection of Shechita in October 1985, and by Chief Rabbi Jakobovits a month later. Notwithstanding its critical review of stunning methods in 1984, FAWC recommended that the Government enact legislation to compel the Jewish community, within three years, to review its method of slaughter so as to permit stunning. It was neither fair nor reasonable to impose on Jews within three years, methods which FAWC had found to be unsatisfactory and had recommended be fully investigated and improved without time limit.⁶⁰

If such legislation were to be enacted, it would put an end to shechita in the UK. When reporting its review of shechita, FAWC failed to mention, inter alia, the significant scientific findings of Dukes and Schulze, supportive of shechita, (see p.34, ante.)

FAWC admitted that:

"There is a lack of scientific evidence to indicate at what stage in the process of losing consciousness the ability to feel pain ceases."⁶¹

Lord (then Sir I.) Jakobovits condemned FAWC's lack of adequate research:

"We believe that this admission demonstrates that the FAWC has not carried out the elementary obligation of adducing clear and incontrovertible scientific evidence to support their case. Consequently, their recommendations forfeit credibility as a basis for proposed legislation."⁶²

It is noteworthy to observe that criticism of FAWC's lack of objectivity in 1985 bears marked similarity to the criticism levelled against the Admiralty Report in 1905 (see p.32, ante).

In October 1987, the Government rejected FAWC's recommendation to impose stunning, stating:

"... the Government has to recognise the serious implications for the religious communities if they were no longer allowed to prepare meat as their faiths require. We do not believe we would be justified in imposing such a burden on these communities. We do not therefore propose to ask Parliament to reverse the attitude which it has taken to this issue in the past."⁶³

Identification and labelling of meat

FAWC's remit, in its review of welfare at slaughter, excluded all slaughterhouse operations subsequent to the slaughter of an animal.⁶⁴

In a matter unrelated to animal welfare and outside its remit (and therefore, ultra vires), FAWC recommended the introduction of legislation to require all carcasses and cuts prepared from animals (including poultry) slaughtered by a religious method and offered for sale down to, and including the retail level, to be clearly labelled to indicate the method of slaughter.⁶⁵

Arguably, such labelling is discriminatory, misleading and racist.⁶⁶ If labelling is desirable in the interests of the consumer, it was argued against FAWC, why not label all carcasses and cuts prepared from animals killed by use of a captive bolt gun on fully conscious animals, indicating the number of miss-shots? Why not label all carcasses and cuts prepared from animals and birds killed by the application of electricity while fully conscious (electro-narcosis, a method never used as anaesthesia on humans) indicating the number of missed shocks?⁶⁷ In its Comments to Ministers, the Campaign for the Protection of Shechita severely condemned FAWC for patent manifestation of bias.

The Government rejected FAWC's recommendation for the identification and labelling of meat.

Threat to the integrity of the shechita incision (1985)

Provided there is no delay or interruption (*shehiya*), in the motion of a *chalaf* while making the incision, halacha does not limit the number of to and fro movements of a *chalaf* necessary to incise the prescribed organs and vessels (see p.26, ante). It was a major interference with shechita when FAWC recommended⁶⁸ that legislation be introduced to provide that the only permitted method of slaughter used on unstunned animals should be the single reciprocal cut, ie. a single to and fro movement of a *chalaf* (*holacha ve-hova'a achat*). The reason for this recommendation, claimed FAWC, was because the incision is inhumane and should be limited in its operation. The reasoning and the recommendation were both objectionable.

Such a limitation was unacceptable to shochetim since it would inhibit the performance of shechita. Such a limitation would interfere with the professional judgement, entrusted to shochetim by halacha, as to the number of movements of a *chalaf* necessary to incise the prescribed organs and vessels. A single to and fro movement might suffice in the case of sheep and birds, but more movements of a *chalaf* might be required in the case of larger animals. In any event, the case for FAWC's recommendation was against the weight of scientific evidence which showed the shechita incision to be efficient and humane (eg. see pp.27, 31-34, ante).

Following consultation, the Government rejected FAWC's recommendation. A form of words was proposed for legislation which did not limit the number of movements of a *chalaf*.

In June 1990, the Government informed the CPS that the wording had been revised, in the case of red meat animals, to:

"ensure that each animal is slaughtered by severance, by rapid, uninterrupted *movements* of a sharp knife, of both its carotid arteries and both its jugular veins."⁶⁹

(my italics)

It remained a matter of concern to the CPS that this form of words omitted reference to incising the trachea and oesophagus (*kaneh u-veshet*), a procedure required by halacha (see p.27, ante). The form of words could be interpreted to prevent compliance with the halachic requirement to incise those organs, in addition to the carotids and jugulars.

An approach to the Prime Minister

This concern was raised with the Prime Minister, the Rt. Hon. Mrs Margaret Thatcher M.P., in a note from the CPS, which argued that the form of words:

"... in no way can be construed as the Jewish method. For one thing, it makes no mention of either trachea or oesophagus ... Would you ma'am, deign to impute to Jesus of Nazareth, the founder of Christianity, any inhumaneness because the Pascal Lamb of which he partook at the 'Last Supper' was slaughtered by shechita? No, of course you wouldn't and neither would any of your Ministers. Why then do you make that imputation to we Jews in 1990 who uphold that same Law of Moses?"⁷⁰

The Minister replied, on behalf of the Prime Minister, offering some reassurance:

"... Perhaps I can offer you some reassurance on the particular points you mention ... In particular the Regulations do not prevent severance of the trachea or oesophagus and guidance on this point has been issued to Local Authorities to avoid any misunderstanding."⁷¹

The Humane Conditions Regulations 1990

After several years of intensive consultation between, on one side, the Ministry of Agriculture, and on the other side, the Office of the Chief Rabbi and the Campaign for the Protection of Shechita, two new statutes were presented to Parliament for enactment. These were The Humane Conditions Regulations for animals and The Humane Conditions Regulations for poultry.⁷²

House of Lords debate on shechita (1990): Lord Houghton and Lord Jakobovits

It was in the interests of the Jewish community and for the protection of shechita that this legislation should become law. However, Lord Houghton of Sowerby moved a Prayer in the House of Lords to annul the legislation. Had he succeeded in moving the House, the years of consultation leading to an understanding between the Government and the Jewish community would have been dissipated and the future of shechita unprotected.

Against the Prayer for annulment of the legislation, Lord Jakobovits, then Chief Rabbi, responded with a vigorous speech in defence of shechita. He pointed out to the House that the Regulations had been introduced to improve animal welfare at slaughter generally throughout the UK and contained provisions regulating and protecting shechita by continuing to exempt the Jewish method from stunning. Lord Houghton had admitted in a newspaper interview that the object of his Prayer was the eventual abolition of shechita.⁷³

Lord Jakobovits referred to the speech of Lord Cohen of Birkenhead in the House of Lords in 1962, citing the scientific data adduced in Lord Cohen's speech (p.39, ante). The Chief Rabbi (the first holder of that office to sit in the House of Lords) delivered an outline of the ancient faith of Judaism down to modern times. Referring to events in the twentieth century, Lord Jakobovits observed that:

"In modern times, one of the first pieces of legislation introduced by the Nazis in Germany after assuming power in early 1933, was to prohibit the Jewish method of slaughter, for they cared deeply about animals. However, that did not prevent them from gassing and incinerating human beings by the million in history's supreme orgy of inhumanity."⁷⁴

Lord Jakobovits expressed appreciation to three successive Ministers of Agriculture and their officials for the understanding they showed for Jewish religious requirements throughout the prolonged period of negotiations leading to the issuance of the new regulations. He concluded:

"The regulations will combine every reasonable care for animal welfare with the freedom to practise our ancestral faith as a heritage which has preserved our people and has helped to bring inspiration to other peoples the world over".⁷⁵

Lord Houghton of Sowerby withdrew his Prayer for annulment. The Humane Conditions Regulations 1990 became law. They were re-enacted five years later, with minor amendment, in the legislation currently in force, The Welfare of Animals (Slaughter or Killing) Regulations 1995, (Statutory Instrument 1995 No. 731).

CONCLUSIONS

A number of significant conclusions emerge from a review of shechita in Britain during the twentieth century. Throughout this period, all attempts in Parliament, and by agencies outside Parliament, to put an end to shechita, failed.

It is clear that the opponents of shechita have been persistent in their attacks upon the Jewish method. It is equally clear that the proponents of shechita have been indefatigable in its protection.

The obvious question is: "Why is shechita the object of such persistent challenge?" To this, there is no ready answer. Abundant scientific evidence has demonstrated that shechita is at least as humane as any other method of slaughter. The evidence to the contrary is tenuous and inconclusive, justifying the conclusion that there are opponents of shechita who are motivated by considerations other than the welfare of animals.

A grave challenge to shechita in late twentieth century Britain, was undoubtedly the FAWC Report of 1985 and its proposals for anti-shechita legislation. In asserting the inhumaness of shechita, FAWC had relied on the evidence of Dr. N. Gregory, whose physiological findings on "time to loss of consciousness" during the shechita incision, were, as admitted by FAWC, inconclusive (see p.41, ante).⁷⁶

This dissertation has argued that there is a perception of bias in some anti-shechita arguments. The following demonstrates this bias to be self-evident.

In a BBC Radio 4 debate on shechita, broadcast live on September 23, 1985, Dr. Gregory was cross-examined by Lord Janner Q.C. (then Mr Greville Janner Q.C., M.P.):

Janner: "I think it was the FAWC's Report itself and earlier Report, that stressed the number of occasions when pre-stunning by the captive bolt goes wrong, wasn't it?"

Gregory: "This is true."

Janner: "We've got a very fair statement you made that regarding the cut, there's no conclusive scientific evidence whether it is, or is not, painful."

Gregory: "No, but there is an intuitive argument which has to be considered here. Science cannot answer every question. It can only help you form value judgements which are based on common sense."

Janner: "Yes, it's an intuitive matter that makes you basically want to take away the rights of the Jewish community to shechita, isn't it? It's not scientific evidence, it's intuitive?"

Gregory: "It's a combination of various facets of evidence of which science does make a contribution."

Janner: "But you agree, don't you, with the Report of the FAWC that there's a lack of scientific evidence to indicate at what stage in the process of losing consciousness the ability to feel pain ceases?"

Gregory: "Science does not give a definite answer but it certainly helps one form a value judgement." 77

Bias had muddied the purer waters of science.

This dissertation has argued that successive Governments in late twentieth century Britain have recognised the requirements of the Jewish community in regard to shechita and kashrut. Faithful to the Judeo-Christian ethic which underpins the British Constitution, successive Governments have resisted all arguments to legislate against the continuation of shechita, or to allow any interference with other aspects of Jewish dietary law.

ENDNOTES

¹ In 1990, I formulated the statement "Shechita is the Jewish *religious-humane* method of food animal and poultry slaughter" for two reasons. First, the laws of shechita are enunciated within the *corpus juris* of Jewish *religious* law. Secondly, when examined physiologically, shechita performed with all its minutiae, fulfils all the requirements of *humaneness*. Arguably, the terminology "religious-humane", as a description of shechita, constitutes a value judgement. However, in animal welfare literature, examples of which are too numerous to specify, the conventional methods of stunning in the twentieth century (by poll-axe, captive bolt, electrocution and gassing) are described as "humane killers". The proponents of these methods are not inhibited from using the term "humane". Shechita has been described as a *religious-humane* method in Ministerial correspondence (see endnote 5, post). This dissertation argues a case for describing shechita as a *religious-humane* method, by reason of the compelling evidence adduced in Chapters 3-5, post.

² *Pentateuch*, (Hertz Edition), Deuteronomy XII, 21. All subsequent Biblical references are to the Pentateuch, Hertz Edition, Soncino Press (London, 1999).

³ For an outline of kindness to animals in Jewish law and the halachic prohibition against causing suffering to animals (*issur tza'ar ba'alei chayim*), see N. Kesselman, *A Guide to the Law on Shechita in Great Britain* (London, 1995), Appendix II, pp.9-10.

Examples in Biblical law: the weekly Sabbath day must be a day of rest not only for human beings, but also for animals, Exodus XX, 10 and Deuteronomy V, 14; the ox threshing out the corn must not be muzzled, Deuteronomy XXV, 4; an animal must not be taxed beyond its strength, such as ploughing with an ox and an ass together, Deuteronomy XXII, 10; the mother of an animal and its offspring must not be slaughtered on the same day, Leviticus XXII, 28; an animal that has fallen down must be helped to rise up, Deuteronomy XXII, 4, even if the animal belongs to an enemy we may not pass by and leave it, Exodus XXIII, 5; before a Jew sits down to a meal, he must first feed his domestic animals, in accordance with the sequence of terms in the text: "And I will give grass in thy fields for *thy cattle*, and *thou shalt eat* and be satisfied", Deuteronomy, XI, 15.

Talmudic and Rabbinic law emphasise the principle of kindness to animals: cruelty to animals is forbidden by God, Babylonian Talmud, Tractate Bava Metzia 32b and 33a and M. Maimonides, *Mishneh Torah, Hilchot Rotze'ach*, 13:8; mutilation or castration of animals is forbidden, Babylonian Talmud, Tractate Shabbat 111a and J. Karo, *Shulchan Aruch, Even Ha-ezer*, 5:11.

Maimonides states that:

"It is forbidden to slaughter an animal and its young on the same day (Leviticus XXII, 28) for in these cases animals feel great pain, there being no difference regarding this pain between man and animals. For the love and the tenderness of a mother for her child is not consequent upon reason, but upon the activity of the imaginative faculty, which is found in most animals just as it is found in man. This is also the reason for the commandment (Deuteronomy XXII, 6-7) to let the mother go from the nest before taking the fledglings or eggs, for if the mother is let go and escapes of her own accord, she will not be pained by seeing that the young are taken away."

The Guide of the Perplexed, Part III, 48, translated by S. Pines (Chicago, 1963) Vol. II, pp.599-600.

⁴ N. Kesselman, *Submissions and Amendments to the Commission of the European Communities on Draft Proposal for a Council Regulation on the Protection of Animals at the Time of Slaughter or Killing (VI/5023/99 – REV.4 and REV.5)* (London, June 14 1990), paragraph 3, p.2.

⁵ Letters, N. Kesselman to J. Cunningham, March 27 and June 30 1998; J. Cunningham to N. Kesselman, June 15 and July 15 1998, *The Cunningham-Kesselman Letters* (London, 1999).

⁶ I. Grunfeld, *The Jewish Dietary Laws* (London, 1982), Vol.I, p.58.

⁷ In the Regulations, "slaughter" means "causing the death of the animal by bleeding" and "killing" means "causing the death of the animal by any process other than slaughter". Unless the context otherwise requires, "animal" includes bird: see regulation 2 of The Welfare of Animals (Slaughter or Killing) Regulations 1995 (Statutory Instrument 1995 no. 731).

These Regulations were made and laid before Parliament on March 14 1995 and came into force on April 1 1995. In Ministry of Agriculture, Fisheries and Food (MAFF) publications, for brevity, the Regulations are referred to as "WASK 1995". It is a Consolidating Statute. Upon enactment of these Regulations all previous Acts of Parliament and Statutory Instruments, which regulated shechita were repealed or revoked. These were:

Slaughter of Animals (Scotland) Act 1928;
Slaughter of Animals Act 1933;
The Slaughter of Animals (Prevention of Cruelty) Regulations 1958;
Slaughter of Poultry Act 1967, Section 1;
Slaughterhouses Act 1974, Sections 36, 40, 43 (2) and (3), and Schedule 1;
The Slaughter of Animals (Humane Conditions) (Scotland) Regulations 1990;
The Slaughter of Animals (Humane Conditions) Regulations 1990;
The Slaughter of Poultry (Humane Conditions) Regulations 1990;
The Slaughter of Poultry (Licences and Specified Qualifications) Regulations 1991;

⁸ Jewish religious slaughtermen (singular, shochet, one who performs shechita.) The constitution of the Rabbinical Commission for the Licensing of Shochetim is enacted in paragraphs 11-15 of Part IV of Schedule 12 to WASK 1995. For a review of the history and powers of the Rabbinical Commission, see N. Kesselman, *A Guide to the Law on Shechita in Great Britain* (London, 1995), pp.16-21. For the only occasion when a decision of the Rabbinical Commission has been challenged in the High Court and the Court of Appeal, see *R v The Rabbinical Commission for the Licensing of Shochetim, ex parte Cohen*, In The High Court of Justice, Queen's Bench Division, Divisional Court, C.O.687/87, July 29 1987, Judgement of Mr Justice Kennedy; and The Court of Appeal (Civil Division), Transcript No.1259 of 1987, C. A., December 14 1987, Judgement of Lord Justice Parker; and see *The Times Law Report* (London, December 22 1987.) (Official transcripts of the judgements are in the author's possession).

⁹ Leviticus XI 2-8 and Deuteronomy XIV 4-8.

¹⁰ I. M. Levinger, *Mazon Kasher Min Ha-Chai* (Jerusalem 1980), pp.519-520.

¹¹ Leviticus XI, 13-19 and Deuteronomy XIV, 12-20; Babylonian Talmud, Tractate Chullin 59a, 62a, 63b and 65a; Shabbetai ben Meir Ha-Cohen (Shach) on J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchoi Of Tahor*, 82:9; I. M. Levinger, *Mazon Kasher Min Ha-Chai* (Jerusalem, 1980), pp.26-90. Species of fish may be eaten providing they have fins and scales, Leviticus XI, 10-12 and Deuteronomy XIV, 9-11. Fish do not require shechita, J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchoi Shechita*, 13.

¹² The Farm Animal Welfare Council (FAWC) in its *Report on the Welfare of Livestock When Slaughtered by Religious Methods*, Reference Book 262 (London, 1985) commented in Part II, paragraph 86, p.23:

"We would not wish to see deer subjected to slaughter by religious methods until stunning is required by law"

FAWC's recommendation for stunning of deer (Report, Part III paragraph 95(m), p.27) was not accepted by Government in 1987. However, Ministers declared that shechita for deer would not be permitted until a suitable head-restraint was devised.

¹³ J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 17: 1-3.

¹⁴ *Ibid.*, 25: 1-3.

¹⁵ J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Treifot*, 39:1 ("harey'a tsarich livdok ba-behema ve-chaya im yesh ba sircha").

¹⁶ J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Melicha*, 69-78; The classic work on kashering is T. Y. L. Heller ("Tosefot Yomtov"), *Sefer Brit Melach* (Prague, 1554), edited with English translation by Rabbi H. B. Padwa (London, 1959). The hindquarter (*chelek acharayim*) is endowed with great density of blood vessels. Their removal by porging (*nikkur*) would seriously lacerate and damage the meat. For many years in most countries porging the hindquarter has not been practised by porgers (*menakerim*). In 1941, the Rabbinical Authorities in London headed by Dayan Y. Abramsky, prohibited porging the hindquarter for reasons of kashrut and since then it is rejected as non-kasher and is not eaten by Jews. See J. Jung, *Champions of Orthodoxy* (London, 1974) pp. 248-253.

¹⁷ This universality is the opinion of Rashi on Genesis IX, 4.

¹⁸ The concept of change from the prohibited to the permitted is analysed by N.S. Greenspan, 'Gidrei Heter Shechita' in *Sefer Melechet Machshevet* (London, 1955), pp. 147-171.

¹⁹ J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 18: 1-20.

²⁰ J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 18:9; Jacob ben Asher, (Ba'al Ha-Turim), *Arba'a Turim, Yoreh Deah, Hilchot Shechita*, 18, ("im yivdok be-bassar uve-tziporen ... ve-haim yad-bet"); Shabbetai ben Meir Ha-Cohen (Shach) on J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 18:11; Tosefot on *Babylonian Talmud, Tractate Chullin*, 17b ("abisra meshum veshet, ve-atufra meshum kaneh"); A. S. Shorr, *Simla Chadasha, Tevu'ot Shorr*, 18:7 (Jerusalem, 1966). I am informed by Rabbi Binyomin Vorst, a shochet of international renown, that the finest instrument is the Miller *chalaf* made of steel manufactured and tempered to precise specifications in Sweden and Switzerland.

²¹ N. Kesselman, *Comments, Legal Submissions and Amendments on Consultation Document on Draft Proposals to Implement Council Directive 93/119/EC on the Protection of Animals at the Time of Slaughter or Killing* (London, 1995), pp.3-4.

²² Since 1985, the author has headed the Campaign for the Protection of Shechita (CPS), and represented sections of British Jewry including Orthodox communities in discussions with Ministers and their advisors on shechita legislation. He has been consulted by successive Ministries on legislation affecting shechita and has access to accurate information in this field.

²³ Letters, N. Kesselman to J. Cunningham, March 20 and June 30 1998; N Kesselman to R. C. McIvor (Head of Meat Hygiene Division I, MAFF), September 9 1998; J. Cunningham to N. Kesselman, June 15 and July 15 1998; R.C. McIvor to N. Kesselman, August 21 and October 9 1998, *The Cunningham-Kesselman Letters* (London, 1999).

²⁴ Letter, J. Cunningham to N. Kesselman, June 15 1998, *The Cunningham-Kesselman Letters* (London, 1999).

²⁵ On December 19 2000, the Food Standards Agency issued proposals to implement in English law an EU requirement to introduce a ban on the pithing of cattle, sheep and goats. Pithing kills an animal by physically destroying the brain stem and other parts of the central nervous system. The ban was implemented in the UK on July 1 2001 and was introduced as part of various measures to prevent the possible spread of BSE, following the discovery of traces of brain material in the blood of pithed cattle, see Department for Environment, Food and Rural Affairs (DEFRA), *Code of Practice on the Welfare of Red Meat Animals at Slaughter* (London, September 14 2001), Appendix B, p.54.

Several years ago, in 1995, the author raised the question of the risk to public health through pithing with unsterilised rods, see N. Kesselman, 'Halachic and Historical Annotations' in *A Guide to the Law on Shechita in Great Britain* (London, 1995), Appendix I, note 7, pp.10-12. Shechita was not affected by the pithing provisions and is not affected by the ban. Pithing was never used in the shechita process. In 1990, the author raised the question of the risk to public health of cross-contamination by BSE through use of the captive bolt, see N. Kesselman, *Submissions and Amendments Proposed to the Commission of the European Communities on Draft Proposal for a Council Regulation on the Protection of Animals at the Time of Slaughter or Killing (VI/5023/88-Rev. 4 and Rev. 5)* (London, June 14 1990), paragraph 31, p.8. The captive bolt, a stunning method, is never used in the shechita process.

In 1998, the Government conceded that:

"There are fundamental differences in the way in which shechita takes place that reduce the possibility of cross-contamination". (see p.24, ante).

²⁶ Letter, N. Kesselman to J. Cunningham, June 30 1998, *The Cunningham-Kesselman Letters* (London, 1999).

²⁷ Letter, M. T. Kester (London Board for Shechita) to D. Pearsall (Meat Hygiene Division, MAFF), May 29 1998, *The Cunningham-Kesselman Letters* (London, 1999).

²⁸ The author led the delegation with H. Kesselman, Rabbi B. Vorst and Professor G. Alderman (Inner Cabinet of the Campaign for the Protection of Shechita). With them were Dayan C. Ehrentreu (Beth Din of the United Synagogue, London), Dayan S. Friedman and Rabbi P. Roberts (Beth Din of the Union of Orthodox Hebrew Congregations, London), Dayan Dr. P. Toledano (Beth Din of the Spanish and Portuguese Congregation, London), Dayan Y.Y. Lichtenstein (Beth Din of the Federation of Synagogues, London), Y. Brodie (Manchester Shechita Board), M.T. Kester, Rabbi B. Fagil, S.D. Winegarten (National Council of Shechita Boards), and E. Tabachnik QC (President, Board of Deputies of British Jews). The Rabbinical Authorities had been appraised of the legal submissions and had approved them.

This was an unprecedented event since it was the first time that all sections of Anglo-Jewish Orthodoxy together met the Ministry on the matter of shechita.

Representing the Minister were R. C. McIvor (Head of Meat Hygiene Division, MAFF), P. Hewson (Veterinary Public Health Unit), C. Gregory and C. Collins (Legal Division), T. Foster, D. Pearsall and J. Takacs (Meat Hygiene Division "A").

²⁹ Letter, R. C. McIvor (Head of Meat Hygiene Division, MAFF) to N. Kesselman, August 21 1998, *The Cunningham-Kesselman Letters* (London, 1999).

³⁰ Ibid., p.1.

³¹ M. Maimonides, *Mishneh Torah, Hilchot Shechita*, 3: 1-25 ("chamisha devarim ha-mafsidim et ha-shechita"); J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 23: 1-7; 24: 1-20.

³² I. M. Levinger, *Mazon Kasher Min Ha-Chai* (Jerusalem, 1980), p. 516.

³³ *Babylonian Talmud, Tractate Chullin* 28a; M. Maimonides, *Mishneh Torah, Hilchot Shechita*, 1:9; J. Karo, *Shulchan Aruch, Yoreh Deah, Hilchot Shechita*, 20-24 ("kaneh u-veshet, rov shenayim ba-behema, rov echad ba-of").

³⁴ B. Homa, *Shechita* (London, 1967), p. 3. Dr. Bernard Homa (1900-1991) was Chairman of the Shechita Committee of the Board of Deputies of British Jews and a leading Anglo-Jewish authority on shechita. In July 1992, the upright restraining pen was introduced by law. The Weinberg, Dyne or North British Rotary type casting pen (introduced voluntarily in 1934 and by law since 1958, on the recommendation of the RSPCA) was banned by The Humane Conditions Regulations 1990. It is illegal to perform shechita on a bovine animal unless restrained in an upright pen of the ASPCA or Cincinnati type, approved by the Minister (Schedules 4 and 12 to WASK 1995). The change of restraint by casting a bovine by inversion in a Weinberg rotary pen to restraint in an upright pen, was recommended by FAWC in its 1985 Report on religious slaughter methods (Part III, paragraph 95(a), p.25). It resulted in a major change in the performance of shechita. Acceptance of the change divided opinion within the Jewish community. Alternative methods of restraint in an inclining or tilting pen were proposed to Government but rejected.

For criticism of FAWC on this issue, see N. and H. Kesselman, 'The Argument Against Bias and Misrepresentation' in *Comments on Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered By Religious Methods* (1985) Reference Book 262 (London, 1985), Part III, paragraphs 64-67, pp. 13-14 and see N. Kesselman, 'Halachic and Historical Annotations' in *A Guide to the Law on Shechita in Great Britain* (London, 1995), Appendix I, note 6, pp. 9-10; and Appendix V, "Selected Letters of Historical Interest 1987-1990". For an account of the controversy within the Jewish community occasioned by this change see G. Alderman, *The defence of shechita: Anglo-Jewry and the "humane conditions" regulations 1990*, New Community 21(1) (Utrecht, 1995), p. 79-93.

³⁵ Homa, op. cit., p. 5. The next sentence in the text (p. 27) - *The shechita incision simultaneously stuns (ie. abolishes consciousness), despatches the animal and exsanguinates* - is my original formulation. The other statements in this paragraph and in the two following paragraphs (p. 28) on Anoxia and the Circle of Willis, are based on physiological and electro-encephalographic data gleaned from a study of B. Homa, *Shechita* (London, 1967), pp. 4-7 and I. M. Levinger, *Shechita in the Light of the Year 2000* (Jerusalem, 1995), pp. 31-75, which I have distilled and expressed in lay-terms for ease of discourse.

³⁶ The loss of cerebro-spinal fluid as a factor in the rapid onset of unconsciousness, was drawn to my attention by Michael T. Kester (Executive Director, National Council of Shechita Boards of Great Britain) whose scientific investigations led him to this conclusion. Experiments carried out by F.R. Bell, Professor of Physiology at Royal Veterinary College, London (1971), show that after severance of the blood vessels in the neck, the blood pressure in the arteries distal to the cut in the Circle of Willis at the base of the brain immediately drops to zero, quoted in Lord (then Sir I.) Jakobovits, *Comments by the Jewish Community on the Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered by Religious Methods* (London, 1985) p. 13.

A recent module for students at The University of Edinburgh, Faculty of Veterinary Medicine, stated:

"... the practice of Shechita is scientifically defensible ... research allows us to conclude that Shechita ... is as humane as any conventional method of slaughter."

See, 'Integrated Pathology/Clinical Module VII' in *Veterinary Public Health Meat Hygiene*, University of Edinburgh, Faculty of Veterinary Medicine (Edinburgh, Fourth Year Lecture Course, Summer Term 2001), pp. 33 and 35)

³⁷ *Report of the Committee Appointed by the Admiralty to Consider the Humane Slaughter of Animals Presented to both Houses of Parliament by Command of His Majesty* (Edward VII) (London, 1908), paragraph 12(a), p. 10.

³⁸ T. H. Openshaw, C.M.G., M.S., F.R.C.S., was also Surgeon at Poplar Accident Hospital and Lecturer in Anatomy at the London Hospital.

³⁹ *Report of Special Committee of the London Committee of Deputies of the British Jews to Examine the Question of the Jewish Method of Killing Animals for Food* (London, 1905), p. 25.

⁴⁰ Leonard Hill M.B., F.R.S., was also Examiner to the University of Oxford and to the Royal Colleges of Surgeons and Physicians, London.

⁴¹ *Report of Special Committee of the London Committee of Deputies of the British Jews to Examine the Question of the Jewish Method of Killing Animals for Food* (London, 1905), p. 33.

⁴² Ibid., p. 11.

⁴³ Ibid., p. 16.

⁴⁴ *The Lancet* (London, May 26 1923), p.1072.

⁴⁵ Sir William Bayliss, M.A., D.Sc., LL.D., F.R.S., quoted in *The Report on the Jewish Method of Slaughtering Animals for Food* (London, 1930), p. 10.

⁴⁶ Sir C. Lovatt-Evans, D.Sc., F.R.C.P., F.R.S., LL.D., quoted in *The Jewish Method of Slaughter is Humane*, a pamphlet published by the Board of Deputies of British Jews (London, 1955).

⁴⁷ H. H. Dukes, *A Study of Blood Pressure and Blood Flow in the Vertebral Arteries of Ruminants* (Ithaca, New York, 1958) quoted in B. Homa, *Shehita* (London, 1967), p. 6.

⁴⁸ Professor W. Schulze, *Survey report on experiments on the objective assessment of pain and consciousness in slaughtering sheep and calves by the conventional method (humane killer stunning) and by ritual slaughtering laws (shechita)*, German Veterinary Weekly Journal (February 5 1978), pp. 1-17. Schulze reaffirmed his findings in 1985, quoted in Lord (then Sir I.) Jakobovits, *Comments by the Jewish Community on the Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered by Religious Methods* (London, 1985), pp. 10-17.

⁴⁹ *The Times* (London, February 23 1990).

⁵⁰ *Jewish Tribune* Editorial Comment (London, July 20 1995), p.7.

⁵¹ *The Jewish Chronicle* (London, July 21 1995), p.1.

⁵² Ibid.

⁵³ The case was *Mandla v Dowell-Lee* [1983] 1 All E R 1062 H.L. This was the last judgement delivered by Lord Denning in the House of Lords before his retirement. The case concerned the right of a Sikh pupil to wear a turban in an English public school. Lord Denning's remarks about anti-semitism were *obiter dicta* but historically significant, as he was arguably the major law-making Judge of the twentieth century.

⁵⁴ Letter, M. Seymour (Charity Commission) to N. Kesselman, September 7 1997 (in the author's possession), and Press Release, Campaign for the Protection of Shechita (London, September 23 1997). The proponents of shechita are opposed to any recommendation for post-cut stunning. Such a procedure is unnecessary since consciousness is immediately and irreversibly abolished when the shechita incision is performed. Furthermore, such a recommendation is founded on a false assumption adverse to shechita. The recommendation asserts that post-cut stunning should be used because shechita is neither humane nor efficient and is necessary to ensure effective slaughtering. Shechita is efficient and humane and requires no additional procedure. Post-mortem convulsions (*pirchos*) are unconscious reflexes and not evidence of consciousness or sensibility to pain. The convulsions, inter-alia, facilitate rapid exsanguination and interference with this is objectionable. Slaughterhouse staff claim that post-cut stunning should be used for convenience, to rapidly end these convulsions in order to effect immediate shackling and hoisting the carcass for dressing procedures. The author argues that all post-cut stunning is an interference.

⁵⁵ G. Alderman, *The defence of shechita: Anglo-Jewry and the "humane conditions" regulations 1990*, New Community 21(1) 79-93 (Utrecht, 1995), p. 81; and see G. Alderman, *Modern British Jewry* (Oxford, 1998), p. 376.

It is pertinent to record the major attempts in Europe during the twentieth century to prohibit shechita by imposing stunning: Bavaria, 1926; Germany, 1933; the Polish Sejm (Parliament), 1936; Great Britain, 1904 and 1985. The following countries, among others, permit shechita and provide exemption from stunning: Austria, Belgium, Denmark, France, Germany, Great Britain and Northern Ireland, Greece, Italy, Luxembourg, Netherlands, Portugal, Republic of Ireland and Spain. Among other countries permitting shechita are America, Canada, Australia, New Zealand and South Africa. Countries which prohibit shechita are: Norway since 1929, Sweden since 1979 and Switzerland since 1898.

⁵⁶ *Parliamentary Debates (Hansard) House of Lords* (London, December 3 1962), verbatim report of speech, p.1.

⁵⁷ *Ibid.*, p.4.

⁵⁸ FAWC, *Report on The Welfare of Livestock (Red Meat Animals) at the Time of Slaughter Reference Book 248* (London, 1984), (hereinafter called FAWC 248).

⁵⁹ FAWC, *Report on the Welfare of Livestock When Slaughtered by Religious Methods Reference Book 262* (London, 1985), (hereinafter called FAWC 262). For an account of the effect of this report on the Jewish community and the campaigning to protect shechita which followed its publication, see N. Kesselman, 'Halachic and Historical Annotations' in *A Guide to the Law on Shechita in Great Britain* (London, 1995), Appendix I, note 1, pp.1-7.

⁶⁰ N. and H. Kesselman, 'The Argument Against Bias and Misrepresentation' in *Comments on Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered By Religious Methods (1985) Reference Book 262* (London, 1985), Part III, paragraphs 70-73, pp.14-15. The authors stated:

"This is evidence of bias and implies a discriminatory attitude, ie., 'the method of stunning is not good enough for us but good enough for the Jews.' It is a prejudicial basis upon which aspects of FAWC 262 are founded and indicates that FAWC was motivated by biased considerations not limited to the welfare of livestock." (*Ibid.*, paragraph 73).

⁶¹ FAWC 262, Part II, paragraph 75, p.20.

⁶² Lord (then Sir I.) Jakobovits, *Comments by the Jewish Community on the Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered by Religious Methods* (London, 1985), paragraph 21, p.10.

⁶³ MAFF Press Release (London, October 1987).

⁶⁴ FAWC 248, Part I, paragraph 2, p.3.

⁶⁵ FAWC 262, Part II, paragraph 82, p.22 and Part III, paragraph 95(n), p.27.

⁶⁶ N. and H. Kesselman, 'The Argument Against Bias and Misrepresentation' in *Comments on Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered By Religious Methods (1985) Reference Book 262* (London, 1985), Part III, paragraphs 58-63, p.13.

⁶⁷ N. Kesselman, 'Halachic and Historical Annotations' in *A Guide to the Law on Shechita in Great Britain* (London, 1995), Appendix I, note 1, p.2.

⁶⁸ FAWC 262, Part II, paragraph 71, p.19 and Part III, paragraph 95(f), p.26. For examples of other interference, see *ibid.*, paragraphs 89, 90, 95(a), 95(h), 95(m) and 95(n).

⁶⁹ Letter, D. V. Mullin (Meat Hygiene Division 'A', MAFF) to N. Kesselman, June 14 1990, 'Selected Letters of Historical Interest 1987 - 1990' in N. Kesselman, *A Guide to The Law on Shechita in Great Britain* (London, 1995), Appendix V. The wording is enacted in Paragraph 6(b) of Schedule 12 to WASK 1995. In the case of poultry, the statute requires severance only of both carotid arteries, Paragraph 9(a) of Schedule 12 to WASK 1995.

⁷⁰ Letter, H. Kesselman to the Prime Minister, June 22 1990, 'Selected Letters of Historical Interest 1987 - 1990' in N. Kesselman, *A Guide to The Law on Shechita in Great Britain* (London, 1995), Appendix V.

⁷¹ Letter, M. Coales (Meat Hygiene Division, MAFF) to H. Kesselman, August 6 1990, 'Selected Letters of Historical Interest 1987 - 1990' in N. Kesselman, *A Guide to The Law on Shechita in Great Britain* (London, 1995), Appendix V.

On September 14 2001, a new *Code of Practice on the Welfare of Red Meat Animals at Slaughter* was issued by the Department for the Environment, Food and Rural Affairs (DEFRA), which prescribes the statutory wording for the incision. The Code provides, at Paragraph 94, p.46:

"This provision does not preclude severance of the oesophagus or trachea."

Shechita is regulated by Paragraphs 92-96 and Paragraph 100 of the new Code of Practice.

⁷² The Slaughter of Animals (Humane Conditions) Regulations 1990 and The Slaughter of Poultry (Humane Conditions) Regulations 1990.

⁷³ *Parliamentary Debates (Hansard) House of Lords Official Report*, (London, July 12 1990), Vol. 521, No. 120, p.620.

⁷⁴ *Ibid.*, p.621.

⁷⁵ *Ibid.*, p.622.

⁷⁶ FAWC 262, Part II, paragraphs 73-78, pp.19-21.

⁷⁷ For a transcribed record of that debate, see N. and H. Kesselman, 'The Argument Against Bias and Misrepresentation' in *Comments on Farm Animal Welfare Council Report on the Welfare of Livestock When Slaughtered by Religious Methods (1985) Reference Book 262* (London, 1985), Part III, paragraphs 74-77, pp.15-17. At the end of that debate, Henreid Kesselman (then London Regional Co-ordinator of the CPS) commented:

"That which Dr. Gregory cannot prove by science, he seeks to establish through prejudice and, in so doing, succeeds only in establishing his prejudice with scientific proof." (*ibid.*, p.17).

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