

McLIBEL

By
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In 1991, McDonald's sued two pro se defendants in England for defamation in relation to, among other things, allegations that McDonald's was culpably responsible for cruel common farming practices. The case took seven years and the appeals still continue. Though McDonald's spent over \$16 million on legal representation and had significant legal advantages, it lost major portions of the case, including the issue of animal cruelty. Mr. Wolfson discusses the background and holding of "McLibel" in relation to cruel common farming practices, its unique legal context, and the impact of the holding on animal law in general and state anti-cruelty laws in the United States. In addition, he explores the contradiction that McLibel exposes: the fact that a common farming practice can be found to be cruel in the view of a reasonable person while legal pursuant to an anti-cruelty statute.

I. INTRODUCTION

On June 19, 1997, the longest case in the history of the English court system finally concluded. This case, which took seven years from the service of the initial writs to the final judgment (and consisted of 313 days of trial), was known throughout the world as "McLibel." It was so convoluted that the judge, Mr. Justice Bell, took two hours to read a summary of the verdict.¹ An unlikely legal battle, it pitted two defendants who collectively earned an annual income of about \$12,000 against McDonald's, a global fast food chain capitalized at approximately \$30 billion. The defendants

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¹ Sir Rodger Bell graduated from Oxford University and joined the bar at age 24. He was promoted from recorder to High Court Judge in 1993. McLibel was his first defamation case. See *Mr. Justice Rodger Bell Biography*, (visited Apr. 29, 1999) <<http://www.mcspotlight.org/people/biogs.bell.html>>; see also JOHN VIDAL, *McLIBEL: BURGER CULTURE ON TRIAL* 9-10 (1997).

represented themselves *pro se*, while McDonald's spent over \$16 million on its legal representation.²

The dispute began when a small volunteer organization produced and distributed approximately two thousand pamphlets (consisting of six sides of paper) criticizing McDonald's practices.³ The pamphlet accused McDonald's (and other fast food chains such as Wendy's and KFC) of a variety of horrors, including: exploitation of its workers, manipulation of the minds of children, destruction of the rainforest, production of unhealthful food, and cruelty towards animals.⁴ McDonald's decided to investigate the organization. Following the investigation, it issued writs for defamation against five individuals from the group, claiming the allegations in the pamphlet were untrue and irreparably harmed its reputation.⁵ Two of the individuals refused to withdraw the allegations and proceeded to represent themselves for over seven years against the best legal minds money could buy.

No one would argue that the case was anything other than a public relations disaster for McDonald's. A leading London public relations person was moved to describe McDonald's as "scoring one of the most extended own-goals in the recent history of public relations."⁶ Perhaps more importantly, McDonald's failed to achieve a clear legal victory. Though the defendants were outmatched legally and financially, and faced significant legal procedural burdens, the court held they were telling the truth about McDonald's on a number of issues.⁷ In fact, the defendants won almost half of the case at the trial level, including the portion relating to cruelty to animals raised for food or food production.⁸

Following the judgment, McDonald's made no attempt to recover any damages or court costs. Nor did McDonald's pursue an injunction, even though this was the claimed purpose of its lawsuit. Significantly, two days after the verdict, the defendants and supporters handed out copies of a current version of the pamphlet—distributing 400,000 copies in the follow-

² John Vidal, *Empire of Burgers*, THE GUARDIAN, June 27, 1997 (visited Apr. 29, 1999) <http://www.mcspotlight.org/media/press/guardian_20jun97.html>; Robert Barr, *Activists Speak in McLibel Case*, AP ONLINE, Jan. 12, 1999, available in WESTLAW, AllNewsPlus database, Associated Press.

³ *What's Wrong with McDonalds?* (visited Mar. 23, 1999) <<http://www.mcspotlight.org/case/pretrial/factsheet.html>>.

⁴ *Id.* See Appendix A for the text of the pamphlet.

⁵ Vidal, *supra* note 2, at 75.

⁶ Jenni McManus, *Small Fries Take on Big Macs*, THE INDEPENDENT BUSINESS WEEKLY, June 27, 1997 (visited Apr. 29, 1999) <http://www.mcspotlight.org/media/press/indbuswkly_27jun97.html>; see also *McDonald's Win is Hollow Victory*, MARKETING WEEK, June 26, 1997 at 5; Howard Sounes, *Kick in the McNuggets*, SCOTTISH DAILY RECORD, June 20, 1997 (visited Apr. 29, 1999) <http://www.mcspotlight.org/media/press/sdrecord_20jun97.html>.

⁷ Chief Justice Bell, *Summary of the Judgment, Introduction*, June 19, 1997 (Eng. C.A.) (last visited Apr. 29, 1999) <<http://www.mcspotlight.org/case/trial/verdict/summary.html>> [hereinafter *Summary of the Judgment*].

⁸ *Id.* at 20.

ing week.⁹ Also, on January 12, 1999, the two defendants, once again representing themselves *pro se*, began their appeal against those portions of the lawsuit they lost, arguing, among other things, "multinational corporations should not be allowed to suppress criticism by filing libel suits."¹⁰ McDonald's did not appeal any portions of Mr. Justice Bell's judgment in favor of the defendants, allowing the judgment of the court on these issues to stand as law.¹¹

On March 31, 1999, the English Appeal Court reversed Mr. Justice Bell on several issues where he had ruled for McDonald's;¹² for example, the court held the defendants were justified in asserting that McDonald's regular customers face a very real risk of heart disease from the diet of high-fat foods.¹³ The Appeal Court did not dispute the findings of the lower court that McDonald's did not appeal, including Mr. Justice Bell's determination that the defendants were correct when they stated McDonald's was responsible for the large scale mistreatment of certain animals raised for food or food production.

This determination is the subject of this article. How did Mr. Justice Bell reach this finding? What are the consequences of such a judgment? In order to answer these questions, this article provides a brief factual and legal background of McLibel. Next, this article discusses the unique legal context of McLibel in relation to animal law in general. Finally, the holding of the case is examined and certain conclusions are drawn.

The main purpose of this article is to highlight the value of McLibel in relation to animal law. McLibel is the most extensive and critical legal discussion in legal history about the inherent cruelty in modern common farming practices. The holding is groundbreaking. Although the defendants were outmatched in every way, the court's judgment was unequivocal: many common farming practices in the United States and the United Kingdom are cruel and McDonald's (and, by inference, similar corporations) is responsible for such practices. Of particular importance to the United States, the court analyzed and rejected the reasoning underlying the United States' modern statutory approach towards cruelty to animals raised for food or food production¹⁴ utilized by a majority of states.¹⁵

Perhaps the most important aspect of the McLibel decision is the contradiction Mr. Justice Bell exposed: many common farming practices in

⁹ McLibel Support Campaign, *McLibel Appeal Begins 12th January*, Press Release, Jan. 6, 1999 (last visited Apr. 29, 1999) <http://www.mcspotlight.org/media/press/msc_6jan99.html> [hereinafter McLibel Support Campaign Press Release #1].

¹⁰ Barr, *supra* note 2.

¹¹ McLibel Support Campaign Press Release #1, *supra* note 9.

¹² Terence Shaw, *McDonald's Pair Win Partial Victory*, DAILY TELEGRAPH (London), Apr. 1, 1999, at 18.

¹³ Bruce Stanley, *McDonald's Stung by Win in Libel Appeal*, THE RECORD, Apr. 1, 1999, at B1.

¹⁴ Chief Justice Bell, Verdict Section 8, *The Rearing and Slaughtering of Animals*, (visited Apr. 29, 1999) <http://www.mcspotlight.org/case/trial/verdict/verdict_jud2c.html> [hereinafter Opinion].

¹⁵ David J. Wolfson, *Beyond the Law: Agribusiness and the Systemic Abuse of Animals Raised for Food or Food Production*, 2 ANIMAL L. 123, 135 (1996).

the United States and the United Kingdom are held to be cruel and yet, at the same time, these practices continue because they do not fall within the statutory definition of cruelty. Strangely, laws relating to the cruel treatment of farm animals do not prohibit such animals from being treated in a cruel manner. Cruel practices are specifically allowed that would be illegal if practiced on domestic companion animals.¹⁶ Is this ethically and legally consistent?

II. THE BACKGROUND OF MCLIBEL

Three hundred and thirteen days of evidence and submissions. Eighteen thousand pages of court transcripts. Forty thousand pages of documents and witness statements. Twenty-eight pre-trial hearings. England's longest ever court case. One hundred and eighty witnesses. Appeals to Europe and the highest courts in Britain. One of the world's largest corporations. Two of the world's most determined and tenacious people.¹⁷

McLibel was a true "David and Goliath" battle. The defendants were Helen Steel, a former London gardener and minibus driver, and Dave Morris, a single father and former postman.¹⁸ Together they had a combined annual income of £7500 (approximately U.S. \$12,000).¹⁹ Steel and Morris belonged to a very small London-based group called "London Greenpeace," founded in 1971 to protest the French atom bomb.²⁰ At no point did the group consist of more than thirty people.²¹ While Morris joined in 1979, Steel was not involved until 1987, when she joined protests in support of Aboriginal land rights in Australia.²²

The plaintiffs were two huge corporations. The first, McDonald's Corporation (U.S.), was incorporated in 1955 in the State of Illinois.²³ Responsible for a vast chain of McDonald's quick service restaurants throughout the world, the corporation is loosely referred to as "McDonald's."²⁴ By 1997, McDonald's had stores in 101 countries.²⁵ The second plaintiff was McDonald's British subsidiary, McDonald's Restaurants Limited.²⁶

McDonald's is the largest single user of beef in the world. Its customers consume beef from approximately six percent of the world's cattle and

¹⁶ See, e.g., OR. REV. STAT. § 167.310(c) (1997) (stating requirements of food, shelter, cleanliness, temperature, exercise, and space provided for in the animal neglect statute do not apply to livestock and poultry).

¹⁷ VIDAL, *supra* note 2, at v.

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 52.

²¹ *Id.* at 53.

²² Vidal, *supra* note 2, at 54.

²³ *Id.* at 31. The judgment incorrectly states that McDonald's is incorporated in Iowa; however, it is incorporated in Delaware, and its principal office is in Illinois. Telephone interview with David J. Wolfson (June 1, 1999).

²⁴ *Id.*

²⁵ Vidal, *supra* note 2, at 47.

²⁶ For purposes of brevity, the term "McDonald's" will be used when discussing both plaintiffs.

eight percent of British cattle.²⁷ McDonald's is the first or second largest user of chickens in the world (80-120 million a year in America).²⁸ In Britain alone, McDonald's customers consume approximately 180,000 pigs, 332,000 cattle, and over eight million chickens annually.²⁹ In terms of animals raised for food or food production, it is hard to imagine more relevant figures.

The dispute between McDonald's and Steel and Morris had an unassuming beginning. In 1986, London Greenpeace distributed a "factsheet" for a "World Day of Action against McDonald's."³⁰ This factsheet was a pamphlet entitled "What's Wrong with McDonald's – Everything they don't want you to know."³¹ As described by author John Vidal, "it features a leering cartoon American capitalist hiding behind a Ronald McDonald mask. Its contents are no more than numerous environmental and social justice groups are saying, but no one can remember quite who wrote it."³² London Greenpeace could barely afford to print more than a few thousand copies which, following the "World Day" activities, they distributed upon written request. Neither Steel nor Morris were actively involved in this campaign.³³

The pamphlet contained simple accusations. McDonald's, along with other multinational corporations, bore responsibility for starvation in the Third World; destruction of vast areas of the rainforest for the production of cattle to produce beef; promoting unhealthful food with a risk of cancer, heart disease, and food poisoning; misrepresenting the amount of recycled paper used in its food-packaging materials; exploiting children with its advertising and marketing; treating its employees badly; and cruelty to animals.³⁴

While the pamphlet would later become the subject of the longest lawsuit in English legal history, London Greenpeace merely initiated its use; the pamphlet was reprinted and distributed in bulk throughout the United Kingdom by a group called "Veggies."³⁵ McDonald's became aware of the Veggies pamphlet and threatened Veggies with a defamation lawsuit in 1987. The corporation expressed discomfort with the section discussing the rainforest and the heading "[i]n what way are [sic] McDonald's respon-

²⁷ McLIBEL: TWO WORLDS COLLIDE (1997).

²⁸ *Id.*; see also Vidal, *supra* note 2, at 183.

²⁹ Vidal, *supra* note 2, at 183.

³⁰ *Id.* at 51. See Appendix A for the text of the pamphlet.

³¹ *Id.*

³² *Id.* at 52.

³³ *Id.* at 67. In his judgment, Mr. Justice Bell held Morris participated in the production of the pamphlet, although the precise part he played could not be identified. Similarly, in the view of the court, Morris encouraged the campaign against McDonald's. Mr. Justice Bell also held Steel was responsible for the disputed statements because she participated in the group's activities, shared in its aims, and as such "jointly with others caused, procured, authorized, concurred in and approved all publications of the leaflet . . . in England and Wales." *Summary of the Judgment, supra* note 7, at 5.

³⁴ *What's Wrong with McDonalds?*, *supra* note 3.

³⁵ Vidal, *supra* note 2, at 68-69.

sible for torture and murder?"³⁶ No other complaint was made. "Veggies changed the words 'torture' and 'murder' to 'slaughter' and 'butchery' and amended the rainforest section to refer to the burger industry in general. This was accepted by McDonald's legal department and Veggies have [sic] carried on distributing the fact sheet ever since."³⁷

For some unknown reason, McDonald's did not treat London Greenpeace and the original pamphlet in the same manner. Not only did McDonald's not contact London Greenpeace about the pamphlet prior to the lawsuit, it also infiltrated the group from October 1989 to Spring 1991, stealing letters sent to London Greenpeace by people expressing interest in the campaign, and gaining entry into London Greenpeace's office by using a phone card to "swipe" the lock.³⁸ Amusingly, some meetings were attended by as many spies as campaigners; not so amusingly, one spy had an affair with a member of London Greenpeace.³⁹ Without any warning, on September 20, 1990, McDonald's sued five members of the group for libel.⁴⁰ All the individuals were informed the charges would be withdrawn if they apologized.⁴¹ The named individuals were Paul Gravett, Helen Steel, Andrew Clarke, Dave Morris, and Jonathan O'Farrell.⁴²

The defendants decided to visit legal aid, where they were provided with two hours of free legal advice. The advice was concise: apologize.⁴³ In England, the legal issues surrounding libel are very complex, with the additional complication that libel cases go straight to the High Court (not the magistrate's or county level).⁴⁴ A libel case, by its very nature, demands legal assistance (with the simplest case often leading to legal costs of \$75,000); in England, legal aid is unavailable for defamation.⁴⁵ Further, unlike the United States, the legal burden of proof in an English libel case is placed entirely on the defendants. In other words, the defendants in *McLibel* had to prove everything stated in the pamphlet was true.⁴⁶

Additionally, the defendants could not rely on the protection of the First Amendment to the United States Constitution, which provides a defense for individuals who criticize a "public figure" and simply restate reasonable sources such as newspaper reports, books, films, or academic

³⁶ Telephone interview with David J. Wolfson (June 15, 1999).

³⁷ Vidal, *supra* note 2, at 68-69.

³⁸ *Id.* at 69-72, 194.

³⁹ *Id.* at 72.

⁴⁰ *Id.* at 73.

⁴¹ *Id.* at 73.

⁴² Vidal, *supra* note 2, at 74.

⁴³ *Id.* at 74-75.

⁴⁴ *Id.* at 74.

⁴⁵ *Id.* at 74.

⁴⁶ In a defamation case in the United Kingdom, the plaintiff simply has to prove a defendant published a defamatory accusation about the plaintiff. This accusation is a statement, either of fact or opinion, which lowers the plaintiff in the estimation of right-thinking people, or exposes them to hatred, ridicule, or contempt. The burden then shifts to the defendant to prove, on the balance of probabilities, that it was true or was published as an honest comment or on the basis of true facts, or was "privileged in law." GEOFFREY ROBERTSON QC, *FREEDOM, THE INDIVIDUAL AND THE LAW* 319 (1993).

literature which they believe to be true.⁴⁷ Instead, as Mr. Justice Bell declared, "there is no general freedom in English law to make defamatory misstatements of fact with impunity provided that they are made about a matter of public interest or about a person or trading corporation of public importance, in the genuine belief that they are true."⁴⁸

The defendants had to prove each claim with primary sources.⁴⁹ "This meant finding witnesses, collecting first-hand accounts and official documents."⁵⁰ In effect, the defendants were forced to substantiate with facts and detailed arguments statements which many other organizations and social change movements around the world had been asserting for years.⁵¹ When this burden was added to the complicated pre-trial procedures, it was foreseeable the defendants could lose simply due to a procedural mistake. If the defendants lost, they would be liable for thousands of pounds' worth of court costs and damages (ultimately, the court did hold Morris and Steel liable for damages of \$98,500, reduced to \$61,300 by the Appeal Court, which McDonald's made no attempt to collect).⁵² "The nightmare scenario was that they could be bankrupted without even getting to the courts, their assets frozen and all their future earnings given to McDonald's."⁵³

By contrast, while McDonald's was claiming the pamphlet harmed its reputation, it did not have to "prove or show that it had lost the sale of a single hamburger as a result of the leaflet being distributed."⁵⁴ McDonald's would also have the best legal counsel money could buy. In the four years before it served writs on Steel and Morris, McDonald's threatened legal action against at least fifty national, regional, and local newspapers; student magazines and other publications in the United Kingdom; trade unions; environmental groups; and a Scottish youth theatre, if McDonald's did not receive an apology. Every potential defendant apologized.⁵⁵

Facing such overwhelming odds, sound advice led three of the five defendants to apologize.⁵⁶ However, when Steel held out and Morris joined her, and a young lawyer named Keir Starmer, a barrister at Doughty Street Chambers and secretary of the Haldane Society of Socialist Lawyers, offered limited pro bono assistance, the saga began.⁵⁷ The entire case took seven years and the first appeal concluded almost ten years after the service of the first writs. The trial, which was scheduled to run three months, lasted three years. Ironically, the original pamphlet was probably read by a few thousand people at the most. Following the crea-

⁴⁷ *New York Times v. Sullivan*, 376 U.S. 254, 292 (1964).

⁴⁸ *Summary of the Judgment*, *supra* note 7, at 8.

⁴⁹ Vidal, *supra* note 2, at 75.

⁵⁰ *Id.*

⁵¹ *Id.* at 86.

⁵² *Summary of the Judgment*, *supra* note 7, at 27, 313.

⁵³ Vidal, *supra* note 2, at 75.

⁵⁴ *Id.* at 86.

⁵⁵ *Id.* at 47.

⁵⁶ *Id.* at 77.

⁵⁷ *Id.* at 76-77.

tion of the website "McSpotlight," a current version of the pamphlet was translated into a dozen languages, of which more than two million copies have been distributed worldwide. Additionally, as of January 1999, "McSpotlight" had been accessed over sixty-five million times.⁵⁸

While the defendants were forced to represent themselves *pro se*, McDonald's hired Richard Rampton, one of the best libel Queen's Counselors in Britain, and a team of solicitors.⁵⁹ Rampton immediately requested a non-jury trial, claiming that the issues (specifically the epidemiological arguments relating to food and disease) were too complex for a jury.⁶⁰ To the shock of Steel and Morris, Mr. Justice Bell ruled in McDonald's favor and his decision was upheld by the Appeal Court.⁶¹ As Marcel Berlins, columnist for *The Guardian*, the English newspaper, and a leading legal commentator noted, "I cannot think of a case in which the legal cards have been so spectacularly stacked against one party."⁶²

The only solace to Steel and Morris was a mistake made by McDonald's. Unhappy with its public perception, McDonald's decided to hand out its own leaflet, "Why McDonalds is Going to Court," claiming Steel and Morris were "telling lies."⁶³ Amusingly, the pamphlet further stated "the leaflet is produced by London Greenpeace, who call themselves anarchists and are NOT in any way connected to Greenpeace, the renowned environmental organization."⁶⁴ Steel and Morris immediately counter-claimed for libel against McDonald's.⁶⁵ Suddenly, McDonald's was required to prove why the statements made in the original pamphlet were lies, show that its business practices were not as claimed in the original pamphlet, and produce evidence to that effect.⁶⁶

Ultimately, however, Steel and Morris were outgunned and overextended. They had the burden of proof, were without the constitutional pro-

⁵⁸ Vidal, *supra* note 2, at 178; see also McLibel Support Campaign Press Release #1, *supra* note 9.

⁵⁹ Vidal, *supra* note 2, at 88.

⁶⁰ *Id.* at 89.

⁶¹ *Id.* at 92-93.

⁶² *Id.* at 94.

⁶³ "To Our Customers: Why McDonald's is Going to Court" (visited Mar. 23, 1999) <http://www.mcspotlight.org/case/pretrial/factsheet_reply.html>.

⁶⁴ *Id.*

⁶⁵ Vidal, *supra* note 2, at 97.

⁶⁶ Steel and Morris ultimately lost this counterclaim. Although the court found McDonald's had made false defamatory statements, it held that:

where a person (including a company) is the subject of an attack upon his character or conduct, the law permits him to answer that attack to anyone who has an interest in receiving, or a duty to receive his reply, and any defamatory statements about the attacker contained in his reply to that attack are privileged and immune from a successful claim for libel, subject to certain qualification, one of which is that the privilege is lost if the reply is made with actual or express malice, that is with a sole or dominant motive which is improper.

Summary of the Judgment, *supra* note 7, at 25. In the opinion of the court, McDonald's could claim the qualified privilege because McDonald's dominant motive in making the statements in its pamphlet was not bad faith. *Id.* It is also unclear to what extent, if any, Mr. Justice Bell actually required McDonald's to prove that the statements made in the original pamphlet were lies.

tections provided in the United States, and had lost their right to a jury in a case where a jury could have been highly sympathetic. As if this was not enough, Steel and Morris were faced with a mass of materials to review without having any legal experience. They had no knowledge of court procedure or how to direct an examination of a witness. They had no money to pay for witnesses or assistants. Although the "McLibel Support Campaign" raised about \$48,000 over six years, McDonald's spent that much on legal assistance in just one week.⁶⁷ Defending themselves took unbelievable amounts of time, resulting in significant stress in their personal lives, leaving little time for anything else.

In addition, with respect to the portion of the case relating to cruelty to animals, McDonald's refused to allow Steel or Morris to inspect any of its animal production or slaughter facilities in the United Kingdom.⁶⁸ Thus, most of the evidence for animal cruelty had to be provided by McDonald's own witnesses, leaving the defendants to rely on

people who had some experience of such farms or plants when they worked there or had surreptitiously observed what was going on, or people who have an abiding interest in animal welfare and who spoke of what they saw as general practices which by inference, it was said, probably prevailed at the farms and plants which supplied McDonald's.⁶⁹

However, it should be noted that Mr. Justice Bell felt the disadvantage created by the defendants' inability to inspect the animal production or slaughter facilities used by McDonald's became less relevant during the trial because McDonald's own witnesses provided a significant amount of evidence about such facilities in United States and the United Kingdom. In the end, he felt "there was less dispute about what went on than about how it affected the animals and whether it was cruel or inhumane."⁷⁰

Still, it appeared Mr. Justice Bell was somewhat distrustful of certain defense witnesses because of their inability to inspect McDonald's premises. For example, Mrs. Claire Druce, whom the judge viewed as the defendants' main witness on the subject of rearing and slaughtering chickens, was described as basing "many of her views . . . on her instinctive judgment that what was not normal for a chicken must cause it distress, and upon what she had seen generally rather than at [McDonald's U.K.] suppliers. She has not been able to inspect them."⁷¹ Similarly, the defendant's inability to provide hard evidence regarding practices in the United States certainly harmed their case. For example, Mr. Justice Bell held that while there may have been cruel practices in the pork industry in

⁶⁷ Vidal, *supra* note 2, at 176.

⁶⁸ Opinion, *supra* note 14, at 11 (noting "the defendants had been refused permission to inspect any of the farms or plants where animals have been reared or slaughtered for the Second Plaintiff's meat products").

⁶⁹ *Id.*

⁷⁰ *Id.* at 12. Of course, it could be argued that there was "less dispute" about what "went on" because the defendants were denied access to the evidence, and, consequently, could not effectively challenge what actually occurred on a farm.

⁷¹ *Id.* at 14-15.

the United States, there was "insufficient evidence" to make such a determination in this case.⁷²

Finally, Mr. Justice Bell made it clear he was wary of any attempt to evaluate the experiences of animals to determine whether or not they suffered. He noted, "there is a natural tendency to see the experience of animals in human terms which might be quite misleading."⁷³ Furthermore, he believed it was extremely difficult to judge the extent to which an animal feels pain or stress as a result of limitation of movement, the anticipation of events, the recollection of painful events, and the deprivation of normal behavior, particularly if the animal has never experienced anything different and is unaware of a choice.⁷⁴ Consequently, the defendants had the burden "to prove the balance of probabilities that a practice is cruel . . . more than it has in other parts of the case."⁷⁵ This burden was significant given the difficulty in proving the subjective experiences of animals. In fact, throughout the trial, the defendants argued that because such matters were subjective, the opinions in the pamphlet relating to animal cruelty were honest comments. As such, they would not be defamatory statements. This position was rejected by the court.

Given all of these constraints, it is remarkable that Steel and Morris achieved a positive judgment. That Mr. Justice Bell found so many common farming practices cruel, and McDonald's responsible for such practices, reinforces and validates the ultimate judgment. Even under one-sided circumstances, McDonald's was unable to show such practices were not cruel.

III. THE UNIQUE LEGAL NATURE OF *McLIBEL*

McLibel's unique legal posture allowed the court to rule on issues relating to the treatment of farm animals that rarely, if ever, are subject to judicial scrutiny. Historically, courts determine whether a common farming practice is cruel solely in the context of the application and interpretation of criminal anti-cruelty statutes. *McLibel*, however, was founded in the civil tort of defamation. No court had ever examined the cruel treatment of farm animals in this legal context.

The legal posture of *McLibel* allowed a simple question to be posed to the court that had never before been addressed. In a typical prosecution for cruelty in relation to a common farming practice, the court must determine whether the particular practice violates the statutory definition of cruelty. By contrast, in *McLibel*, Mr. Justice Bell was asked to determine whether, according to a reasonable person, a common farming practice was cruel. As *McLibel* demonstrates, the answers to these two questions are not necessarily the same.

In addition, because *McLibel* was grounded in the tort of defamation, the court was able to examine evidence and rule on farming practices that

⁷² *Id.* at 44.

⁷³ Opinion, *supra* note 14, at 6.

⁷⁴ *Id.*

⁷⁵ *Id.* at 7.

would normally not reach the court. The legal posture of defamation allowed the defendants to avoid the multiple hurdles, obstacles, and barriers that face anyone who argues a cruel common farming practice violates a criminal anti-cruelty statute.

The treatment of animals raised for food or food production in the United States is generally governed by *state* criminal anti-cruelty laws.⁷⁶ These statutes pose a myriad of problems for individuals who wish to argue that a particular animal production practice constitutes animal cruelty. Take, for example, an individual who believed that use of the battery cage for hen production is cruel, on the basis that laying hens live their entire lives in a small wire cage with other laying hens. Given the nature of state anti-cruelty statutes in the United States, the individual would first have to ask a state criminal prosecutor to initiate the prosecution. If she managed to find a willing prosecutor, she would then face additional hurdles. For example, if the prosecution was initiated in South Carolina or Louisiana, the court would immediately dismiss the prosecution because the definition of "animal" for the relevant criminal state anti-cruelty statutes exclude birds.⁷⁷

Similarly, if the prosecution was initiated in one of thirty states that exempt some (or in the case of twenty-five of these states, all) "customary" or "normal" farming practices from the legal definition of animal cruelty within that state, the court would dismiss the prosecution since the battery cage is a customary or normal farming practice.⁷⁸ If the prosecution was initiated in one of the remaining states where anti-cruelty statutes generally forbid "unnecessary" or "unjustifiable" cruelty, the judge might dismiss the prosecution if she determined the battery cage was "necessary" or "justifiable" as a matter of law. If the prosecution were to come in front of a jury, it would most likely be comprised of individuals from a farming district. The jury would be required to find that the use of the battery cage, a staple of the modern intensive farming process, fell within the definition of cruelty set forth by the statute before the individual could be found guilty of a criminal offense.

Any attempt to step outside of the criminal arena by initiating a civil lawsuit to determine whether the battery cage is cruel would face enormous obstacles. The individual would most likely not satisfy the standing requirement because she has suffered no legally cognizable "injury."⁷⁹ Even if an individual managed to satisfy this requirement, she may con-

⁷⁶ Wolfson, *supra* note 15, at 127-28.

⁷⁷ S.C. CODE ANN. § 47-1-40(c) (Law Co-op. 1987); LA. REV. STAT. ANN. § 14:102.1 (West 1996).

⁷⁸ Wolfson, *supra* note 15, at 135. The states that exempt all customary or normal farming practices are: Arizona, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Missouri, Montana, Nebraska, Nevada, New Jersey, North Carolina, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, and Wyoming. *Id.*

⁷⁹ An exception to this statement can be found in the recent case, *Farm Sanctuary, Inc. v. Department of Food & Agric.*, 63 Cal. App. 4th 495 (1998). The court found that Farm Sanctuary, a nonprofit organization that promotes the humane treatment of farm animals, could challenge a ritualistic slaughter regulation because,

front the same problem faced by the Animal Legal Defense Fund in the Massachusetts case, *Animal Legal Defense Fund v. Provimi Veal Corp.*⁸⁰ That case was dismissed based on the traditional equitable ground that a court will not enjoin a criminal act.⁸¹ The *Animal Legal Defense Fund* court noted “[a]n ALDF victory in this action would have an unmistakable effect: to enforce by means of an injunction obtained in a private lawsuit, a criminal statute enforceable only by public prosecutors.”⁸² Finally, any attempt to circumvent the state legal process would be impossible since there is no civil or criminal federal law governing the treatment of animals raised for food or food production on the farm.⁸³

In England, it would be equally difficult to bring a successful lawsuit pursuant to an anti-cruelty statute; while a private individual is able to initiate a criminal prosecution for the cruel treatment of an animal, any argument that a common farming practice, such as the use of a battery cage, is cruel, is in all likelihood barred.⁸⁴

McLibel, however, avoided all of these legal obstacles because the legal context was the civil tort of defamation. McDonald’s claimed it had been defamed when Steel and Morris asserted that many common farming practices, including the battery cage, were cruel and that McDonald’s was responsible for such cruelty.⁸⁵ McDonald’s argued such statements were untrue and defamatory because they lowered McDonald’s in the estimation of right thinking members of society or affected McDonald’s adversely in the estimation of reasonable people.⁸⁶ If these statements were true, however, the defendants had an absolute defense to the tort of defamation. Consequently, it was necessary for Mr. Justice Bell to examine and evaluate a host of evidence to determine whether the battery cage and other common farming practices were cruel. Due to the unique nature of

unless an organization like Farm Sanctuary is permitted to challenge the [Department of Food & Agriculture’s] rulemaking authority, the ritualistic slaughter regulation will be immune from judicial review. . . . As one court has observed: ‘Where (a statute) is expressly motivated by considerations of humaneness toward animals, who are uniquely incapable of defending their own interests in court, it strikes us as eminently logical to allow groups specifically concerned with animal welfare to invoke the aid of the courts in enforcing the statute.’

Id. at 503 (quoting *Animal Welfare Inst. v. Kreps*, 561 F.2d 1002, 1007 (D.C. Cir. 1977)). The California Court of Appeals held that “pursuant to government code §11350(a), ‘[a]ny interested person may obtain a judicial declaration as to the validity of any regulation . . . [t]he department does not dispute that Farm Sanctuary is an “interested person” within the meaning of this statute.’” *Id.* at 501.

⁸⁰ 626 F. Supp. 278 (D. Mass. 1986). ALDF argued that the veal crate was a cruel farming practice; consequently, because such information might influence a consumer to not purchase veal, a veal producer was in violation of the Massachusetts consumer protection statute if they failed to disclose the cruel practice to consumers.

⁸¹ *Id.* at 281.

⁸² *Id.*

⁸³ Wolfson, *supra* note 15, at 125-26.

⁸⁴ See, e.g., Mike Radford, *Justice of the Peace*, at 686. In fact, the battery cage is expressly permitted pursuant to The Welfare of Livestock Regulations, 1994.

⁸⁵ *Summary of the Judgment*, *supra* note 7, at 8.

⁸⁶ Opinion, *supra* note 14, at 4.

McLibel, the case presented a legal first. To determine the validity of the defamation defense, the court did not have to determine whether a common farming practice fell within the statutory definition of cruelty, but whether these practices were cruel in the view of a reasonable person. In addition, the defendants had to prove their case on the balance of probabilities rather than beyond a reasonable doubt.

If Steel and Morris had made the same statements in the United States, McDonald's would probably not have initiated the lawsuit. As discussed above, in England, the law presumes defamatory statements are false until the contrary is proven by the defendant; whereas, in the United States, the plaintiff has the burden of proving the defamatory statements are false.⁸⁷ McDonald's, in all likelihood, would have been unwilling to assume this burden. More importantly, in the United States, the First Amendment to the Constitution would have provided Steel and Morris free speech protection. Since McDonald's is a "public figure," Steel and Morris could have asserted the defense that they believed their statements were true at the time they were made.⁸⁸ Steel and Morris would almost certainly have prevailed on this defense.

These were not the facts, however. Steel and Morris were English and the statements were made in England. Therefore, McDonald's presumed the law to be in its favor. As a result, a single judge was presented with a massive amount of evidence relating to common farming practices. He was asked to determine whether such practices were cruel in the context of defamation; not whether they were illegal. It took a fact pattern this unusual and two unbelievably courageous individuals to place these issues before a court.

IV. THE JUDGMENT

Mr. Justice Bell's ruling can be summarized as follows. Claims that McDonald's bore responsibility for starvation in the third world, the destruction of vast areas of rainforest, and that it served food with a very real risk of cancer, heart disease and food poisoning, were not proven to be true.⁸⁹ Mr. Justice Bell, however, recognized there was a real risk of heart disease, and some risk of cancer, for a small proportion of individuals who eat at McDonald's several times a week.⁹⁰ Mr. Justice Bell also noted various McDonald's advertisements, promotions, and booklets claimed its food had a nutritional benefit; however, because the food is high in fat, saturated fat, and animal products, this claim was disingenuous.⁹¹ In the court's opinion, however, Steel and Morris failed to prove McDonald's food posed a serious risk of food poisoning caused by, among other things, the residues of antibiotic drugs, pesticides, and growth hormones found in animal products. Additionally, Mr. Justice Bell held the

⁸⁷ *New York Times v. Sullivan*, 376 U.S. 254, 292 (1964).

⁸⁸ *Id.* at 286.

⁸⁹ *Summary of the Judgment*, *supra* note 7, at 9, 12, 18.

⁹⁰ *Id.* at 14.

⁹¹ *Id.*

defendants' statement that McDonald's misrepresented the truth when it claimed to use more than a tiny percentage of recycled paper in its food packaging material was not proven because some, but not all, of McDonald's packaging contained a small, but nevertheless significant, proportion of recycled fiber.⁹² The court also concluded that it was not proven McDonald's was responsible for littering.⁹³

The Appeal Court disagreed in part with Mr. Justice Bell, holding Steel and Morris were justified in claiming regular McDonald's customers faced a very real risk of heart disease from regularly eating McDonald's high-fat food.⁹⁴ However, the Appeal Court upheld the lower court's holding that the defendants defamed McDonald's by claiming its products were poisonous and increased the risk of cancer. Still, the Appeal Court had "considerable sympathy" for the defendants' position that the pamphlet intended to show "there is a respectable (not cranky) body of medical opinion which links a junk food diet with a risk of cancer and heart disease."⁹⁵ The Appeal Court stated "this link was accepted both in literature published by McDonald's themselves and by one or more of McDonald's own experts and in medical publications of high repute;" indeed, the Appeal Court remarked that because of this, "that should have been the end of this part of the case" but its hands were tied by a procedural technicality.⁹⁶ The Appeal Court also agreed with Mr. Justice Bell's holding that it was not proven McDonald's was responsible for starvation and deforestation in developing countries where much of its beef is purchased.⁹⁷

Finally, Mr. Justice Bell ruled in favor of Steel and Morris in three contexts. First, the court found it was proven that McDonald's exploited children with its advertising and marketing. The advertising was, in large part, directed at children to pressure them to pester their parents into buying McDonald's food.⁹⁸ Second, it was proven that McDonald's paid low wages which depressed wages in Britain's catering trade and that McDonald's was strongly opposed to unionization.⁹⁹ Lastly, it was proven that the animals which became McDonald's products were cruelly treated and McDonald's was "culpably responsible" for such treatment.¹⁰⁰ The Appeal Court not only agreed with these conclusions, but also found it was proven that McDonald's subjected its employees to poor working conditions.¹⁰¹

⁹² *Id.* at 12.

⁹³ *Id.*

⁹⁴ Stephen Howard & Cathy Gordon, *UK: Heart Disease Risk in McDonald's Burgers, Judges Rule*, AP NEWSFEED, Apr. 1, 1999, available in LEXIS, News Library, Allnews File.

⁹⁵ *Id.* (quoting the Appeal Court transcript for the McDonald's v. Steel case).

⁹⁶ McLibel Support Campaign, Press Release (Apr. 1, 1999) (quoting the Appeals Court transcript for the McDonald's v. Steel case) (on file with author).

⁹⁷ Howard & Gordon, *supra* note 94.

⁹⁸ *Summary of the Judgment, supra* note 7, at 27.

⁹⁹ *Id.* at 22-23.

¹⁰⁰ *Id.* at 18.

¹⁰¹ Stanley, *supra* note 13, at B1.

V. CRUELTY TO ANIMALS

A. *The Defamatory Statements*

The pamphlet depicted two of the McDonald's "golden arches" along its top, bearing the legend "McMurder" and "McTorture," and contained a section describing McDonald's treatment of animals.¹⁰² A box appeared with the headline "Ronald's Dirty Secret," followed by these statements:

Once told the grim story about how hamburgers are made, children are far less ready to join in Ronald McDonald's perverse antics. With the right prompting, a child's imagination can easily turn a clown into a bogeyman (a lot of children are very suspicious of clowns anyway). Children love a secret, and Ronald's is especially disgusting.¹⁰³

The pamphlet then set forth the statements which were the subject of the dispute:

In what way are McDonald's responsible for torture and murder? . . . The menu at McDonald's is based on meat. They sell millions of burgers every day in 35 countries throughout the world. This means the constant slaughter, day by day, of animals born and bred solely to be turned in to McDonald's products. Some of them—especially chickens and pigs—spend their lives in the entirely artificial conditions of huge factory farms, with no access to air or sunshine and no freedom of movement. Their deaths are bloody and barbaric. . . . Murdering a Big Mac . . . In the slaughterhouse, animals often struggle to escape. Cattle become frantic as they watch the animals before them in the killing-line being prodded, beaten, electrocuted and knifed. A recent British government report criticized inefficient stunning methods which frequently result in animals having their throats cut while still fully conscious. McDonald's are [sic] responsible for the deaths of countless animals by this supposedly humane method. We have the choice to eat meat or not. The 450 million animals killed for food in Britain every year have no choice at all. It is often said that after visiting an abattoir, people become nauseous at the thought of eating flesh. How many of us would be prepared to work in a slaughterhouse and kill the animals we eat?¹⁰⁴

McDonald's original Statement of Claim (the Complaint) alleged these statements essentially meant that McDonald's is "responsible for the inhumane torture and murder of cattle, chickens and pigs."¹⁰⁵

On the first day of trial however, McDonald's lawyers argued McDonald's did "not dispute the right of anyone at all, if that should be his honest view, to say in strong terms that he disapproved of killing animals for human consumption."¹⁰⁶ Rather, McDonald's objected to the "gross misdescription of the facts underlying the expression of such opinion."¹⁰⁷ Consequently, while McDonald's

¹⁰² *What's Wrong with McDonalds?*, *supra* note 3; *see also* Appendix A.

¹⁰³ Opinion, *supra* note 14, at 1.

¹⁰⁴ *See* Appendix A.

¹⁰⁵ Vidal, *supra* note 2, at 182.

¹⁰⁶ Opinion, *supra* note 14, at 2.

¹⁰⁷ *Id.*

unreservedly accepted that a person holding strong views on the matter might honestly describe the slaughter of animals for food as 'murder' . . . McDonald's did not accept that anyone was entitled to try and excite support for their opinion by making false assertions of fact about the conditions in which animals, in this case animals used by McDonald's, were reared and slaughtered.¹⁰⁸

Thus, McDonald's changed the issue in the case to "whether the methods by which animals were reared and slaughtered to make McDonald's food were cruel and inhumane."¹⁰⁹ As a result, McDonald's amended its Statement of Claim to allege the statements in the pamphlet asserted that McDonald's is

utterly indifferent to the welfare of animals which are used to produce their food with the result (for which [McDonald's] are to be held responsible) that (a) the animals, especially chickens and pigs, spend their whole lives without access to the air and sunshine and without any freedom of movement; and (b) the animals (chickens, pigs and cattle) are slaughtered by methods which are grossly inhumane,¹¹⁰

in that,

(1) the animals waiting to be slaughtered often struggle to escape; (2) cattle waiting to be slaughtered become frantic as they watch the animal before them in the killing-line being prodded, beaten, electrocuted and knifed; and (3) the methods used to stun the animals are so inefficient that the animals are frequently still fully conscious when they have their throats cut.¹¹¹

McDonald's asserted these statements were untrue and defamatory.

The stakes were high. Given the size of McDonald's operations and the number of animals it used for food production, any adverse determination about the cruel treatment of animals could damage the entire livestock industry. The dispute also placed two competing views of animal suffering in direct conflict.¹¹² On the one hand, the defendants, as "animal protection advocates," felt it was clear that modern intensive farming practices are cruel. On the other hand, McDonald's, representing "agribusiness," believed that modern common farming practices are acceptable. In the words of Edward Oakley, McDonald's Chief Purchasing Officer and Senior Vice President of McDonald's (U.K.), chickens in a battery cage are "pretty comfortable."¹¹³

Mr. Justice Bell outlined what he believed were the potentially defamatory statements in the pamphlet. He stated the pamphlet alleged McDonald's is "*culpably responsible* for cruel practices in the rearing and slaughtering of *some* animals which are used to produce their food."¹¹⁴ He then broke the defendants' claims into three specific charges (similar to McDonald's Amended Statement of Claim). First, "*some* of the animals,

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*; see also Vidal, *supra* note 2, at 182.

¹¹¹ Opinion, *supra* note 14, at 3.

¹¹² See generally Vidal, *supra* note 2.

¹¹³ Vidal, *supra* note 2, at 184.

¹¹⁴ Opinion, *supra* note 14, at 3 (emphasis added).

especially chickens and pigs, spend their whole lives without access to open air and sunshine and without freedom of movement."¹¹⁵ Secondly, "animals waiting to be slaughtered often struggle to escape; cattle waiting to be slaughtered become frantic as they watch the animal before them in the killing-line being prodded, beaten electrocuted and knifed."¹¹⁶ Lastly, "the methods used to stun the animals are so inefficient that animals are frequently still fully conscious when they have their throats cut."¹¹⁷

The defendants had to prove two elements for each of the three allegations. First, to prove McDonald's culpable responsibility for a cruel act, the defendants had to prove McDonald's had sufficient control over its suppliers.¹¹⁸ Second, the defendants had to show a specific act complained of was cruel.¹¹⁹

B. Culpability

At the outset, Mr. Justice Bell recognized that McDonald's could be held culpably responsible for the acts of some of its suppliers.¹²⁰ This was a limited conclusion because Mr. Justice Bell would not accept the defendants' proposition that "since [McDonald's is a] large, powerful and wealthy corporation [] [it] must be able, if [it chooses], to check, monitor and govern practices relating to the rearing and slaughter of animals for [its] food products" and, therefore, should be held culpably responsible for the acts of all of its suppliers.¹²¹ He did, however, hold it was proven that McDonald's was capable of using its considerable influence to prohibit practices by its immediate suppliers of meat and eggs that are carefully chosen and designated (in the case of chickens in the United Kingdom and the United States). Additionally, McDonald's could influence a limited number of rearing and slaughtering sub-suppliers whom the immediate supplier could reasonably supervise and whose practices could be modified by McDonald's insistence (in the case of McDonald's pig suppliers in the United Kingdom).¹²² Consequently, McDonald's could prevent the cruel treatment of animals by insisting these suppliers not engage in cruel farming practices. For example, if the battery cage was determined to be cruel, McDonald's could demand these suppliers not use the device.

By contrast, Mr. Justice Bell would neither hold McDonald's culpably responsible for the cattle rearing industries in the United States and the United Kingdom, nor for pig suppliers in the United States. In his opinion, these industries and suppliers existed in large numbers and were well-established before McDonald's existence.¹²³ In these situations, the court

¹¹⁵ *Id.* (emphasis added).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 5.

¹¹⁹ Opinion, *supra* note 14, at 5.

¹²⁰ *Id.* at 7-8.

¹²¹ *Id.* at 7.

¹²² *Id.* at 8.

¹²³ Opinion, *supra* note 14, at 8.

held the defendants failed to prove McDonald's had sufficient control to demand practices be altered, even if they were cruel.¹²⁴

This determination significantly limited Mr. Justice Bell's analysis and ultimate judgment. Once Mr. Justice Bell determined that McDonald's could not be held culpably responsible for the cattle industry, and the pig industry in the United States, he made no attempt to determine if those industries engaged in cruel common farming practices, even when presented with evidence of abuse (for example, widespread lameness and mastitis in the cattle industry).¹²⁵

C. *What is Cruelty?*

To determine whether the allegations in the pamphlet were proven, the court had to define what constituted "cruelty." The question was not a simple one and Mr. Justice Bell struggled between the conflicting "agribusiness" and "animal protection advocate" viewpoints. Considering its potential impact on the entire livestock industry, Mr. Justice Bell's discussion of this subject has important legal ramifications in both the United Kingdom and the United States.

Steel and Morris asserted a standard animal protection argument, stating "any practice that caused an animal to suffer any degree or stress of discomfort or transitory pain was necessarily cruel."¹²⁶ Thus, it was logical for Steel and Morris to believe they had won the case when David Walker of McKey Foods, McDonald's sole U.K. supplier of beef and pork products, agreed on cross-examination that "as a result of the meat industry, the suffering of animals is inevitable."¹²⁷ Even so, the court disagreed with Steel and Morris' argument. Mr. Justice Bell stated even moving an animal can cause it stress; in his opinion, an ordinary reasonable person would not believe that moving an animal is cruel, provided that the necessary stress, or discomfort, is kept to reasonably acceptable levels.¹²⁸ Consequently, Mr. Justice Bell responded to Walker's statement by stating he did "not suppose that his reply surprised anyone. The ordinary person . . . must find a certain amount of stress, discomfort or even pain acceptable and not . . . criticize [it] as cruel."¹²⁹

McDonald's asserted the classic position of agribusiness. This position, here termed the Customary Approach, finds that any practice in accordance with common modern farming or slaughter practices is acceptable under the law, even if it is cruel.¹³⁰ The Customary Approach (with respect to some or all common farming practices) is codified in the anti-cruelty statutes of thirty states.¹³¹ Twenty-five states exempt all customary farming practices; eighteen of these thirty states have amended

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.* at 5.

¹²⁷ Vidal, *supra* note 2, at 183.

¹²⁸ Opinion, *supra* note 14, at 5.

¹²⁹ *Id.*

¹³⁰ Wolfson, *supra* note 15, at 135.

¹³¹ *Id.* at 135.

their statutes to incorporate the Customary Approach in the last ten years (with seven states amending their statutes in the last four years).¹³²

Mr. Justice Bell unequivocally rejected the Customary Approach, stating he could not accept it for use in the case.¹³³ He correctly noted that “[t]o do so would be to hand the decision as to what is cruel to the food industry completely, moved as it must be by economic as well as animal welfare considerations.”¹³⁴ Similarly, as I have commented elsewhere:

Legislatures in the United States have endowed agribusiness with complete authority to decide what is, and is not, cruelty to animals under their care. The majority of states in the United States have enacted laws mandating that prosecutors, humane enforcement agencies, and the judiciary cannot examine farming practices for cruelty or animal abuse once the particular practice is demonstrated to be a customary practice of the United States farming community. In effect, state legislatures have granted agribusiness a legal license to treat farm animals as they wish.¹³⁵

Finally, McDonald’s argued a practice is cruel when it contravenes government or other official guidelines, recommendations, or codes; any practice which complies with these is not cruel.¹³⁶ Mr. Justice Bell disagreed, recognizing a farming practice can be cruel, within the ordinary meaning of the word, even if it is legal. According to the court, while laws and government regulations are useful measures of animal welfare, neither is determinative of what is, or is not, a cruel practice.¹³⁷ This is a significant determination.

Ultimately, Mr. Justice Bell stated he would be the “judge” of whether a particular farming practice is cruel. To assist his determination, he formulated a test relying heavily on one of McDonald’s expert witness, Dr. Neville Gregory.¹³⁸ Dr. Gregory focused on the “number of animals involved, . . . the intensity of suffering and the duration of suffering.”¹³⁹ Mr. Justice Bell used his own judgment to “decide whether a practice is deliberate and whether it causes sufficiently intensive suffering for a sufficient duration of time to be justly described as cruel.”¹⁴⁰ Even though this standard is subjective, it is undoubtedly preferable to the Customary Approach because it provides considerably more objectivity in determining what is a cruel practice. Most importantly, this determination is made by a judge, a more objective third party, rather than the farming industry.

¹³² *Id.* at 135, 138. These seven states are Connecticut, Idaho, Iowa, Michigan, New Jersey, North Carolina, and Wyoming. *Id.*

¹³³ Opinion, *supra* note 14, at 5.

¹³⁴ *Id.*

¹³⁵ Wolfson, *supra* note 15, at 138.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.* Dr. Neville Gregory is the Senior Research Fellow in the Division of Food Animal Sciences at the School of Veterinary Medicine of Bristol University; Advisor to the Ministry of Agriculture, Fisheries and Food, the Council of Europe and the World Society for the Protection of Animals. Opinion, *supra* note 14, at 5.

¹³⁹ *Id.* at 6.

¹⁴⁰ *Id.*

D. Cruel Common Farming Practices

1. *The First Charge: The Rearing of Animals Raised for Food or Food Production*

With respect to the first charge, the court examined a number of common farming practices. Noting that “[e]gg-laying hens . . . work for McDonald’s,”¹⁴¹ Mr. Justice Bell examined the battery cage operation used in both the United States and the United Kingdom. While he believed the evidence failed to demonstrate a chicken spending her whole life without sunshine or fresh air was cruel, he held that the severe restriction of movement caused by the battery cage, whereby one bird is provided “three quarters of the area of a London telephone directory,” or an area about eight inches by eleven inches, was proven to be cruel.¹⁴² As he eloquently stated:

[i]t seems to me that even the humble battery hen probably has some sentience, some power of perception by its senses, of virtually total deprivation of all normal activities save eating, drinking, some minimal movement, defecating and laying eggs, and that the one in three or four of them which suffer broken bones on ‘harvesting’ for slaughter must feel some significant pain. I conclude that the battery system as described to me is cruel in respect of the almost total restraint of the birds and the incidence of broken bones when they are taken for slaughter.¹⁴³

However, the practice in the United States and the United Kingdom of placing meat-producing broiler chickens in a broiler house for their whole lives, without access to open air or sunshine, was not proven to be cruel.¹⁴⁴ By contrast, the severe space restrictions these animals suffered due to overstocking in their last few days was proven to be cruel.¹⁴⁵ Mr. Justice Bell noted in these last days, each bird inhabits a space less than eight inches by eleven inches, similar to the space allowed for egg-laying chickens.¹⁴⁶ He also noted broilers were

grow[n] together as a ‘crop’ which was the word used by Dr. Gregory. It is an appropriate term because their mass cultivation appears, superficially at least, to be closer to plant cultivation than traditional animal husbandry. The sheer size of the system does not at first blush appear to lend itself to humane treatment, and when Dr. Gregory was asked how the unit which he saw at Sun Valley on a visit in April, 1993, matched welfare standards which he thought to be necessary, he asked to be allowed to answer by comparing it with other similar units, saying it was higher than average, rather than giving an outright answer.¹⁴⁷

Ultimately, Mr. Justice Bell stated,

¹⁴¹ *Id.* at 31.

¹⁴² *Id.* at 32.

¹⁴³ Opinion, *supra* note 14, at 34.

¹⁴⁴ *Id.* at 19.

¹⁴⁵ *Id.* at 21.

¹⁴⁶ *Id.* at 20.

¹⁴⁷ *Id.* at 18.

[w]hile I have felt unable to judge that broiler house birds suffer from dim light or inability to express what would be normal behavior in other conditions, I do not consider that I am indulging in too much anthropomorphism in judging them to be uncomfortable for the last few days. . . . The high density is intentional and unnecessary and it probably causes the birds some level of real discomfort.¹⁴⁸

The issue of “overstocking” of broilers also provides insight into the treatment of broilers in the United States. The court commented:

[t]he stocking density in the U.S. appeared to be completely governed by economic pressures. Dr. Gomez Gonzales [McDonald’s First Manager of Meat Products] said that if you overstock you get a lot of problems like more death and disease and less “feed conversion” but if you have less chickens in the sheds you get less money. There are no regulations. The U.S. has taken the approach that the normal business practices will take care of that (stocking density). If a farmer over-stocks he is going to lose money. If he loses money he is not going to be in the business. It is such a small margin of profit. . . . Concern for the bird did not seem to enter the equation.¹⁴⁹

Finally, the court discussed the small but significant proportion of sows raised for pork in the United Kingdom that spend extended periods of time in a dry sow stall. Mr. Justice Bell held the lack of open air and sunshine was not cruel; however, the severe restriction of movement was.¹⁵⁰ He found that “[p]igs are intelligent and sociable animals and I have no doubt that keeping pigs in dry sow stalls for extended periods is cruel.”¹⁵¹ This practice is now illegal in the United Kingdom, but continues to be legal in the United States.¹⁵²

The court also noted while “[t]here may be cruel practices in relation to pigs which go for [McDonald’s] . . . pork products in the U.S., . . . I have insufficient evidence to find them cruel.”¹⁵³ Further, Mr. Justice Bell found the defendants failed to prove cattle raised for beef spent a significant part of their lives without access to open air and sunshine or without freedom of movement.¹⁵⁴ Despite this, the court’s findings of cruelty were “quite enough” to justify the first particular charge of McDonald’s culpable responsibility for cruel practices.¹⁵⁵

¹⁴⁸ Opinion, *supra* note 14, at 21.

¹⁴⁹ *Id.* (quoting testimony of Dr. Gomez Gonzales).

¹⁵⁰ *Id.* at 44. These sows are placed in a narrow metal barred stall in which the sow can only stand up or lie down and cannot turn around, with no access to open air and sunshine and without freedom of movement. *Id.*

¹⁵¹ *Id.* at 38.

¹⁵² Wolfson, *supra* note 15, at 141; see also ROBERT GARNER, POLITICAL ANIMALS: ANIMAL PROTECTION POLITICS IN BRITAIN AND THE UNITED STATES 139 (1998).

¹⁵³ *Id.* at 44.

¹⁵⁴ *Id.* at 46.

¹⁵⁵ *Id.* at 50.

2. *The Second and Third Charges: The Slaughter of Animals Raised for Food or Food Production*

With respect to the slaughter of cattle, Mr. Justice Bell recognized many cattle are frightened by the noise and unfamiliar surroundings of abattoirs in which they are slaughtered and that some cattle are urged on by electric prods.¹⁵⁶ However, the charges that cattle try to escape and are frantic as they watch animals ahead of them being prodded, beaten, electrocuted, and knifed was not proven by the evidence presented.¹⁵⁷

The court also held the defendants failed to sufficiently prove that cattle or pigs in the United Kingdom are often fully conscious when their throats are cut.¹⁵⁸ In contrast, Mr. Justice Bell found that a proportion of chickens in the United States and the United Kingdom are fully conscious when their throats are cut.¹⁵⁹ In his opinion, this was proven to be a cruel practice. Proportionally, the number of chickens was very small, "but the [total] number of chickens is so large that the allegation that animals are frequently still fully conscious when they have their throats cut is justified."¹⁶⁰ Recognizing that between forty and one-hundred twenty birds each hour are fully conscious when their throats are cut in the United Kingdom, the court found this practice to be "frequent. . . I judge neck cutting while conscious cruel by modern standards. The whole purpose of stunning animals is to render them unconscious and insentient before their throats are cut."¹⁶¹

While the United States has a federal humane slaughter law (with significant problems and limitations), it does not cover chickens,¹⁶² and, as a practical matter, any state protection is generally insufficient or not enforced.¹⁶³ There is also significant evidence suggesting that many chickens, cows, and pigs in the United States are fully conscious when their throats are cut.¹⁶⁴

With respect to all three charges, Mr. Justice Bell stated not all of the allegations in the pamphlet were proven to be founded.¹⁶⁵ However, certain allegations were proven and these were sufficient "to justify the general charge that both plaintiffs are culpably responsible for cruel practices

¹⁵⁶ *Id.* at 41, 47.

¹⁵⁷ Opinion, *supra* note 14, at 47.

¹⁵⁸ *Id.* at 48.

¹⁵⁹ *Id.* at 30.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Humane Slaughter Act of 1958, 7 U.S.C. §§ 1901-1906 (1994). The statute states that "in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are [to be] rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective." *Id.* § 1902. The definition of "other livestock" does not include chickens. 9 C.F.R. § 301.2(qq) (1998); see also Gail A. Eisnitz, *A Pandora's Box of Pathogens*, in *SLAUGHTERHOUSE* 155, 166 (1997) (discussing the Humane Slaughter Act).

¹⁶³ Eisnitz, *supra* note 162, at 194.

¹⁶⁴ *Id.* at 121, 144.

¹⁶⁵ Opinion, *supra* note 14, at 50

in the rearing and slaughtering of some of the animals which are used to produce their food."¹⁶⁶

3. *Additional Cruel Common Farming Practices*

Mr. Justice Bell did not stop there. The evidence was compelling enough for him to note, in addition to the specific charges claimed by the defendants, the evidence demonstrated many additional examples of cruel common farming practices. First, he found that calcium deficits in battery hens results in osteopaenia, a leg problem leading to fractures, in both the United States and the United Kingdom.¹⁶⁷ Second, Mr. Justice Bell noted the feeding limitations on breeder broilers in the United Kingdom and the United States are cruel.¹⁶⁸ This is especially true because these birds are bred from a genetic strain chosen for its appetite, fast growth, and heavy weight "for economic reasons;" if these birds are fed enough to satisfy their appetite they "would suffer high mortality, low fertility, obesity and related disease."¹⁶⁹ The court specifically held "the practice of rearing breeders for appetite, that is to feel especially hungry, and then restricting their feed with the effect of keeping them hungry, is cruel. It is a well-planned device for profit at the expense of suffering of the birds."¹⁷⁰

Third, Mr. Justice Bell found leg problems in broilers bred for weight gain in the United States and the United Kingdom caused undue pain and suffering in the animals.¹⁷¹ He stated,

[f]rom all this I conclude that even in a comparatively well run, modern broiler unit, something between 7% to 31% of the birds have welfare compromised by leg problems as a result of their genetic breeding but with some effect from the crowded conditions in which they are kept. . . . I can see no reason why at least 7% of broilers, and possibly more, should have to suffer from discomfoting leg problems with which they live on. In my judgment it involves cruelty.¹⁷²

Fourth, the court determined the gassing of male chicks (which are of no use in the egg industry) by carbon dioxide in the United Kingdom to be cruel.¹⁷³ Approximately two-hundred to three-hundred chicks a day are culled in this manner by one supplier in the United Kingdom.¹⁷⁴ Discussing this practice, Mr. Justice Bell stated,

I bear in mind the danger of substituting one's own imagination of what it must be like to be gassed in this way. I bear in mind that a very young chick's awareness must be limited . . . but . . . as chickens are living creatures we must assume that they can feel pain, distress and discomfort in some form although we do not know exactly how they feel it. In my view chicks gassed . . . do

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 33-34, 51.

¹⁶⁸ *Id.* at 16, 51.

¹⁶⁹ *Id.* at 16.

¹⁷⁰ Opinion, *supra* note 14, at 16.

¹⁷¹ *Id.* at 51.

¹⁷² *Id.* at 23-24.

¹⁷³ *Id.* at 13.

¹⁷⁴ *Id.* at 15.

suffer significantly, albeit for a short period, when gassed by CO₂ and when an alternative method of instantaneous killing is available . . . I find the practice cruel.¹⁷⁵

Fifth, the manner in which broilers are caught and handled when captured for slaughter in the United Kingdom was judged cruel.¹⁷⁶ The court noted “[b]irds at Sun Valley [McDonald’s supplier of chicken meat products], as elsewhere, are caught by hand and held upside down by one leg in the hands of the catcher until he has several in each hand, whereupon he puts or drops them into a drawer in a module.”¹⁷⁷ The evidence showed the birds can hemorrhage from hip dislocations and suffer broken legs when grabbed and held in this fashion.¹⁷⁸ Also, the heads of the chickens “can be crushed when the drawer is shut.”¹⁷⁹ In summary, Mr. Justice Bell found the intensive practices of catching chickens inevitably cruel because the rush to load chickens into the processing drawers leads to handlers grabbing chickens in a rough fashion and “holding and carrying birds upside down by one leg. This cruelty was in my judgment compounded by the fact that the bird was already injured . . . the catching . . . had often been done hurriedly and clumsily under pressure of time with the result that it has been cruel, in my view.”¹⁸⁰

Finally, the court found the pre-stun electric shocks (electric shocks given before the bird receives the shock which renders them immobile) suffered by broilers on the slaughter line in the United Kingdom was cruel.¹⁸¹ McDonald’s own witness, Dr. Gregory, stated the killing methods for the birds did not comply with governmental codes of practice.¹⁸² There are no federal codes of practice in the United States for the killing of poultry, and any state protection is generally ineffective or not enforced.

Mr. Justice Bell left little doubt as to McDonald’s culpable responsibility for *all* of the cruel practices outlined above. The court noted,

[a]lthough McDonald’s might be able to do little about the well-established system of rearing broilers in large numbers in broiler houses and slaughtering them on high capacity lines, the ultimate capacity of the broiler house and the details of the lines are obviously variable, and in my judgment they could use their considerable influence to avoid the particular practices which I have judged to be cruel. They did not, in fact, argue to the contrary.¹⁸³

In conclusion, although Mr. Justice Bell held that a number of the common farming practices presented to him were not cruel (teeth clipping, castration, ringing noses, tail docking, and the use of electric goads if

¹⁷⁵ Opinion, *supra* note 14, at 15-16. Chickens are also culled by carbon dioxide in the United States. KAREN DAVIS, PRISON CHICKENS, POWDERED EGGS: AN INSIDE LOOK AT THE POULTRY INDUSTRY 122 (1996).

¹⁷⁶ *Id.* at 25.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 25-26.

¹⁸⁰ Opinion, *supra* note 14, at 27-28.

¹⁸¹ *Id.* at 28, 51.

¹⁸² *Id.* at 28.

¹⁸³ *Id.* at 31.

done properly),¹⁸⁴ he indicted a whole host of customary farming practices as cruel, holding McDonald's culpably responsible for those practices. It should also be recognized that the defendants produced limited amounts of evidence and were heavily outmatched. Steel and Morris undoubtedly faced many additional disadvantages because of their lack of a legal background. One can only speculate how the case would have been decided if the defendants had the same resources as the plaintiffs.

E. Additional Findings

Other important observations were made in this case. First, the court questioned certain myths agribusiness has promulgated for decades. For example, agribusiness often argues if an animal in its care grows, that animal must be well-treated. This argument was rejected by the official report of the Brambell Committee in England in 1968.¹⁸⁵ As Mr. Justice Bell noted:

as a general principle it was sound commercial practice to treat animals well because a contented animal generally grows and produces better. However, commercial factors are a matter of balance and I see nothing inconsistent in generally trying to keep an animal content while mistreating it in certain respects under the constraint of commercial forces which outweigh the general principle. A short term practice, however cruel, may not affect an animal's well-being sufficiently to be counter-productive, for instance. Dr. Gregory said that not many of the animal welfare improvements which he would recommend would have a commercial advantage. Having heard all the evidence about broiler chickens I accept the view of Mrs. Clare Druce, the National Organizer of the Farm Animal Welfare Network (FAWN) that chickens are very low value birds individually so that it can be economic to reckon losing a percentage of them.¹⁸⁶

Second, the court recognized the connection between profits and cruelty to animals raised for food or food production, stating

[o]f course, the commercial urge to rear and slaughter as many animals as economically and therefore quickly as possible may lead to cruel practices or a significant number of instances of cruelty in methods designed to be humane, which could be avoided if less attention was paid to profit and high production and more to the animals.¹⁸⁷

As is stated elsewhere, "[t]his profit motive is often the cause of inadequate conditions for animals raised for food or food production."¹⁸⁸

Third, Mr. Justice Bell concluded that many cruel farming practices could be altered at minimum cost. With respect to the chicken industry,

¹⁸⁴ *Id.* at 39, 40, 42.

¹⁸⁵ Agriculture Committee, First Rep., H.C., No. 406-1, Animal Welfare in Poultry, Pig and Veal Calf Product 37 (1981) (stating "[i]n principal we disapprove of a degree of confinement of an animal which necessarily frustrates most of the major activities which make up its natural behavior").

¹⁸⁶ Opinion, *supra* note 14, at 7.

¹⁸⁷ *Id.* at 4.

¹⁸⁸ See Wolfson, *supra* note 15, at 146.

“no doubt some changes would raise the cost of chicken products, but there was no evidence that the cost would be increased significantly.”¹⁸⁹ This conclusion will undoubtedly be strongly disputed by the agribusiness industry.

Finally, and disturbingly, Mr. Justice Bell noted that while McDonald's claimed to have an animal welfare policy, he was unable to locate any such policy other than certain vague statements that McDonald's would comply with applicable laws.¹⁹⁰ As Edward Oakley (McDonald's Chief Purchasing Officer and Senior Vice President (U.K.)) admitted under questioning, McDonald's “animal welfare policy is, in fact, just a policy to comply with the laws of the various countries in which McDonald's operates . . . we do not go beyond what the law stipulates,”¹⁹¹ which, because of the Customary Approach, is effectively nothing in the United States. Additionally, Mr. Justice Bell determined that no individual at McDonald's was specifically responsible for animal welfare.¹⁹² Rather, McDonald's relied on its suppliers to meet its welfare policies and on the assumption that farmers must treat their animals well for them to grow productively. Mr. Justice Bell seriously questioned this belief.¹⁹³

The court further determined McDonald's distributed materials containing statements which were “palpably untrue” regarding the ways McDonald's animals are reared.¹⁹⁴ For example, McDonald's claimed chickens used for its products had the freedom to move around at will and “are not reared in cages;” however, as noted by Mr. Justice Bell, this was clearly not the case.¹⁹⁵

On the last day of his testimony, Dr. Fernando Gomez Gonzales, McDonald's First Manager of Meat Products, suddenly remembered seeing a one page statement relating to the welfare of animals.¹⁹⁶ This led Mr. Justice Bell to comment,

[McDonald's] animal welfare policy, or at least a written animal welfare policy, was curious to say the least. . . . On the seventh and last day of his evidence, Dr. Gomez Gonzales said that he had seen ‘a small statement, half a page, regarding animal welfare, the concept.’ This turned out to be a one page statement headed ‘McDonald's and the Humane Treatment of Animals.’¹⁹⁷

The policy statement, which was later produced, stated “McDonald's believes that the humane treatment of animals is a moral responsibility,” even though McDonald's relied on its suppliers to treat their animals humanely.¹⁹⁸ The court noted:

¹⁸⁹ Opinion, *supra* note 14, at 31.

¹⁹⁰ *Id.* at 8.

¹⁹¹ Vidal, *supra* note 2, at 183.

¹⁹² Opinion, *supra* note 14, at 11.

¹⁹³ *Id.* at 8.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 32.

¹⁹⁶ *Id.* at 8.

¹⁹⁷ Opinion, *supra* note 14, at 8; see also PETER SINGER, *ETHICS INTO ACTION: HENRY SPIRA AND THE ANIMAL RIGHTS MOVEMENT* 171 (1998).

¹⁹⁸ Opinion, *supra* note 14, at 9.

[t]his statement is in the most general terms. It reads more like a public relations hand-out than a serious policy statement and that interpretation is consistent with it not being so well known as to be at Dr. Gomez Gonzales' finger tips during the greater part of his evidence, although it may have dated from 1989. . . . In my judgment [McDonald's] policy . . . was primarily for public consumption in case anyone inquired.¹⁹⁹

Ironically, this "statement" was only made because of a "deal" struck between McDonald's and the late Henry Spira, a noted animal rights activist. In 1993, Spira, who had purchased sixty-five shares of McDonald's stock, proposed (along with Franklin Research and Development, a firm that provides advice to socially concerned investors) a shareholder resolution relating to animal welfare for the annual meeting of McDonald's.²⁰⁰ McDonald's attempted to prevent the proposal from being presented. In February 1994, Spira agreed to withdraw the resolution if McDonald's mailed a policy statement on the humane treatment of animals to all its suppliers and printed an excerpt in its annual report. McDonald's agreed.²⁰¹ This is the "statement" referred to above. No one told McDonald's executives of the policy.²⁰²

VI. CONCLUSION

Any evaluation of McLibel must first recognize what McLibel is not. The case had no *direct* legal consequence other than proving certain assertions in the pamphlet were true or false. Mr. Justice Bell's opinion did not prohibit any of the common farming practices he determined to be cruel from continuing. The case merely involved a tort claim by McDonald's against Steel and Morris. McDonald's, and many other entities, may still conduct these practices despite the McLibel holding, because these practices are legal in both the United Kingdom and the United States.

The *indirect* consequences are more complicated. The fact that a court found so many common farming practices to be cruel, despite all of McDonald's advantages, leads to the conclusion that these practices will be considered cruel under any circumstance and should be prohibited. As a result, legislative bodies should act to prohibit the battery cage; the severe space restrictions for broilers; the excessive confinement of sows in dry sow stalls; the slaughtering of conscious chickens; the creation of calcium deficits in battery hens; the restriction of feed to broilers bred for appetite; the creation of leg problems in broilers bred for weight gain; the culling of chicks by carbon dioxide; certain methods in the catching and

¹⁹⁹ SINGER, *supra* note 197, at 171.

²⁰⁰ *Id.* "The resolution . . . asked shareholders to vote for a recommendation asking the Board of Directors to endorse the following principles and encourage the company's suppliers to take all reasonable steps to comply with them: (1) Least Restrictive Alternative—animals should be housed, fed, and transported in a practical manner least restrictive of their physical and behavioral needs. (2) Individual Veterinary Care—animals should be afforded individual veterinary care when needed. (3) Humane Slaughter—methods used should be designed to produce a quick and humane death." *Id.* at 168-69.

²⁰¹ *Id.* at 171.

²⁰² *Id.*

handling of broilers; and the pre-stun electric shocks suffered by broilers. A number of Western European countries have already made some of these cruel practices illegal. Sweden and Switzerland have prohibited the battery cage and the United Kingdom has prohibited the use of the dry sow stall.²⁰³ On June 15, 1999, the European Union's agricultural ministers agreed to end all battery egg production across the European Union by 2012. Battery cages will be replaced by free-range farming, the housing of hens in large, barn-like aviaries, or by cages with at least 750 square centimeters of space per chicken (compared with the European norm of 450 square centimeters and 310 square centimeters in the United States.)²⁰⁴ It is also important to note Mr. Justice Bell's observation that many of these common farming practices (in relation to chickens) could be altered without a significant increase in costs to McDonald's.²⁰⁵

In addition, *McLibel* is an interesting example of how social mores, in relation to animals, are beginning to change. In Europe, farm animals are now more likely to be regarded as deserving of more humane treatment. This is demonstrated by the recent amendment to the Treaty Establishing the European Community whereby farm animals are now referred to as sentient beings.²⁰⁶ Certainly, the attitude of the general public in the United Kingdom is very different from the United States, allowing the issue of cruelty to farm animals to increasingly be given serious consideration.²⁰⁷ Thus, the *McLibel* judgment is a reflection of a social environment more inclined towards reforming the farming industry than that of the United States.

The opinion might also have a large socio-political impact because of the publicity surrounding the trial. For the first time, an objective court closely examined the farming industry and found it wanting. Further, many classic agribusiness arguments were rejected. While it is hard to predict the ramifications of the *McLibel* opinion, the English newspaper *The Guardian* has stated the opinion prompted immediate calls for McDonald's to cease selling chickens that are cruelly treated and "may haunt the

²⁰³ Wolfson, *supra* note 15, at 141-42.

²⁰⁴ Stephen Castle, *EU Votes to End Battery Hen Farming in 12 Years*, THE INDEPENDENT, June 16, 1999, at 5; *see also* Wolfson, *supra* note 15, at 140-44.

²⁰⁵ Opinion, *supra* note 14, at 4. Positive change is certainly possible. *See* SINGER, *supra* note 197, at 175-76. Singer discusses a humane alternative to confinement for sows developed by Osborne Industries, a corporation in Kansas. This alternative allows the sows to roam freely, but through the use of bar codes and scanners, prevents a dominant sow from consuming too much food. The confinement of sows is a "crude" response to this problem. This new system is already in commercial operation in the United States. Singer also discusses "gas stunning" for chickens. *Id.*

²⁰⁶ Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities, and Certain Related Acts, Nov. 10, 1997, 1997 O.J. (C 340) 1, at art. C (entitled the "Protocol on Improved Protection and Respect for the Welfare of Animals" and including "Desiring to ensure improved protection and respect for the welfare of animals as sentient beings" as one of its goals) (last visited Apr. 30, 1999) <<http://ue.eu.int/Amsterdam/en/treaty/treaty.htm>> (not yet in force); *see also* Treaty of Rome Consolidated and the Treaty of Maastricht, Declaration on the Protection of Animals, Feb. 7, 1992, at art. III(24) (visited Apr. 30, 1999) <<http://europa.eu.int/en/record/mt/title 1.html>>.

²⁰⁷ GARNER, *supra* note 152, at 139.

British fast food industry."²⁰⁸ It is possible that the judgment contributed to the European Union's recent decision to prohibit the battery cage. Others, however, have noted that the judgment does not appear to have impacted McDonald's trade or reputation.²⁰⁹ Legal and economic consequences could also flow from this case, especially in light of the court's finding that McDonald's food can lead to heart disease.²¹⁰ Undoubtedly, the impact of this case would have been greater had either of the courts held McDonald's responsible for causing food poisoning or cancer.

There is some evidence McDonald's has been more amenable to the concerns of animal protection activists since the McLibel trial court verdict. Three months prior to Mr. Justice Bell's opinion, Shelby Yastrow, McDonald's General Counsel and Executive Vice President, informed Henry Spira that "farm animal well-being is not high on McDonald's priority list."²¹¹ As Peter Singer writes, "when Henry called immediately after the verdict, Yastrow's interest in farm animal well-being had risen sufficiently for him to fly to New York to talk about it."²¹² Following the meeting between Yastrow and Spira, McDonald's commissioned Dr. Temple Grandin, a leading consultant in animal sciences and animal handling facilities, to conduct an animal welfare survey of its suppliers.²¹³ Yastrow also informed Spira that McDonald's would create a full-time position dedicated to taking responsibility for animal welfare issues. The staff person would report to McDonald's director of environmental affairs, "who in turn reported to the chief purchasing officer, who was directly under the chief executive . . . [and] [a]t McDonald's, being only four rungs down the hierarchy was a big deal."²¹⁴ Ironically, the staff person is none other than Dr. Fernando Gomez Gonzales, the witness who vaguely remembered an animal welfare policy statement and "had resolutely denied that there is any cruelty in the raising of animals used by McDonald's" at trial.²¹⁵

In October 1997, McDonald's also informed Spira and Peter Singer it would work with Dr. Grandin to develop an animal welfare auditing system that would be integrated into McDonald's food safety audits.²¹⁶ McDonald's promised to implement some of the more simple and practical steps to improve the treatment of animals by the end of 1998, focus on more complex long-term goals, and prepare procedures for working with suppliers to ensure these changes take place.²¹⁷ Significant improvements in McDonald's animal welfare policies were to have occurred by the end of 1998. At this time, however, McDonald's does not appear to have taken

²⁰⁸ John Vidal & Alex Bellos, *David & Goliath 315-Day Libel Case Leaves Burger Giant Tainted*, THE GUARDIAN, June 20, 1997 (visited Apr. 29, 1999) <www.mcspotlight.org/media/press/guardian_20jun97.html> .

²⁰⁹ Vidal, *supra* note 2, at 176; telephone interview with David J. Wolfson (June 15, 1999).

²¹⁰ *Id.* at 105.

²¹¹ SINGER, *supra* note 197, at 172.

²¹² *Id.*

²¹³ *Id.* at 172-73.

²¹⁴ *Id.* at 173.

²¹⁵ *Id.* at 176.

²¹⁶ SINGER, *supra* note 197, at 176.

²¹⁷ *Id.*

noticeable steps in the United States. There is some evidence that McDonald's Restaurant Limited in the United Kingdom has been more responsive to the concerns of animal protection activists.

The case should prompt the general public and shareholders to hold large corporations such as McDonald's responsible for cruel farming practices. McDonald's has the ability to instigate more humane farming practices among many of its suppliers and sub-suppliers. In Mr. Justice Bell's opinion, certain humane farming practices can be introduced at a low economic cost. At the very least, the public and McDonald's shareholders should be aware that McDonald's has, in the past, misrepresented the conditions in which animals used for its products are raised. Furthermore, McDonald's has taken no responsibility whatsoever for the inhumane treatment of such animals.

McLibel is particularly relevant with respect to the United States. At the outset, Mr. Justice Bell determined that a number of common farming practices used in the United States are unjustifiable and cruel.²¹⁸ While all of the cruel practices highlighted are legal in the United States, Mr. Justice Bell indicted the predominant statutory approach to cruel common farming practices in the United States which allows these practices to continue. For, as he notes, the Customary Approach "hand[s] the decision as to what is cruel to the food industry completely, moved as it must be by economic[s]."²¹⁹ The idea that a cruel farming practice is legally "not" cruel solely because it is common is, as Mr. Justice Bell recognized, unacceptable.²²⁰

Additionally, Mr. Justice Bell proffered a preferable, although still somewhat subjective, alternative to the completely subjective Customary Approach. A common farming practice is cruel if a judicial body (*not* the farming industry) determines it is deliberate and causes sufficiently intense suffering for a sufficient duration of time.²²¹ The proper application of this standard, both in the United States and Europe, could prohibit numerous cruel common farming practices; for example, the veal crate.

McLibel is also indicative of a general and disturbing trend: agribusiness' desire to prevent any public debate about its products. This is further demonstrated by the proliferation of arguably unconstitutional state agricultural disparagement statutes in the United States, providing a cause of action for agricultural producers for "damages from disparaging statements or dissemination of false information about the safety of the con-

²¹⁸ Opinion, *supra* note 14, at 5.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.* This test is similar to this discussion set forth by Justice Hawkins in the English nineteenth century case of *Ford v. Wiley* in relation to the meaning of the adverb "cruelty" as used in an anti-cruelty statute. *Ford v. Wiley*, 23 Q.B.D. 203 (1889). The court stated, [w]hat amounts to necessity or good reason for inflicting suffering upon animals protected by the statute is hardly capable of statutory definition—each case in which the question arises must depend on a variety of circumstances; the amount of pain caused, the intensity and duration of suffering, and the object sought to be obtained, must, however, always be essential elements for consideration.

Id. at 218.

sumption of food products."²²² McLibel and these statutes illustrate agribusiness' attempt to use the law to insulate itself from public criticism.

Ultimately, the dual recognition by a court that many common farming practices are cruel and that a large corporation such as McDonald's is culpably responsible for such cruelty is groundbreaking. Steel and Morris achieved much in the face of enormous odds. No court had ever examined common farming practices in such detail and determined that so many common farming practices are cruel. No court had ever held a corporation such as McDonald's, which does not directly inflict the suffering on the animals, culpable for such cruelty. Mr. Justice Bell's opinion, which is one of the first attempts by a court to investigate and evaluate common farming techniques, has crucial precedential value. Furthermore, while the opinion can be criticized for not going far enough in recognizing a number of cruel common farming practices, Mr. Justice Bell's commentary resonates with common sense, a quality often lacking in legal opinions dealing with animal issues.

Finally, and perhaps most importantly, McLibel leaves many unanswered questions. It is without dispute that countless common farming practices are cruel within the ordinary meaning of the word. Why do laws relating to farm animals in the United States and the United Kingdom allow such cruel common farming practices to continue? Why are such practices, which would be prohibited if applied to companion animals, legally sanctioned? Are the public in both the United States and the United Kingdom aware that a farming practice can be found by a court to be both cruel and lawful? Do citizens know any "common farming practice" is generally presumed to not be cruel under the law no matter how horrific, even when non-cruel farming alternatives exist, some of which present the farmer with no significant increase in costs?

Steel and Morris should be held in awe. To have fought (and continue to fight) this long battle alone, against a billion dollar entity with the risk they would suffer disastrous personal consequences, is astounding. The fact that Steel and Morris faced the best legal minds in England with no resources or experience, and walked away with significant legal victories, is not only a testament to Steel and Morris, but also to the validity of opinions they hold. It was their belief that many common farming practices are cruel and that McDonald's could have altered such practices if they wished. They were proven right.

Steel and Morris are not yet finished. Following a partially successful appeal, where they again represented themselves *pro se*, they announced their plan to appeal the remaining adverse portions of the case to the House of Lords, Britain's highest court, and if need be, to the European Court of Human Rights.²²³ Not satisfied with a one-front battle, the two filed a lawsuit in September 1998 against the London police, accusing

²²² David J. Bederman, *Food Libel: Litigating Scientific Uncertainty in a Constitutional Twilight Zone*, 10 DEPAUL BUS. L.J. 191, 196 (1998). Professor Bederman effectively demonstrates the unconstitutionality of these statutes.

²²³ Shaw, *supra* note 12, at 18.

them of improperly colluding with McDonalds to invade their privacy.²²⁴ This time, however, they hired an attorney.

²²⁴ McLibel Support Campaign Press Release #1, *supra* note 9.

APPENDIX A

WHAT'S WRONG WITH MCDONALD'S?
EVERYTHING THEY DON'T WANT YOU TO KNOW

WEBPAGE LEAD-IN

This was a specialist publication written in 1986 and not intended for distribution on the streets.²²⁵ Please check out, copy and distribute the current, shorter, snappier "What's Wrong with McDonald's" leaflet (available in 7 languages and as PDF files), of which 2 million have been circulated worldwide in the last 5 years.

LEAFLET

This leaflet is asking you to think for a moment about what lies behind McDonald's clean, bright image. It's got a lot to hide.

"At McDonald's we've got time for you" goes the jingle. Why then do they design the service so that you're in and out as soon as possible? Why is it so difficult to relax in a McDonald's? Why do you feel hungry again so soon after eating a Big Mac?

We're all subject to the pressures of stupid advertising, consumerist hype and the fast pace of big city life - but it doesn't take any special intelligence to start asking questions about McDonald's and to realize that something is seriously wrong.

The more you find out about McDonald's processed food, the less attractive it becomes, as this leaflet will show. The truth about hamburgers is enough to put you off them for life.

What's the connection between McDonald's and starvation in the "Third World"?

There's no point in feeling guilty about eating while watching starving African children on TV. If you do send money to Band Aid, or shop at Oxfam, etc., that's morally good but politically useless. It shifts the blame from governments and does nothing to challenge the power of multinational corporations.

HUNGRY FOR DOLLARS

McDonald's is one of several giant corporations with investments in vast tracts of land in poor countries, sold to them by the dollar-hungry rulers (often military) and privileged elites, evicting the small farmers that live there growing food for their own people.

²²⁵ The material included in this appendix is a partial reproduction of the pamphlet at issue in the McLibel case. The pamphlet was obtained from the internet and excludes the graphics. *What's Wrong with McDonald's?* (visited May 22, 1999) <<http://www.mcspotlight.org/case/pretrial/factsheet.html>>. To more aptly represent the cause of "McLibel," the pamphlet has not been edited for style or substance.

The power of the US dollar means that in order to buy technology and manufactured goods, poor countries are trapped into producing more and more food for export to the States. Out of 40 of the world's poorest countries, 36 export food to the USA - the wealthiest.

ECONOMIC IMPERIALISM

Some 'Third World' countries, where most children are undernourished, are actually exporting their staple crops as animal feed - i.e. to fatten cattle for turning into burgers in the 'First World'. Millions of acres of the best farmland in poor countries are being used for our benefit - for tea, coffee, tobacco, etc. - while people there are starving. McDonald's is directly involved in this economic imperialism, which keeps most black people poor and hungry while many whites grow fat.

A typical image of 'Third World' poverty - the kind often used by charities to get 'compassion money'. This diverts attention from one cause: exploitation by multinationals like McDonald's.

GROSS MISUSE OF RESOURCES

Grain is fed to cattle in South American countries to produce the meat in McDonald's hamburgers. Cattle consume 10 times the amount of grain and soy that humans do: one calorie of beef demands ten calories of grain. Of the 145 million tons of grain and so fed to livestock, only 21 million tons of meat and by-products are used. The waste is 124 million tons per year at a value of 20 billion US dollars. It has been calculated that this sum would feed, clothe and house the world's entire population for one year.

Fifty acres every minute every year an area of rainforest the size of Britain is cut down or defoliated, and burnt. Globally, one billion people depend on water flowing from these forests, which soak up rain and release it gradually. The disaster in Ethiopia and Sudan is at least partly due to uncontrolled deforestation. In Amazonia - where there are now about 100,000 beef ranches - torrential rains sweep down through the treeless valleys, eroding the land and washing away the soil. The bare earth, baked by the tropical sun, becomes useless for agriculture. It has been estimated that this destruction causes at least one species of animal, plant or insect to become extinct every few hours.

Why is it wrong for McDonald's to destroy rainforests?

Around the Equator there is a lush green belt of incredibly beautiful tropical forest, untouched by human development for one hundred million years, supporting about half of all Earth's life-forms, including some 30,000 plant species, and producing a major part of the planet's crucial supply of oxygen.

PET FOOD & LITTER

McDonald's and Burger King are two of the many US corporations using lethal poisons to destroy vast areas of Central American rainforest to create grazing pastures for cattle to be sent back to the States as burgers and pet food, and to provide fast-food packaging materials. (Don't be fooled by McDonald's saying they use recycled paper: only a tiny per cent of it is. The truth is it takes 800 square miles of forest just to keep them supplied with paper for one year. Tons of this end up littering the cities of 'developed' countries.)

COLONIAL INVASION

Not only are McDonald's and many other corporations contributing to a major ecological catastrophe, they are forcing the tribal peoples in the rainforests off their ancestral territories where they have lived peacefully, without damaging their environment, for thousands of years. This is a typical example of the arrogance and viciousness of multinational companies in their endless search for more and more profit.

It's no exaggeration to say that when you bite into a Big Mac, you're helping the McDonald's empire to wreck this planet.

What's so unhealthy about McDonald's food?

McDonald's try to show in their "Nutrition Guide" (which is full of impressive-looking but really quite irrelevant facts & figures) that mass-produced hamburgers, chips, colas, milkshakes, etc., are a useful and nutritious part of any diet.

What they don't make clear is that a diet high in fat, sugar, animal products and salt (sodium), and low in fiber, vitamins and minerals - which describes an average McDonald's meal - is linked with cancers of the breast and bowel, and heart disease. This is accepted medical fact, not a cranky theory. Every year in Britain, heart disease alone causes about 180,000 deaths.

FAST = JUNK

Even if they like eating them, most people recognize that processed burgers and synthetic chips, served up in paper and plastic containers, is junk-food. McDonald's prefer the name "fast-food". This is not just because it is manufactured and serve up as quickly as possible - it has to be eaten quickly too. It's sign of the junk-quality of Big Macs that people actually hold competitions to see who can eat one in the shortest time.

PAYING FOR THE HABIT

Chewing is essential for good health, as it promotes the flow of digestive juices which break down the food and send nutrients into the blood. McDonald's food is so lacking in bulk it is hardly possible to chew it. Even their own figures show that a "quarter-pounder" is 48% water. This sort of

fake food encourages over-eating, and the high sugar and sodium content can make people develop a kind of addiction - a 'craving'. That means more profit for McDonald's, but constipation, clogged arteries and heart attacks for many customers.

GETTING THE CHEMISTRY RIGHT

McDonald's stripy staff uniforms, flashy lighting, bright plastic decor, "Happy Hats" and muzak, are all part of the gimmicky dressing-up of low-quality food which has been designed down to the last detail to look and feel and taste exactly the same in any outlet anywhere in the world. To achieve this artificial conformity, McDonald's require that their "fresh lettuce leaf", for example, is treated with twelve different chemicals just to keep it the right colour at the right crispness for the right length of time. It might as well be a bit of plastic.

How do McDonald's deliberately exploit children?

Nearly all McDonald's advertising is aimed at children. Although the Ronald McDonald 'personality' is not as popular as their market researchers expected (probably because it is totally unoriginal), thousands of young children now think of burgers and chips every time they see a clown with orange hair.

THE NORMALITY TRAP

No parent needs to be told how difficult it is to distract a child from insisting on a certain type of food or treat. Advertisements portraying McDonald's as a happy, circus-like place where burgers and chips are provided for everybody at any hour of the day (and late at night), traps children into thinking they aren't 'normal' if they don't go there too. Appetite, necessity and - above all - money, never enter the "innocent" world of Ronald McDonald.

Few children are slow to spot the gaudy red and yellow standardized frontages in shopping centres and high streets throughout the country. McDonald's know exactly what kind of pressure this puts on people looking after children. It's hard not to give in to this 'convenient' way of keeping children 'happy', even if you haven't got much money and you try to avoid junk-food.

TOY FOOD

As if to compensate for the inadequacy of their products, McDonald's promote the consumption of meals as a 'fun event'. This turns the act of eating into a performance, with the 'glamour' of being in a McDonald's ('Just like it is in the ads!') reducing the food itself to the status of a prop.

Not a lot of children are interested in nutrition, and even if they were, all the gimmicks and routines with paper hats and straws and balloons hide the fact that the food they're seduced into eating is at best mediocre, at worst poisonous - and their parents know it's not even cheap.

RONALD'S DIRTY SECRET

Once told the grim story about how hamburgers are made, children are far less ready to join in Ronald McDonald's perverse antics. With the right prompting, a child's imagination can easily turn a clown into a bogeyman (a lot of children are very suspicious of clowns anyway). Children love a secret, and Ronald's is especially disgusting.

In what way are McDonald's responsible for torture and murder?

The menu at McDonald's is based on meat. They sell millions of burgers every day in 35 countries throughout the world. This means the constant slaughter, day by day, of animals born and bred solely to be turned into McDonald's products.

Some of them - especially chickens and pigs - spend their lives in the entirely artificial conditions of huge factory farms, with no access to air or sunshine and no freedom of movement. Their deaths are bloody and barbaric.

MURDERING A BIG MAC

In the slaughterhouse, animals often struggle to escape. Cattle become frantic as they watch the animal before them in the killing-line being prodded, beaten, electrocuted, and knifed.

A recent British government report criticized inefficient stunning methods which frequently result in animals having their throats cut while still fully conscious. McDonald's are responsible for the deaths of countless animals by this supposedly humane method. We have the choice to eat meat or not. The 450 million animals killed for food in Britain every year have no choice at all. It is often said that after visiting an abattoir, people become nauseous at the thought of eating flesh. How many of us would be prepared to work in a slaughterhouse and kill the animals we eat?

WHAT'S YOUR POISON?

Meat is responsible for 70% of all food-poisoning incidents, with chicken and minced meat (as used in burgers) being the worst offenders. When animals are slaughtered, meat can be contaminated with gut contents, feces and urine, leading to bacterial infection. In an attempt to counteract infection in their animals, farmers routinely inject them with doses of antibiotics. These, in addition to growth-promoting hormone drugs and pesticide residues in their feed, build up in the animals' tissues and can further damage the health of people on a meat-based diet.

What's it like working for McDonald's?

There must be a serious problem: even though 80% of McDonald's workers are part-time, the annual staff turnover is 60% (in the USA it's

300%). It's not unusual for their restaurant-workers to quit after just four or five weeks. The reasons are not had to find.

NO UNIONS ALLOWED

Workers in catering do badly in terms of pay and conditions. They are at work in the evenings and at weekends, doing long shifts in hot, smelly, noisy environments. Wages are low and chances of promotion minimal.

To improve this through Trade Union negotiation is very difficult: there is no union specifically for these workers, and the ones they could join show little interest in the problems of part-timers (mostly women). A recent survey of workers in burger-restaurants found that 80% said they needed union help over pay and conditions. Another difficulty is that the 'kitchen trade' has a high proportion of workers from ethnic minority groups who, with little chance of getting work elsewhere, are wary of being sacked - as many have been - for attempting union organization.

McDonald's have a policy of preventing unionization by getting rid of pro-union workers. So far this has succeeded everywhere in the world except Sweden, and in Dublin after a long struggle.

TRAINED TO SWEAT

It's obvious that all large chain-stores and junk-food giants depend for their fat profits on the labour of young people. McDonald's is no exception: three-quarters of its workers are under 21. The production-line system de-skills the work itself: anybody can grill a hamburger, and cleaning toilets or smiling at customers needs no training. So there is no need to employ chefs or qualified staff - just anybody prepared to work for low wages.

As there is no legally-enforced minimum wage in Britain, McDonald's can pay what they like, helping to depress wage levels in the catering trade still further. They say they are providing jobs for school-leavers [sic] and take them on regardless of sex or race. The truth is McDonald's are only interested in recruiting cheap labour - which always means that disadvantaged groups, women and black people especially, are even more exploited by industry than they are already.

EVERYTHING MUST GO

What's wrong with McDonald's is also wrong with all the junk-food chains like Wimpy, Kentucky Fried Chicken, Wendy, etc. All of them hide their ruthless exploitation of resources, animals and people behind a facade of colourful gimmicks and "family fun." The food itself is much the same everywhere - only the packaging is different. The rise of these firms means less choice, not more. They are one of the worst examples of industries motivated only by profit, and geared to continual expansion.

This materialist mentality is affecting all areas of our lives, with giant conglomerates dominating the marketplace, allowing little or no room for people to create genuine choices. But alternatives do exist, and many are

gathering support every day from people rejecting big business in favour of small-scale self-organization and co-operation.

The point is not to change McDonald's into some sort of vegetarian organization, but to change the whole system itself. Anything less would still be a rip-off.

WHAT CAN BE DONE

Stop using McDonald's, Wimpy, etc., and tell your friends exactly why. These companies' huge profits - and therefore power to exploit - come from people just walking in off the street. It does make a difference what individuals do. Why wait for everyone else to wake up?

YOUR INFLUENCE COUNTS

Research has shown that a large proportion of people who use fast-food places do so because they are there - not because they particularly like the food or feel hungry. This fact alone suggests that hamburgers are part of a giant con that people would avoid if they knew what to do. Unfortunately we tend to undervalue our personal responsibility and influence. This is wrong. All change in society starts from individuals taking the time to think about the way they live and acting on their belief. Movements are 'just ordinary people' linking together, one by one. . .

MAKE CONTACT, SHARE IDEAS

You might not always hear about them, but there are many groups campaigning on the issues raised here - movements to support the struggles in the 'Third World', to fight for the rights of indigenous peoples, to protect rainforests, to oppose the killing of animals etc.

Wherever there is oppression there is resistance: people are organizing themselves, taking courage from the activities of ordinary, concerned people from all round the world, learning new ways and finding new energy to create a better life. The apathy of others is no reason to hang around waiting for someone to tell you what to 'do'. You need no special talents to join in your local pressure group, or start one up - existing groups will give information and advice if necessary.

For leaflets on all aspects of vegetarianism and nutrition, animal rights and welfare, etc., contact ANIMAL AID, 7 Castle Street, Tonbridge, Kent. Plenty of other contacts can be made by writing to Greenpeace at the address below.

THERE'S A DIFFERENCE YOU'LL ENJOY: NO MORE MEAT!

Kicking the burger habit is easy. And it's the best way to start giving up meat altogether. Vegetarianism is no longer just a middle-class fad: last year the number of vegetarians in Britain increased by one-third. Most supermarkets now stock vegetarian produce, and vegans - who eat no animal products at all - are also being catered for. In short, the 'cranky' vegetarian

label is being chucked out, along with all the other old myths about 'rabbit food'.

Why not try some vegan or vegetarian recipes, just as an experiment to start with? When asked in a survey, most vegetarians who used to eat meat said they had far more varied meals after they dropped meat from their diet. Another survey showed that people on a meatless diet were healthier than meat-eaters, less prone to 'catch' coughs and colds, and with greatly reduced risk of suffering from hernia, piles, obesity and heart disease.

LIBERATION BEGINS IN YOUR STOMACH

There are loads of cheap, tasty and nutritious alternatives to a diet based on the decomposing flesh of dead animals: fresh fruit of all kinds, a huge variety of local & exotic vegetables, cereals, pulses, beans, rice, nuts, whole grain foods, soya drinks etc. All over the country whole-food co-operatives are springing up. Now is a really good time for change.

A vegan Britain would be self-sufficient on only 25% of the agricultural land presently available. Why not get together with your friends and grow your own vegetables? There are over 700,000 allotments in Britain - and countless gardens.

The pleasure of preparing healthy food and sharing good meals has a political importance too: it is a vital part of the process of ordinary people taking control of their lives to create a better society, instead of leaving their futures in the cynical, reedy [sic] hands of corporations like McDonald's.

WHO MADE THIS LEAFLET?

The London Greenpeace Group has existed for many years as an independent group of activists with no involvement in any particular political party. The people - not 'members' - who come to the weekly open meetings share a concern for the oppression in our lives and the destruction of our environment. Many opposition movements are growing in strength - ecological, anti-war, animal liberation, and anarchist-libertarian movements - and continually learning from each other. We encourage people to think and act independently, without leaders, to try to understand the causes of oppression and to aim for its abolition through social revolution. This begins in our own lives, now.

Postal address: Greenpeace (London), 5 Caledonian Road, London N1.