

Submission
No 227

**INQUIRY INTO EXHIBITION OF EXOTIC ANIMALS IN
CIRCUSES AND EXHIBITION OF CETACEANS IN NEW
SOUTH WALES**

Name: The Hon. Wilfred P. Moore
Date Received: 22 November 2019

The Honourable Wilfred P. Moore, Q.C., LL.D.

Lunenburg, Nova Scotia B0J 2C0
Canada

November 21, 2019

Portfolio Committee No. 4 – Industry,
New South Wales Legislative Council,
Sydney, New South Wales,
Australia

Dear Members of Parliament:

Re: New South Wales Committee Inquiry into Cetacean Exhibitions

As a former member of the Senate of Canada and the original sponsor of Bill S-203, (*End the Captivity of Whales and Dolphins*), I write to commend your Inquiry into the captivity of cetaceans. Our Bill was enacted into federal law on June 21, 2019, achieving a historic nationwide phase-out of whale, dolphin and porpoise captivity for entertainment purposes, among its other provisions. We hope your Inquiry will lead to a similar policy being proposed and adopted in Australia.

Our Bill was based on the strong scientific evidence that cetacean captivity is inherently cruel, primarily because the biological and ecological needs of cetaceans cannot be met in the conditions of captivity. As you know, these creatures exhibit high-level intelligence, emotions, sociability, complex communication ability and roaming lifestyles. The harms of their captivity include confinement, isolation, behavioural disturbances, health problems, reduced lifespans, high infant mortality rates and sensory deprivation, which must be acute for such creatures that experience the world through echolocation.

Bill S-203 enacted the following changes to Canadian law, including the phase-out by grandfathering the ownership and custody of cetaceans already in captivity:

- An animal cruelty criminal prohibition on breeding cetaceans, unless provincially licensed for scientific research, and a prohibition on the non-scientific possession of cetacean reproductive materials; subject to a maximum \$200,000.00 fine (CAD);
- A prohibition on taking new cetaceans into captivity, with exceptions for rescue and rehabilitation, or if provincially licensed for cetaceans' best interests (for example, relocating imported aquarium cetaceans to an open water sanctuary, such as the Whale Sanctuary Project's site under consideration for beluga whales in Nova Scotia); subject to a maximum \$200,000.00 fine;

- A prohibition on performances for entertainment purposes, unless licensed by a province; subject to a maximum \$200,000.00 fine;
- A prohibition on capturing cetaceans to take them into captivity, except for rescues, subject to penalty under the *Fisheries Act*;
- Federal restrictions and licensing requirements for the import and export of cetaceans or their reproductive materials, and limiting potential imports or exports to the purposes of scientific research *and* in the cetaceans' best interests; and
- Clarification that these measures do not affect Indigenous Peoples' constitutional rights, including Inuit rights to hunt some whales and trade in narwhal tusks.

As you consider witnesses who may appear before your Inquiry, I particularly recommend to you consultation with the four marine scientists who were key in proving our case during proceedings at the Senate Standing Committee on Fisheries and Oceans: Dr. Ingrid Visser of New Zealand; Dr. Lori Marino and Dr. Naomi Rose of the USA; and Dr. Hal Whitehead of Canada. In addition, these scientists are leaders behind the Whale Sanctuary Project, and qualified to discuss welfare-oriented sanctuary models for cetaceans now in captivity.

As well, I would note with gratitude that Senator Murray Sinclair championed Bill S-203 as sponsor thereof following my retirement from the Senate. As a former judge and Chair of the Truth and Reconciliation Commission of Canada (in relation to the injustice of residential schools for Indigenous children), Senator Sinclair was a powerful and compassionate voice for protecting our cetaceans. His leadership and legal improvements to Bill S-203, together with the supporting efforts of other Indigenous Senators, ultimately proved decisive in advancing this Bill into law. I suggest that you consult with Senator Sinclair for his views and advice, including the possibility of working with Indigenous leadership and partners in Australia on this matter as I understand that cetaceans have special cultural significance to Indigenous communities in your country as well.

Finally, I would urge you as legislators to take on this cause with determination. Do not to hesitate to call on our Canadian team where we may be of assistance. Canada and Australia can lead the way together, as we work to end the captivity of whales and dolphins worldwide. As the late, great Mahatma Ghandi said, "The greatness of a nation and its moral progress can be judged by the way its animals are treated."

Yours/sincerely,

The Honourable Wilfred P. Moore, Q.C., LL.D.
Former Senator for Nova Scotia, Canada