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**Monday 25 May 2015**

**Journal  
des débats  
(Hansard)**

**Lundi 25 mai 2015**

**Standing Committee on  
Social Policy**

Ontario Society  
for the Prevention  
of Cruelty to Animals  
Amendment Act, 2015

**Comité permanent de  
la politique sociale**

Loi de 2015 modifiant  
la Loi sur la Société  
de protection des animaux  
de l'Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Monday 25 May 2015

Lundi 25 mai 2015

*The committee met at 1402 in room 151.*

ONTARIO SOCIETY  
FOR THE PREVENTION  
OF CRUELTY TO ANIMALS  
AMENDMENT ACT, 2015  
LOI DE 2015 MODIFIANT  
LA LOI SUR LA SOCIÉTÉ  
DE PROTECTION DES ANIMAUX  
DE L'ONTARIO

Consideration of the following bill:

Bill 80, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act and the Animals for Research Act with respect to the possession and breeding of orcas and administrative requirements for animal care / Projet de loi 80, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario et la Loi sur les animaux destinés à la recherche en ce qui concerne la possession et l'élevage d'épaulards ainsi que les exigences administratives relatives aux soins dispensés aux animaux.

**The Chair (Mr. Peter Tabuns):** Good afternoon, everyone. We're here for clause-by-clause consideration of Bill 80, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act and the Animals for Research Act with respect to the possession and breeding of orcas and administrative requirements for animal care.

Please note that, pursuant to the order of the House dated April 22, 2015, at 4 p.m. today, those amendments which have not yet been moved shall be deemed to have been moved and I, as Chair of the committee, shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto.

Any division or recorded vote required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed, pursuant to standing order 129(a).

There is a section at this point that doesn't have any amendments, sections 5 to 12, and I am going to propose that consecutive sections with no amendments be grouped together, unless any members would like a separate vote on those sections.

**Mr. Tim Hudak:** Chair?

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** I just wanted to make some opening comments. I'm happy to respond, and I know my colleagues will as well, on your proposal.

**The Chair (Mr. Peter Tabuns):** Then, I will say, just before you do that, are there any comments or questions before we proceed? Mr. Hudak, you have the floor.

**Mr. Tim Hudak:** Thank you, Chair. I just wanted to lay out for members and those following the debate on Bill 80 our perspective on how best to approach this bill based on what we heard from the public and what we heard during committee. My colleague Mr. Nicholls, the member for Chatham–Kent–Essex, has a particular perspective he wants to share at the beginning that will, I think, inform the members why we brought forward the amendments to the bill that we have. Mr. Nicholls is going to talk particularly about the economic impact if this bill goes the wrong way and talk as well about proper standards, specifically around—what we heard a lot at committee—the UK model versus other, more modern ways of making decisions on the regulatory process.

I think we've been very clear, from Mr. Nicholls's opening comments in debate to our time here at committee, that the Ontario PC Party is taking the approach that we need to make sure that we have world-class standards when it comes to animal welfare. The approach I recommend for the committee and in our votes today is to be thoughtful, to be science-based, and to listen to the scientific evidence that we heard here at committee.

We really are concerned that in some of the approach the government took initially—and they've backed away from it, I think, during committee—it seemed to be a bit more about maybe distracting from other issues, or scoring short-term political points, as opposed to what it should be about, and that is having the highest standards for animal welfare and ensuring that what is a major business and employer in the area can continue to attract a million people a year to Niagara Falls and keep about 700 people employed directly, and, indirectly, a lot more.

I have a concern, and I know it's shared by many of my colleagues here at committee, that the other side of the argument, which is not only to pass the bill as is but to expand the prohibition on orcas to include Kiska and, as we heard from some of the deputations, to expand the number of species that would be banned in Ontario broadly across cetaceans and pinnipeds—have I got that

right?—basically seals, sea lions and walruses, is advice that should not be implemented in this bill, and let me tell you why.

I have no doubt that the arguments that the activist groups make are sincere. They're well-meaning. There's no doubt that they care very deeply about the animals. But while it's well-meaning and sincere, it strikes me that it's more about animal-rights politics than animal welfare.

I guess I would say that a fair point is, if you're making a ban on orcas, what's the difference between an orca and a beluga whale or a dolphin or seals or sea lions? That's certainly where the more activist routes go. They were dissatisfied with the bill, because they don't think it goes far enough. But as legislators, I think we have to be cool-headed and thoughtful about this. We need to make decisions that are in the best interests of the animals, based on the best scientific evidence, not emotion.

People can always choose, based on their ideology. If you don't believe that animals of any kind should be in captivity, then you can simply choose not to go to Marineland or the Metro zoo or the High Park Zoo, and people make that choice. It's not a position that I particularly agree with, Chair, for my own family or my own recreation time, but I respect people's view on that, and they choose not to go.

There are, however, families like mine, and a million people a year, who choose to take their kids to Marineland, who enjoy the value of seeing these magnificent animals up close, to enjoy their majesty. I think that imbues, in a lot of young people, a respect for the wildlife and understanding and a greater compassion for them than if you simply saw a YouTube video or a movie from time to time.

I think there's considerable educational value as well in some of the programs that Marineland runs, particularly for kids with disabilities, to actually get to know the animals up close and learn about them and what makes them what they are, and the importance of conservation efforts, because they can see, feel and touch.

So I want to recommend to committee members that we base these decisions on the best available science and not go down a trail of emotion or of eliminating the choice that families can make to attend parks like Marineland.

The seven amendments we bring forward all are at that basis: to make sure that we have the best science, that we have world-class standards—and world-class standards that are set, investigated and enforced by experts in the field, people who actually understand marine mammal biology in parks, not somebody who does this at a part-time job or as part of a larger job.

The other part I want to say is—and I'll hand over to Mr. Nicholls shortly—if we take the other route—so I hope our amendments are taken. If not all seven, we'll take four out of seven. If you hit 0.333, you get into the hall of fame in baseball. We do hope we get some passed. But if we take that other approach, the more narrow,

ideological approach, and say that we should end having any kinds of animals in captivity in the province, either immediately or piece by piece, as I'm concerned the government may want to do, what would be the consequence of that?

**1410**

First you take away those million visits of families for entertainment and educational value to enjoy a day at Marineland in Niagara Falls. You will lose a significant number of jobs in the area. You will lose the opportunity and—we heard directly from scientists—the ability to study the animals and make sure that we continue to improve animal welfare standards and understand how they make their decisions, and we will lose what I think is the biggest advertiser in the entire Niagara region to bring more tourists to the area. So we cannot lose sight of the significant and devastating economic impact if the committee sets unachievable changes in the legislation that would shut the park down either in the short term or the long term.

Let's instead improve the legislation and make sure that we have a science-based and evidence-based approach on the regulations and on the bill itself. Let's avoid the narrow ideological view that, I think, when we heard from some of the groups, was based more on a vendetta or personalities than on the right decision based on the science we heard.

I think Mr. Nicholls has more to say, Chair, about the economic value of Marineland and some of the international standards in comparison.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Mr. Nicholls.

Are there any other speakers who want to be on the list? Mr. Balkissoon, okay. Thank you.

**Mr. Rick Nicholls:** Thank you, Chair, and thank you, Mr. Hudak. As I begin my remarks, I want to take you back in time—take you all the way back to 1986. Some of us in this room can remember that far back. When IBM released its first laptop, it weighed an astounding 12 pounds and it was nowhere near as powerful as the smartphones that fit into our pockets today. The Nintendo entertainment system was released in North America. Cellphones had to be, believe it or not, carried around in bags that weighed approximately 12 pounds as well—1986. Back then, that was modern technology. That, ironically, was when the UK standards of care that the government is using as a foundation for the new marine mammal care regulations were developed. They're as old as Betamax—not the government; the regulations—and about as widely used as well.

Today, we're no longer lugging around those massive laptops or cellphones. One would be foolish to hold onto technology or thinking of the past. That's why Mr. Hudak and I are, again, basing our decisions on what we would call the best scientific facts, and not purely on emotion, as may be implied.

So then why is the government in fact insistent on relying on standards and practices of marine mammal care that are obsolete? Through these committee hearings, we have had the opportunity to hear from a variety

of experts in animal care. Marine mammal experts are concerned that the government's self-imposed deadline has forced it to rely on an outdated set of standards developed in the UK in 1986. The UK standards are simply outdated. Just as technology has advanced so much since 1986, so too has research on marine mammals and standards of care.

Bruce Dougan, who was in fact the head of New Brunswick's task force looking into exotic animal regulation, stated in committee that the government is unnecessarily rushing the advisory process compared to New Brunswick, which took the better part of a year to do its research and in fact hold consultations. Mr. Dougan said that "we have hoped to see the government opt for a rigorous review of options to enhance the level of care and well-being of marine mammals rather than a mad dash to an imaginary finish line."

Dr. Rosen, whose report was supposed to be the basis of this legislation and future regulations, called for the new Canadian Council on Animal Care, also known as CCAC, standards to be adopted instead of the decades-old UK standards.

Dr. Martin Haulena is the chief or head veterinarian at the Vancouver Aquarium, adjunct professor of clinical sciences at North Carolina State University and adjunct professor at the University of British Columbia's fisheries science centre. In his expert opinion, it is illogical to expect to be able to implement standards developed in the 1980s for bottlenose dolphins to other marine mammals and that this would be detrimental to the quality of care received by these animals.

Dr. Haulena stated in committee that "developing a standard for a bottlenose dolphin that now has to be, just with the mathematical model, expanded to a beluga whale or to a porpoise or to any other species is just impractical, unreasonable, unscientific and, from all we know, impossible."

The UK standards have not been adopted anywhere in the world because they are outdated and impossible to implement, so if the government adopts these obsolete standards they will cause, in fact, substantial loss of economic activity, more specifically in the Niagara region. The outcome would mean the closure of Marineland as well as other aquatic facilities. If that is the government's end goal, they should be up front about this and let the region know what the economic impact of these decisions will, in fact, be.

Mr. Wayne Thomson, a councillor representing Niagara Falls Tourism, stated that Marineland provides 700 jobs directly, but, more importantly, there are 36,000 more related jobs in the Niagara Falls region itself. It generates millions of dollars in economic activity each year and provides \$4.5 million each year in regional advertising. That's Marineland by itself. Closing the facility would come at a tremendous cost to the people of Niagara Falls.

In conclusion, I think that each of us agrees that more must be done to protect marine mammals in captivity. What we don't want to see is the government just rushing the process, endangering the well-being of animals and

being forced to rely on outdated standards that have never been adopted and would cause unnecessary hardship on an already fragile region.

We ask the government to take the time to get it right and base their decisions on the most up-to-date, scientifically-based research, instead of old ideology. Let's work at improving this legislation. We hope that the government will, in fact, adopt our amendments to strengthen this legislation. Thank you, Chair.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Mr. Chair. Just to make a few comments in reply to my two colleagues on the opposite side, I find that the comments that they're making are probably valid, but I think it's all speculative. I'm having trouble following them because I just kind of flipped through the act again and again as they were both speaking.

To the comment that the government intends to affect a business in the Niagara region, I don't think that's the government's intent. I don't see it anywhere in the legislation. In fact, the comment about banning mammals altogether is nowhere in the legislation. In fact, if you look, the legislation clearly has a transition clause in it to recognize that Marineland has an orca today. It has been there before March 22 and it will remain there. What the government intends to do, which is speculative on my colleague's part, is set the standard of care for these animals if they're in captivity. They both make reference to how it should be based on science, and I believe that the government has done that by consulting the appropriate people along the way.

We also heard in the committee from experts who were on a conference call with us. I noted their comments, and they're nowhere close to what my colleagues mentioned.

Mr. Nicholls makes reference to a UK set of standards. I don't find those anywhere in the legislation. If he's speculating that that's what will come in regulation, I would say it's sheer speculation.

I hope we can move this forward and that the minister will deal with the regulations that he has to deal with. The parties involved will find, at the end, that we have found that reasonable balance between mammal care, animal care and the economic viability of the business that exists in Niagara Falls. I don't think anybody has an intent, as has been speculated on the other side. I just want to make sure I get those comments on record.

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**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Hudak?

**Mr. Tim Hudak:** I appreciate the parliamentary assistant's response to our framework on how we want to approach the committee hearing today, so certainly some words I'm happy to hear. But maybe I can just press a bit more on that. We are worried about the UK standards, as we indicated. We did hear at committee that they were, as Mr. Nicholls pointed out, from 1986, quite some time ago. I think then I was worried about my prom date and

whether I'd get one or not. It worked out okay; I can see your concern. It was a nice night.

What I want to hear from the parliamentary assistant, though, is—help us end the speculation—do I understand the government is not considering the UK standards when it comes to the regulations in this bill?

**Mr. Bas Balkissoon:** Those regulations are not developed yet, Mr. Chair. I think to speculate where the government is going is premature.

**Mr. Tim Hudak:** Okay, but you can just try to—

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** Thanks, Chair. Just to be very simple and straightforward about this, you'd end the speculation if you told us that the UK standards were off the table.

**Mr. Bas Balkissoon:** But if you read the bill, I don't think you could speculate that.

**Mr. Tim Hudak:** Okay—

**The Chair (Mr. Peter Tabuns):** Gentlemen, address me, and then we'll end the conversation. Mr. Hudak, you may speak.

**Mr. Tim Hudak:** Through you, Chair, it would be tremendously helpful—and the parliamentary assistant is concerned about speculation. We've heard, really, two things: strong support for the CCAC standards, which were brought together by experts from across North America; they are a complete package as opposed to a smorgasbord of pick and choose from different standards to appease particular interest groups. It would just be very reassuring for us in the PC Party and maybe help us take some amendments off the table if we heard clearly that you're going to base regulations on the CCAC standards and you're rejecting the UK standards.

**The Chair (Mr. Peter Tabuns):** Are there any other comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** All I can say to my colleague is that as the minister goes through the regulations, he'll take everything into consideration. That would be the full spectrum of what's available to him. I won't speculate as to one particular standard over another. He would look at best practices, and we intend to look at what is best for the mammals in captivity.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak, you have an interest in speaking. May I suggest to you, members of the committee, that it may be useful for you to get into the detail as you go through the bill and talk about amendments. Mr. Hudak?

**Mr. Tim Hudak:** For sure. I'm just, in the interest of the committee's time, trying to find a way to economize on the debate. If we heard from the government that they rejected the UK standards around tank size, we could take a few amendments off the table. As Mr. Nicholls outlined, if you implement the UK standards around tank size, it basically shuts the park down. I'm hearing from the parliamentary assistant that they have no intention of shutting the park down. It would just, I think, send a signal for confidence in the Niagara Falls community and the broader public if you told us that the minister is not considering the UK standards when it comes to pool size.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Madame Lalonde is on my list.

**Mrs. Marie-France Lalonde:** Thank you, Mr. Chair. I really appreciate the discussion, and I value Mr. Hudak's point of view. We do have time to move forward and move into the purpose of today, which is clause-by-clause and having a discussion maybe on some of those motions, and then you can bring back those points.

**The Chair (Mr. Peter Tabuns):** Thank you, Madame Lalonde. Any other comments? Mr. Hudak?

**Mr. Tim Hudak:** I appreciate Madame Lalonde's advice on our approach at committee. It's just that this is not trivial; right? It seems to me a significant amount of work was done in constructing the CCAC standards. The UK standards come from 1986. They have been implemented in zero countries around the world and resulted in the closure of facilities in the UK.

My advice to the government members: If they are clear that they are rejecting the UK standards, that will help us proceed and just restore a bit of confidence in Niagara Falls—in Niagara and the community. They're reluctant to do that, so that tells me that the UK standards are still on the table. I think it would be helpful if you took them off.

I want to read Dr. Rosen's comments into the record if I could, Chair. I know he sent a written submission to the committee. Dr. Rosen, of course, is extremely busy and lives out in British Columbia, so he sent in a written presentation to the committee. It was just too bad it didn't work out for him to testify in person, but I understand the demands on his schedule given his expertise as a worldwide leader when it comes to marine mammal care. I'm going to ask for the indulgence of the Chair. I just want to read in Dr. Rosen's comments into the record so it's permanently in Hansard. I want to remind committee members—I think they know—that Dr. Rosen was actually chosen by the government to bring back recommendations when it came to the appropriate standards to make sure we have world-class standards when it comes to care for marine mammals. The government and the minister at the time commended Dr. Rosen for his report.

Many aspects of Dr. Rosen's report, to the credit of the government, were adopted. There was a major area that you didn't adopt, and that gets to tank size standards and the UK model. I just believe that if the government placed faith in Dr. Rosen to be a leader for them in making recommendations, it stands to reason that they would follow through on his recommendations when it comes to avoiding the UK standard when it comes to tank size and the impact on the local economy.

This is dated May 7, 2015:

“Dear Minister Naqvi:

“I am writing to you and the Legislative committee to clarify some information contained in the report Developing Standards of Care for Marine Mammals in Captivity and Recommendations Regarding How Best to Ensure the Most Humane Treatment of Captive Cetaceans. I feel this information is important in your consideration of Bill 80.

“The objective of the government of Ontario is to develop and implement a set of criteria that will ensure the mental and physical health of marine mammals in human care. The report I co-authored made a host of recommendations, many of which were based upon those developed (but not released publicly at the time) by the Canadian Council on Animal Care. These criteria were developed after extensive consultation with experts and stakeholders. For that reason, the report recommended the adoption of the CCAC guidelines (with minimal modification) as a specific standard of care for marine mammals under the OSPCA Act.

“Another key finding of the report was recommendation ii(f): Consideration must be given to the three-dimensional environment in which marine mammals live and the need to provide sufficient space for species-appropriate activities both in and out of the water. Therefore, it is recommended that each facility adopt a set of minimum space requirements that are based upon established, internationally recognized codes.

“Unfortunately, the issue of pool size and geometry is one topic not specifically addressed by the CCAC guidelines. Our report recommended that a set of standards be put in place, based on the observation that neither Canada nor Ontario currently have regulations or sets of standards defining explicit pool sizes and dry haul-out space for marine mammals. This set of standards could be either adopted by individual institutions or imposed by suitable government bodies. The report then went on to list five nations that have produced such sets of standards (United States, United Kingdom, Brazil, the Bahamas, and Argentina), as well as noting that the European Association of Aquatic Mammals has produced a set of guidelines specific to bottlenose dolphins. In addition, there are other organizations, such as the Alliance of Marine Mammal Parks and Aquariums, who also have guidelines for their members.

“The purpose of listing these different sets of standards is to provide information and examples to the government on standards of care. It does not represent a complete list of options, nor does it intend to provide any sort of judgement on the comparative value of any of these standards. Each of these sets of standards is different. For example, to my knowledge, only the US Dept. of Agriculture and the alliance regulations contain standards of care for all marine mammals, and not just cetaceans, while the proposed UK regulations have never actually been implemented in any facility.”

I just want to step aside from the remarks here to underline that. It says, again, that “the proposed UK regulations have never actually been implemented in any facility.” That’s the government’s hand-picked expert on this matter.

“We did not provide the government a specific recommendation for two reasons. First, such a specific recommendation was outside of the scope of the report. Second, insufficient scientific information exists on which to base any quantitative evaluation. As noted in the report [pg. 16], ‘Each of these represents an attempt

at best practices, and there is no substantial scientific basis for adoption of one set of criteria over another.’

“This point is also acknowledged by Drs. Klinowska and Brown in their 1986 report, *A Review of Dolphinarium*, prepared for the UK Dept. of the Environment as part of the preparations for UK standards of care. They note:

“(1) The various national and international standards for the housing and care of cetaceans are more or less agreed on all points except minimum pool dimensions and subsidiary pool provisions.

“(2) There is no research evidence whatsoever on the question of pool size or other pool requirements. Nor is there any research available on the social distances of the species, on their requirements for surface area and depth, or on the effects of training on exercise space needs.

“(3) Until such information is available, no true picture of the accommodation required can be obtained.

**1430**

“Unfortunately, in the 30 years since the report by Klinowska and Brown, insufficient research has been undertaken to make such decisions on a scientific basis. This does not mean, however, that such an approach is not possible. It is my opinion that what is required is a set of standards of care based upon verifiable best practices, informed by quantitative data produced and analyzed in a scientific manner. Fortunately, such a ‘natural experiment’ already exists within the variety of facilities and marine mammal species currently held in aquariums within North America. This would provide the basis of a study of existing pool sizes and physical parameters measured against impartial criteria of animal health and well-being. Such an objective approach, initiated and supported by the government of Ontario, would place the province in the forefront of animal welfare practices and serve as a model for other jurisdictions.”

Dr. Rosen concludes by saying, “I am glad that the government of Ontario is seeking to ensure the well-being of marine mammals held for public display in the province. I encourage it to continue to seek advice from the scientific and animal health community and stakeholders with experience in marine mammal management.

“With respect,

“Dr. David Rosen

“Marine Mammal Research Unit

“University of British Columbia.”

I thank the members for their patience. I thought it was very important to get the government’s own expert, since he couldn’t appear at committee, permanently on the record beyond a written submission.

Just my last question on this: If your own expert, Dr. Rosen, recommends not adopting the UK standards, why doesn’t the government just rule it out now?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Madame Lalonde.

**Mrs. Marie-France Lalonde:** Again, I really appreciate the discussion we’re having, but I would like to reiterate that this committee is here to discuss the clause-by-clause. It is my understanding there may be a motion

that the member has brought forward, and we certainly can debate it at that point.

Mr. Chair, I would ask for your indulgence in bringing this meeting on the clause-by-clause aspect, please.

**The Chair (Mr. Peter Tabuns):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** With due respect to my colleague on the other side—he's been here a lot longer than I have and he understands process. I think what he's trying to do is get out of the government what the regulation is today, before we have an act. The best I can give him is that the minister has requested that study, the minister has the study, and during the regulation-writing process—it's currently under development; it's not written yet—we will take best practices into consideration and we will look at the whole industry.

I don't know why you have this fear that the minister is going to proceed with the UK standards, which you believe will shut the business down. We're telling you: That's not our intent. I don't know what else I can tell you.

**Mr. Tim Hudak:** I'm feeling better about this now.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** Sorry. Thank you, Chair. Madame Lalonde doesn't play a particular—do you play a role within the ministry, too, on this bill, or are you just part of the committee?

**Mrs. Marie-France Lalonde:** No. I'm part of this committee.

**Mr. Tim Hudak:** I just want to make sure I heard what the parliamentary assistant said. You said it's not your intention; your intention is not to use the UK standard.

**Mr. Bas Balkissoon:** I did not say that. I said he would use all the best practices, and whatever reports he went out there and got, that's what he will take into consideration when he creates the regulations.

**Mr. Tim Hudak:** I'll conclude this, and my colleague may have some further comments. You've already set out the process for a regulatory review. You've got your TAC committee, so the work has been happening. The time frame is pretty tight for the complexity of this issue and the number of animals that are involved.

I just think that you would create more goodwill at the committee and you would ease concern in my region of the province if you said that you would set aside the UK standards on tank size. It seems to me that if your own expert said it wasn't relevant—I just don't get why you don't agree with him.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Any other comments?

We can move to the bill. We go to section 1. We have no amendments. Shall section 1 carry? Carried.

**Mr. Tim Hudak:** Recorded vote, Chair.

**The Chair (Mr. Peter Tabuns):** You asked after. For the next one, you mean?

**Mr. Tim Hudak:** Yes.

**The Chair (Mr. Peter Tabuns):** Fine. We go to section 2. The first amendment is by the PCs. Mr. Nicholls.

**Mr. Rick Nicholls:** I move that subsection 11.1(1) of the Ontario Society for the Prevention of Cruelty to

Animals Act, as re-enacted by section 2 of the bill, be struck out and the following submitted:

“Standards of care and administrative requirements for animals

“(1) Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care, and, on or after January 1, 2020, the prescribed administrative requirements, with respect to every animal that the person owns or has custody or care of.”

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls, before you proceed any further, you read the word “submitted” instead of the word “substituted.”

**Mr. Rick Nicholls:** Oh, forgive me.

**The Chair (Mr. Peter Tabuns):** Could you just state—

**Mr. Rick Nicholls:** Would you like me just to reread that?

**The Chair (Mr. Peter Tabuns):** Just tell us that the word you want is “substituted.”

**Mr. Rick Nicholls:** I'd like to substitute the word “substituted” as opposed to the word that I said earlier.

**The Chair (Mr. Peter Tabuns):** “Submitted.”

**Mr. Rick Nicholls:** “Submitted”—thank you.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. There being no further discussion, are we ready to go to the vote?

**Mr. Rick Nicholls:** No, I do have—

**The Chair (Mr. Peter Tabuns):** You would like to speak? Mr. Nicholls.

**Mr. Rick Nicholls:** We feel, Chair, that this is a very reasonable amendment because of the fact that it will delay the prescribed administrative requirements for just five years. That will allow further study. We want to make sure that we get this flawed bill right. That's one of the reasons why we're asking for it to be the year 2020—five years long.

In addition, it's time that we listened to renowned experts such as Dr. Michael Noonan and Mr. Bruce Dougan, who was the chair of New Brunswick's exotic animal task force. These are the experts.

We need to take time to study and to incorporate modern sciences and multiple international best practices. My colleague had talked earlier about how the minister is going to look at best practices. We're suggesting that we want to give him the appropriate amount of time in order to review those best practices and standards and not simply the UK standards, which we are stating may in fact be the case.

Lastly, the only other thing I'd like to add, Chair, is that according to Mr. Dougan, who chaired the New Brunswick task force, said—and this is paraphrased from the committee Hansard on page 4—that they met weekly for a full day for nine months, on average; whereas, and this is again paraphrased from Hansard page 5, some of the TAG meetings were, in fact, cancelled.

Again, Mr. Chair, we're looking at this particular amendment. We don't want to rush into it. I'm sure that the government doesn't want to rush into this either. I have an old-time saying, which is, “Go slow to go fast.”

If we go fast, we then have to go slow, because then we realize, “Oops, we may have missed some things. We were a bit premature.”

I’m asking the government to go slow to go fast. Let’s make sure we get it right. That’s why we’re asking that five years be the amount of time that the minister or subsequent ministers will have in order to look at this particular amendment to the bill.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. The committee is ready to vote. You’ve asked for a recorded vote.

Did you want to speak, Mr. Hudak?

**Mr. Tim Hudak:** Yes. I was curious if the government was going to respond to Mr. Nicholls’s suggestion.

**The Chair (Mr. Peter Tabuns):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** Just to respond, the government can’t support this motion, and I’ll tell you why. If you look at it, the primary change is to allow five years and delay the whole process. The process has been in the mill for quite a while.

I don’t understand his requirement that five years is appropriate when we’ve already gone out and asked for the expert report from Dr. Rosen. On top of that, we have the guidelines being put forward by the Canadian Council on Animal Care. So I have difficulty in setting that exact time frame. If we get the legislation in place—hopefully, today—and then back to the House, then the minister will work on his regulations on the standard of care. I don’t see why my colleagues on the opposite side have this great fear that he needs this five-year time frame. All it does is delay the process.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Nicholls.

**Mr. Rick Nicholls:** To my colleague across: It’s not a question of fear. It’s just that we want to ensure that we do get it right, and we need time in order to do so.

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Again, that five-year time frame that we’ve put on this will in fact give the government lots of time to develop modern-day standards, not standards that were developed back in 1986, the UK model. That will give them plenty of time to develop those modern standards and policies, which are based on more science and multiple international best practices. I’m sure that the minister would appreciate some extra time on this as well. I don’t want to put words in your mouth or in his, but again, we need to go slow to go fast.

You may think that five years is too slow. We think that if we’re going to do this, we need to do it right the first time and not have to come back. Again, I want to indicate to you, sir, that the economic impact is extremely substantial. I know that is not one’s intent, but intent versus what can oftentimes happen and does happen are two very different things. We want to just help you help us by your taking a good, hard look at our amendment and voting in favour of it.

**The Chair (Mr. Peter Tabuns):** Seeing no further comments—Mr. Hudak?

**Mr. Tim Hudak:** The parliamentary assistant earlier on talked about the minister considering all options. He’s

going to consult broadly in forming the regulations. Do you have a point of view of how long that regulatory process is going to take? Are you rushing through it? Will it maybe be a year or two?

**The Chair (Mr. Peter Tabuns):** Are there any further comments? There being none—Mr. Hudak?

**Mr. Tim Hudak:** I just want to reinforce my colleague, Mr. Nicholls. It’s important to get it right. I think, as we heard from experts, when it comes to things like tank sizes and the advancement in knowledge of marine mammals, there’s a complexity to this. Dr. Rosen says there’s a significant data set that we should look through. I just want to make sure that the government doesn’t rush through this for the intention of a quick political announcement and that they actually take the time to get it right. Would the parliamentary assistant consider, if not a five-year time frame, a two-year time frame?

**The Chair (Mr. Peter Tabuns):** Are there any further comments? There being none, is the committee ready to vote?

**Mr. Tim Hudak:** Well—

**The Chair (Mr. Peter Tabuns):** Mr. Hudak, would you like to speak again?

**Mr. Tim Hudak:** Respectfully—thank you, Chair. It is helpful for us to understand the government’s intent if we get some response from the government on these particular items. We’re looking at a year; we’re looking at two years. Mr. Nicholls has suggested five out of caution, but I think we would be willing to meet halfway in between if you would consider two or three years. Can we get a ballpark answer? Part of this committee is to understand the government’s intentions as to how long this regulatory process is going to take.

**The Chair (Mr. Peter Tabuns):** Are there any further comments?

**Mr. Bas Balkissoon:** I will comment again to my colleague. He’s been here longer than I have been. He knows how legislation goes through and he knows how regulations are dealt with. I think he’s trying to get an answer on something before the piece of legislation gets to the House and is debated on. There’s no opportunity for that. He has to understand the process. Maybe he does not accept the process, but the minister will take every piece of information and use best practice in the industry when he develops the regulations. I don’t have a timeline.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak, do you wish to speak?

**Mr. Tim Hudak:** No, I understand process. I think I’m trying to be helpful in that process. I understand how process works. Having been a minister, I understand that, and the minister has begun the consultation work on the regulations. You indicate that he’s going to consider all options and he doesn’t have a particular time frame. Maybe, at the very least, is he going to take the time to get it right?

**The Chair (Mr. Peter Tabuns):** I see no further comments. Go to the vote? You had asked for a recorded vote. All those in favour of PC motion 1?

**Ayes**

Hudak, Nicholls.

**Nays**

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi.

**The Chair (Mr. Peter Tabuns):** The motion fails.

We go to PC motion 2. You're going to move this, Mr. Hudak?

**Mr. Tim Hudak:** Yes. I'm going to do this one. I move that section 11.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as amended by section 2 of the bill, be amended by adding the following subsection:

"Standards of care and administrative requirements, enclosure size

"(1.1) A person is deemed to comply with any prescribed standard of care or administrative requirement that relates to the size of a marine animal's enclosure if the enclosure complies with USDA 9 Code of Federal Regulation part 3, subpart E"—some symbol I can't identify.

**Mr. Rick Nicholls:** Section.

**Mr. Tim Hudak:**—"section 3.104."

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Is there any comment? Mr. Hudak?

**Mr. Tim Hudak:** Just to explain this amendment. Mr. Nicholls and I certainly hoped that the first amendment would have passed, which would have given us some comfort that there's going to be a broad-based consultation based on the most modern scientific evidence, as Dr. Rosen himself and others had recommended. I was disappointed to see that amendment defeated. I thought it was a reasonable and helpful way to approach this, to make sure we get the standards right and, whether by intention or not, we don't close down the park or part of the park.

Having that fail, we're offering as a second alternative a tank size code that is working; that is, compared to the UK standard—unless your goal is to use the UK standard, is to shut it down. But if your goal is actually to make sure you have high standards for marine mammal care, we certainly think the USDA approach—we would have liked to have seen a made-in-Ontario approach, as Mr. Nicholls's first amendment had talked about. That was defeated by the government members with the support of the third party. So we'll try this as the second one.

The USDA—the United States Department of Agriculture—standard is based on good scientific evidence; it has been in place for some time. Unlike the USDA regulations, the UK standards for tank sizes do not address beluga whales, so it's broader-based. It is actually in practice, and while it's not as good as the made-in-Ontario solution we had first prescribed, this would be a superior way of going about this as opposed to risking park closure. Thank you, Chair.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. I assume, Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you, Mr. Chair. Again, the government has difficulty with this. We will not be supporting it. If you look at what is being recommended here, it's to actually adopt a standard which is well below what is currently at Marineland, which I find very interesting. Their concern about Marineland—they're asking us to adopt a standard that Marineland itself is above. If you look at us adopting this, again I go back—we will look at all industry standards and the best practices that are out there, and that's what the government intends to do.

Currently, SeaWorld has just announced that they will expand their enclosures to sizes greater than the USDA standard. I have difficulty understanding where my colleague is going with trying to lock down the government to a particular existing code today when we have an option at this point in time, as he says, to develop something made-in-Ontario that is a best practice industry-wide.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Hudak?

**Mr. Tim Hudak:** Terrific. I appreciate it because we did get the parliamentary assistant to say that he's rejecting a certain standard and this gives me great pause. If you're rejecting the USDA standard, why don't you do the same with the UK standard? If we agree the UK standard will result in the closure of the park—that's certainly the evidence that we heard here at committee—which is implemented nowhere in the world, you can understand why this makes me nervous.

As a Niagara rep and somebody who believes in having world-class standards for allowing the park to continue to operate, why do you reject this standard but not the UK standard when you said all things are going to be considered?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Seeing no other comments—

**Mr. Tim Hudak:** Sorry. This is very serious; right? Mr. Balkissoon—

**The Chair (Mr. Peter Tabuns):** I understand that and you're free to make comment, but you may not get a response.

**Mr. Tim Hudak:** I'll try again. Mr. Balkissoon is a veteran member and experienced in public life and a trusted parliamentary assistant for the minister. He was very clear. I disagree with him, but he was very clear from the beginning that all standards are going to be considered and he refused to reject the UK standard, even though that would result in the closure of Marineland. The path he took was that everything's on the table. But now you're suggesting that you've taken something off the table.

Our fear is that the Liberal approach to this has been more about Liberal politics and photo ops and less about animal welfare and doing the right thing. The member speaks on behalf of the minister. Can you please help me understand, when you said you weren't going to reject any standards, why you just did?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Are there any other comments?

Seeing none, members are ready for the vote?

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**Mr. Tim Hudak:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** Yes, Mr. Hudak.

### Ayes

Hudak, Nicholls.

### Nays

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** Thank you. The motion fails.

PC motion 3: Is one of you moving it? Mr. Nicholls.

**Mr. Rick Nicholls:** Yes, sorry. I move that section 11.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as amended by section 2 of the bill, be amended by adding the following subsection:

“Annual report

“(4) On or before December 31 in each year, the minister responsible for the administration of this act shall prepare a report that assesses the impact of the requirement in subsection (1) and determines whether, in the minister’s opinion, the requirement imposes undue hardship on a person or community.”

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls, if you’d like to comment.

**Mr. Rick Nicholls:** Chair, this particular amendment actually will compel the minister to conduct an assessment or review to ensure that all the unintended consequences that may result with the passing of this flawed bill, as currently written, are, in fact, mitigated.

Again, unintended consequences: We’ve heard Mr. Balkissoon talk about, “It’s not our intention to,” and he elaborated to some degree. The “undue hardship” definition can be borrowed from the Ontario Human Rights Code. This particular amendment will basically ensure that the government is held accountable by stakeholders, who have the most to lose if, in fact, this bill is rushed through. Again, I ask, we need to go slow to go fast.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Any other comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** I’ll reiterate again, although my colleagues don’t have confidence, that the government is committed to the strongest possible standards of care and protection. It’s what the public expects from us.

I think we also have to understand that these mammals are complex, diverse and unique creatures with special, specific needs. I think when we look at that basic foundation, someone’s hardship can’t trump those other issues. As I stated right from the beginning, we’re going to look to find the right balance.

Again, Mr. Nicholls, the amendment here is not something the government can support, and we’ll be voting against it.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls.

**Mr. Rick Nicholls:** Again to Mr. Balkissoon and the other members, all members part of the committee, I just want to reiterate the fact that this particular amendment would ensure that the minister does prepare a report every year which will assess whether the standards of care have resulted in unintended consequences that may hurt the industry.

We believe that the bill, as it’s currently written, does not have any provisions to compel the government to conduct an impact study with respect to the standards of care. Of course, we want this amendment to actually force the government to assess the standards of care and change or amend them, if these standards impose financial hardship on a marine facility. That’s what we’re looking at here.

I hope that adds some clarification, Mr. Balkissoon.

**The Chair (Mr. Peter Tabuns):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** Chair, just a comment to my colleague: A request that a ministry perform something like this and a minister perform something like this annually is more undue stress on the minister than what my colleague thinks about the business. With due respect, look at all the problems you’re creating when you bring something forward like this versus what’s in the legislation, which is in many other pieces of legislation. We’re appointing the OSPCA to do a job, and they will have rules and regulations, and the business would have a standard of care to follow. The expectations on both sides would be well understood so that you don’t need this.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls.

**Mr. Rick Nicholls:** To Mr. Balkissoon: Our intent is not to add any undue stress on the minister, unless, of course, you’d like us to apply the UK standards of 1986.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Mr. Balkissoon?

**Mr. Bas Balkissoon:** To comment on my colleague: You’re the same opposition party that stands up and says you want to remove red tape. If I could see a piece of red tape ever being pushed by a particular party, this is one of them. So you can’t speak on one side on one issue and then change on the other side. Let’s be consistent.

We’re following what we do in many other areas of government. What is in the legislation is reasonable. Why do we need to put these fixed requirements that you’re bringing forward? We have difficulty with it. It’s inconsistent with your stand.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Nicholls?

**Mr. Rick Nicholls:** Obviously, I will disagree with Mr. Balkissoon on that comment. Again, we want to ensure that there are safeguards put in place, because we’re dealing with a business that has in fact been a strong, strong economic supporter of the Niagara region, as an example. We’re concerned about what is next, in terms of their viability as a business and, of course, the overall economic impact as well.

Again, when we look at this, we just don’t want to see the government rushing into this. We don’t want to add or create any additional red tape for the minister. You

believe it will. We believe that we need to have some safeguards in place to ensure the viability of this bill.

We're not rejecting your bill. We're suggesting that, through our amendments, we will help you strengthen the bill. That's our intent.

**The Chair (Mr. Peter Tabuns):** I see no further comments. We're ready to vote? A recorded vote, requested by Mr. Nicholls.

### Ayes

Hudak, Nicholls.

### Nays

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** The motion fails.

We go to PC motion 4. Mr. Hudak, you're moving it?

**Mr. Tim Hudak:** I move that section 11.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as amended by section 2 of the bill, be amended by adding the following subsection:

"Effect

"(5) If the minister responsible for the administration of this act determines that the requirement in subsection (1) imposes undue hardship on a person or community, the minister shall, within three months, amend the prescribed standards of care or administrative requirements so that they no longer impose undue hardship on the person or community."

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Would you like to comment?

**Mr. Tim Hudak:** Yes, thank you, Chair. Just an explanatory note here: My friend the parliamentary assistant said he wants to reduce red tape. This is the red-tape-busting amendment to the bill. This basically says that if you brought in, as part of the bill, such burdensome red tape that it caused, for example, closure of significant aspects of the park, you'd have to revisit those decisions.

I'm somebody who believes that sunset clauses are important, to make sure legislation stays fresh and reflects modern times. Given that the government seems to be taking an arbitrary, if not political, approach on regulations, I'm very worried that you're not going to get it right. So it seems to be sensible that, when you have completed that process, if we find out you've brought in so much red tape onto Marineland that it's going to suffer significant economic consequences in three months, doesn't it seem wise to get rid of that red tape?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. I see no other comments.

**Mr. Tim Hudak:** Perhaps—

**The Chair (Mr. Peter Tabuns):** Mr. Hudak?

**Mr. Tim Hudak:** Yes, thank you, Chair. Perhaps the parliamentary assistant could just reply. I hope that means they're going to support this amendment, since he said he's against red tape. If not, perhaps we could get a

rationale from the government as to why they would reject this safeguard to eliminate red tape, if they bring so much that it's going to cause undue hardship on the marine mammals or undue economic hardship.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Mr. Balkissoon?

**Mr. Bas Balkissoon:** We'll comment to Mr. Hudak, in fairness. Mr. Chair, if you look at this amendment, it's related to the previous amendment that was voted down. To be honest with you, right now, it makes no sense that it remain on the table. But the government cannot support this, for the same reason: It's adding a burden onto the ministry to do all these things. It is not reasonable, in our opinion.

We've said from the beginning, in section 1, that the intent of the government is to bring in best practices. We have consulted with Dr. Rosen. We know what the Canadian council standards are, and the minister will bring the regulations forward.

I think my colleagues want to put what the minister's power is in regulations into the act, and we're not going to be supportive of that process.

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**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Hudak.

**Mr. Tim Hudak:** Now, look: I know that if you get it wrong, it's going to cause more work, but I don't think the main concern of the committee should be not making the minister have to work harder, or his staff or parliamentary assistant; it should be doing the right thing.

This basically gets you an "out" clause. If you mess up, if you rush the regulations, you wouldn't agree to a certain time frame. If you impose a wrong standard, you refuse to reject the UK standard, which would result in closure of the park, why wouldn't you support an anti-red-tape "out" clause that gives you a chance to fix it? If I make a mistake, I fix it. What do you do?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. I see no further comments. That being the case, we go to the vote.

**Mr. Rick Nicholls:** Recorded.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls requests that it be recorded.

### Ayes

Hudak, Nicholls.

### Nays

Balkissoon, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** The motion fails.

We now go to the vote on section 2. Shall section 2 carry?

*Interjections.*

**Mrs. Marie-France Lalonde:** Without amendment.

**The Chair (Mr. Peter Tabuns):** It was not amended, so—

**Mr. Tim Hudak:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** Recorded vote. Fair enough.

### Ayes

Balkissoon, Lalonde, Naidoo-Harris, Rinaldi, Singh.

### Nays

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** Section 2 is carried.

We go to section 3 and PC motion 5. Mr. Nicholls, you're speaking.

**Mr. Rick Nicholls:** Thank you, Chair. I move that section 11.3.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Regulation

“(4) The minister responsible for the administration of this act may make a regulation exempting a person from subsection (1) with respect to an orca that the person has custody or care of if, in the minister's opinion,

“(a) the person will not endanger the orca; and

“(b) the person will comply with the prescribed standards of care, and the prescribed administrative requirements, with respect to the orca.”

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. A comment?

**Mr. Rick Nicholls:** Yes, thank you, Chair. We're putting this particular amendment forward. We feel that it's reasonable, and we also believe that it's a very humane amendment, because it's going to give Kiska, the orca living at Marineland, the opportunity to live with a companion.

The studies have proven that orcas are, in fact—they need companions. Of course, Kiska currently is living a life of solitude. We're asking that this will give the minister the power to determine the time frame as to how long the exemption will last.

As well, I would urge all members on the committee to pass this amendment as we will be, in fact, preventing Kiska from being legislated to a life of solitude. We don't want that. To our way of thinking, to my way of thinking, that's cruelty, and we don't want to see that. They're sociable animals, and we believe that Kiska should, in fact, have a companion. So that's what we're asking for in this particular amendment. So I appeal to your emotional side.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Mr. Chair. Let me just reiterate that if you look at the legislation the way it's written, the government is clear that it wants to end the practice of breeding or acquiring orcas. We feel strongly that orcas have to be left in the wild and that they should not be held in captivity.

This particular amendment sets out what I would call something very dangerous, through the back door, if I could put it that way, which is exempting a person to have an orca—when does the process end? If I listen to Mr. Nicholls, he wants to provide Kiska with a companion, but that leaves two orcas. If you have breeding, you'll end up with three. If Kiska or the other orca was to pass away, you would have a never-ending cycle of providing an exemption. The intentions of the government and, I think, the intentions of the public, will never be met: that we should end the practice of breeding and acquiring orcas. That's the government's intent here, and we intend to proceed with that. I made it very clear to you that that's our intent. We will be opposing this particular amendment.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Nicholls.

**Mr. Rick Nicholls:** I'm not surprised that you are opposing this amendment. Past performance is an indication of future performance, and so far you haven't let us down in that regard. You actually let us down on all the amendments.

On a more serious note, really what this amendment is asking for is to give the power to the minister to exempt a person from an orca ban if, in the minister's opinion, that particular individual does not endanger the orca and complies with the prescribed standards of care.

*Interjection.*

**Mr. Rick Nicholls:** I hope that was a note indicating that you will change your mind.

Again, what I'd also like to suggest to all members here is that we believe that the amendment is in fact a reasonable amendment. It will still give the minister the power to exempt a facility like Marineland from the orca ban as well as provide Marineland with the opportunity to bring in another orca to give Kiska companionship. We're not asking about breeding; we're not asking about more and more and more. We're just saying that Kiska needs to have a companion. Again, I might add to Mr. Balkissoon that the amendment also gives the minister the power to determine the time frame as to how long the exemption would in fact apply.

We're reaching out to all members, looking you right in the eye—those who are looking my way, of course. In all seriousness, we believe that this is a fair and reasonable request, especially for Marineland but even more importantly for Kiska, looking at it from a humane perspective. I would ask that you consider changing the direction in which your voting has gone thus far and move our way—work together on this.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Just to respond, I respect my colleague and his compassion and his compassionate appeal to us, but as I stated, the government really wants to end the practice altogether. There's nothing in this legislation that prevents Marineland from taking other action. I say that because the government has been told that Kiska is not healthy enough to be moved, and therefore I have concern that if we bring another one to

keep companionship with Kiska and something happens to Kiska, now we're left with the other orca. The other orca could be a performing orca, which just makes the process ongoing over and over. Marineland has the ability, if it ever happens, to relocate Kiska. If they're so concerned about companionship and if my colleague is compassionate enough, he should be doing the same appeal to them, that they have the opportunity to relocate Kiska to a facility where there would be companionship. But I don't think what we can do here will end the process of orcas in captivity, which is the intent of this government. There's still the option, if Marineland wished to proceed, to find a way and a means to relocate. If the mammal is unhealthy, then I think you have to consider totally different legislation. We have not verified that the mammal cannot be moved. We've been told that; there have been no experts giving advice in that regard. We are dealing with a piece of legislation today because of the issues that are in front of us, and we want to deal with those issues.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Mr. Nicholls.

**Mr. Rick Nicholls:** Mr. Balkissoon made a comment; he said that they've had nothing stating that the animal cannot be moved. Contrary to that, I recall that, back when we were listening to our experts, it was determined and stated at that point in time that Kiska, because of her age, could not be moved. So with all due respect, I would challenge my colleague in that matter.

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Again, we want what's best for Kiska. That's what we want, and that's one of the reasons why we have brought forward this particular amendment: to advocate on her behalf. All the animal advocates out there, hear what we're saying. We're advocating on Kiska's behalf, and we want what's best for her. I would appeal to the emotional side of the government, who brought forward this legislation, and would ask that they perhaps have a change of heart.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** Mr. Rinaldi seems to have some thoughts on this. Did you want to share?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** It's a serious issue. Basically, the government is condemning Kiska to a life sentence of isolation. Mr. Balkissoon said that nobody said she couldn't be moved; in fact, to the contrary, the testimony we did hear was that that would put her life at risk. I don't think you're considering euthanizing the animal by forcing a move.

Dr. Cornell said, when it comes to companions, "If that was something that could be done, I would absolutely say that she would be better off with a companion animal with her, of course. I think we'd all like to see that. Barring the obtaining of an animal for her as a companion, she's doing very well as she is"—in terms of the care at Marineland, than she would get elsewhere.

I believe that Dr. Cornell—I should check Hansard, Chair—it wasn't Dr. Cornell; it was another one of the veterinarians who said it would be absurd to try to move Kiska, because of the risk.

Faced with that choice, if those who care for her say she can't be moved, isn't it better to leave open the alternative of having a companion for Kiska, as opposed to what is inhumane, and that's condemning her to a life of isolation as long as she lives?

I'll ask the parliamentary assistant. You would agree that condemning her to solitary isolation for the rest of her life is inhumane?

**The Chair (Mr. Peter Tabuns):** Mr. Hudak, you've finished your comments?

**Mr. Tim Hudak:** I just want to make sure the parliamentary assistant had a chance to respond. In the government's opinion—I'm going to try again—

**The Chair (Mr. Peter Tabuns):** Well, keep speaking, and when you're finished, then I'll ask if there are other comments.

**Mr. Tim Hudak:** Thanks, Chair. I'll try again—and if not the parliamentary assistant, maybe somebody else wants to comment. Is it the government's opinion that isolating Kiska for the rest of her life in a solitary existence is inhumane, or not? It's a simple question, and it's critically important. The largest part of this bill, in terms of space, is around the standards of care and the role of the OSPCA. Most of the government's focus in the public relations sphere has been around Kiska and orcas. But I think if we truly believe the government's intent is to improve animal welfare conditions, a very basic, simple question—

*Interjection.*

**Mr. Tim Hudak:** I'm sorry—

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** A very basic, simple question, parliamentary assistant: Does the government believe it's inhumane to condemn Kiska to a life of isolation as long as the mammal exists?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak.

Madame Lalonde, would you like to speak?

**Mrs. Marie-France Lalonde:** I think Mr. Hudak is bringing one single perspective that was raised during the committee hearings. My understanding is that there were other experts or other people who raised different situations.

I also would like to remind Mr. Hudak that, from my understanding, Marineland itself tried to embark on reunification or trying to find a companion for Kiska a few years ago. Unfortunately, they have been unsuccessful. Kiska had demonstrated some aggression and behaviour that, unfortunately for Kiska, SeaWorld or whoever—I think SeaWorld—felt that it was not a compatible companion, the orca that they were presenting.

I think why we're here today, and what the government is trying to do in Bill 80, is really clear: We want to end the practice of breeding and acquiring orcas in Ontario. Certainly we have Kiska's best welfare at heart, but unfortunately she belongs to Marineland.

**The Chair (Mr. Peter Tabuns):** Are there any other comments? Mr. Hudak.

**Mr. Tim Hudak:** I appreciate Madame Lalonde's interjections here. Just to make sure I understand, then, the government's position: Your position is that you think what's in the best interests of Kiska is to move her?

**The Chair (Mr. Peter Tabuns):** Madame Lalonde.

**Mrs. Marie-France Lalonde:** It is not my place to say. My understanding is that the owner of Kiska is Marineland, and that's ultimately their decision, in looking at various options.

What I'm saying to the member is that our bill, why we're here today, is to reiterate that we're moving forward in ending the practice of breeding and acquiring new orcas in Ontario.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls.

**Mr. Rick Nicholls:** To Madame Lalonde, and to others on the committee on the government side: Again, what I would like to point out is that the intent of this particular amendment is to provide companionship for Kiska. That's what we're looking at.

Your bill, as it is currently written, denies any injured orca the opportunity to be rehabilitated at Marineland and returned to the wild. Marineland would suggest that a ministerial exemption from the prohibition, with appropriate conditions, be considered by this particular amendment.

Again, what do we do if, in fact, there is an injured orca and it needs to be rehabilitated? There is a possibility that it could in fact be rehabilitated in Marineland and, at the same time, provide companionship for Kiska. Once that orca has been rehabilitated, it could then be returned back to the wild, and—well, we'll see what happens to Kiska then.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** Chair, just one last try: Is it the government's position that confining Kiska to a life of solitary existence is inhumane?

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. Are there any further comments? I see none.

Mr. Hudak.

**Mr. Tim Hudak:** The thing I want to add to this, too, to make sure that the option for the government is understood: The amendment that Mr. Nicholls has brought forward allows the minister, through regulation, to prescribe a companion for Kiska. Mr. Balkissoon said he's afraid of a constant loop of new orcas, and then a companion orca for that orca etc. It's well-crafted to basically allow the minister responsible to time-limit a companion, or to have a prescription in there to say that if Kiska were to pass away, the companion goes back to his or her host facility. I want to make sure we're clear about this: It gives the minister the ability to prescribe, in great detail, the circumstances of the companion.

It just seems like this is a very sensible, humane amendment. I don't think we heard from anybody at the committee who thought it right to condemn Kiska to a life of solitary existence. We did hear from groups who wanted you to include Kiska in the ban, and they wanted

you to force Kiska to be removed. Then we heard from others who said it's preferable to have a companion. Correct me if I'm wrong; I don't think anybody said to condemn Kiska to a life of isolation.

This seems like it's a humane thing to do. It allows the minister to set the parameters around a companion killer whale. If the government's intent is genuine, and this is all about humane treatment for marine mammals and having the highest standards of care, why won't you allow the minister, under detailed circumstances, to bring in a companion for Kiska and improve her mental state?

1520

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. There being no other comments, we move to the vote.

**Mr. Rick Nicholls:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls requested a recorded vote.

### Ayes

Hudak, Nicholls.

### Nays

Balkissoon, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** The motion fails.

We go to the vote on section 3.

**Mr. Tim Hudak:** I'd like to debate on section 3 as a whole.

**The Chair (Mr. Peter Tabuns):** Yes, go ahead.

**Mr. Tim Hudak:** I think the amendment Mr. Nicholls brought forward was very reasonable. It was humane. It's the right thing to do. I understand the government's goal is to end the importation of orcas and orcas being held in captivity in the province of Ontario. But we heard very clearly from, I think, almost everybody that entered debate in the committee that a companion was important. So you face two choices: You either move Kiska so she'd have a companion, or you leave the door open for a companion here. I think we crafted a very sensible, humane amendment that would allow, under prescribed circumstances, a companion. The minister, then, if Kiska passed away, could send the companion orca back to where he or she came from, or to a suitable facility elsewhere. It just seemed sensible.

Chair, we had hoped that we could support this section of the act, but I just cannot be here at committee or stand up at the assembly and vote for a life sentence of isolation for this killer whale. Every bit of testimony we heard on the topic said that's the last thing you want to do. Every bit of testimony we heard on this part of the bill was to open the door to companionship—one of two doors—and not just slam them shut permanently. I just cannot, in my heart or my mind, understand why the government—or the third party, for that matter—wants to pass section 3, which will effectively condemn this orca to a life sentence of isolation. I can't support it, Chair.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hudak. We are now voting, then, on section 3. Shall—

**Mr. Rick Nicholls:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** Recorded vote requested. Shall section 3 carry?

#### Ayes

Balkissoon, Lalonde, Naidoo-Harris, Rinaldi, Singh.

#### Nays

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** It is carried.

We go now to section 4 and Progressive Conservative motion 6. Mr. Hudak.

**Mr. Tim Hudak:** Chair, I move that section 11.4 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 4 of the bill, be amended by adding the following subsection:

“Exception, marine animals

“(1.0.1) Despite subsection (1), an agent or inspector of the society may enter and inspect a building or place where marine animals are kept only if he or she has been certified with respect to marine animals in a manner deemed appropriate by the minister responsible for the administration of this act.”

**The Chair (Mr. Peter Tabuns):** Comments?

**Mr. Tim Hudak:** Just a brief explanatory note: This amendment would close a few of the gaps that currently exist in the OSPCA Act with respect to marine animals. What I worry about is that the model proposed in this bill would allow an inspector who may have every qualification in the treatment of dogs or cats or horses to suddenly become an expert in marine mammals.

I think we heard quite convincingly at committee that these are complex animals. They're sophisticated. Our knowledge of their behaviours, their health, is growing each and every day, but there are significant biological differences between marine animals and what the OSPCA currently inspects. So if the bill were passed without this amendment, Chair, we would be permitting, to use an analogy, a foot doctor to perform brain surgery. It seems sensible to me that if you're going to trust OSPCA inspectors to investigate marine mammals, they should be certified in the treatment of marine animals, not dogs or cats or horses.

**The Chair (Mr. Peter Tabuns):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** With due respect to Mr. Hudak, I hear his concern, but I have to say that the way his amendment is written, it makes it mandatory that every time the OSPCA agent or inspector goes in, a veterinarian would have to be in his accompaniment. We disagree that that is absolutely necessary because our inspectors are empowered to inspect other things, such as feeding logs, the standard of care, administrative process etc. The way the act is currently written, it allows the inspector to bring with them a veterinarian when it's

necessary to look at the major concerns to deal with the mammal itself. We think that's a better model.

To be honest with you, I think this is overkill on one hand, but I'm not sure what his concerns are because in the act, it provides the flexibility. If you're concerned that an OSPCA inspector without the proper skills is going to be bringing some undue burden on the operator, I would say to you that that's a fear that is far-fetched.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** I appreciate the comments by the parliamentary assistant. Just a point of clarification: The parliamentary assistant is talking a bit about the next amendment with respect to veterinarians, which Mr. Nicholls is going to talk about. We're willing to stand that one down if you support the amendment before the committee right now. The reason, and Mr. Nicholls will explain it, that we have the veterinarian in the company of an OSPCA inspector is because we're worried that the OSPCA inspector doesn't know marine mammals.

This amendment on the floor right now would ensure that any OSPCA inspector has certification when it comes to marine mammals. It just seems to be very simple, it just seems like basic sense that if they're going to come in and inspect animal welfare, they should know the difference between a dolphin and a dog.

**The Chair (Mr. Peter Tabuns):** Are there further comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** Mr. Chair, I hear what he's saying, but again, I go back to him and I say, if you look at the legislation, it will create the standards of care. The technical advisory committee will set all the guidelines in place etc. that the minister will do in his regulations. You're trying to put that in the legislation and circumvent the minister's regulations ahead of time by putting in these mandatory requirements, which we totally disagree with.

Again, you're trying to tie the minister's hands, whereas the legislation, the way it's written, provides the minister with the power to do all of these things with the best professional advice and the experts out there. We need to allow the technical advisory group that is being set up and consulted at this present time on what it is that standard of care will be and how you're going to administer it—you're trying to get ahead of the curve. I disagree with you in that particular respect, and this is where the government can't support your two amendments, both 6 and 7, because that's what you're really trying to do.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** In response, through you, Chair, respectfully, we're legislators. We write the laws. That's what we're here to do. If you're saying that we're trying to circumvent a regulatory process—we're trying to write the law that will guide the regulatory process. It just seems to be very basic and very sensible, I think, to anybody watching at home that if you're going to have an inspector from the Ontario Society for the Prevention of Cruelty to Animals, the OSPCA, come into a marine mammal facility, they'd better know something about marine mammals. They're not going to a house one day

to inspect a cat or to a barn one day to inspect a cow, and then all of a sudden, we expect them to know overnight about something as complex and different as killer whales or seals. Why wouldn't we say that anybody who will have that role should be certifiably able to do so, that they're basically trained in marine mammal biology?

I think in our defence in opposition—the member says we're trying to circumvent the regulatory process. You're the ones who actually rushed this bill through, right? You're actually the folks who time-allocated this bill. You rushed it. You limited committee to two hours for consideration.

*Interjection.*

**Mr. Tim Hudak:** Mr. Rinaldi shakes his head, but no, you did. You voted for that.

*Interjections.*

**Mr. Tim Hudak:** You voted for the time allocation motion which forced the committee to write the law before the regulatory process was complete. So don't accuse me of trying to circumvent process. You forced this.

We're trying to be productive. We're trying to be helpful in making sure the bill has world-class standards. Isn't it simple, through you, Chair, to my colleagues, to say that if we want world-class standards, shouldn't those who do the inspecting know a little something about marine mammals?

1530

**The Chair (Mr. Peter Tabuns):** Are there any further comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** Again, I say to my colleague that the government intends to—that's our focus—proceed with regulations that will deal with a complete suite of standards of care tailored to meet the marine mammal. The inspector will be trained in those things. These standards are going to be very clear to the inspector when they do visit one of these places and inspect for compliance based on the standards that are set.

So it is something that is understood, that it will be in regulation. I think my colleague here is trying to put in place today something that is mandatory that is not in the regulation at this point in time, and we disagree. With due respect, we disagree. It will be in regulations. The inspector will be trained. We're not going to be doing what you're saying; you're speculating that somebody will be going in there, and they won't have the training and the skills. I think that fear is far-fetched.

**The Chair (Mr. Peter Tabuns):** Further comments? Mr. Hudak.

**Mr. Tim Hudak:** I just want to clarify on that point. I appreciate the response. I know the government wants me to be comfortable with them trying to put the cart in front of the horse; I'm not. I think we should write the law, and the regulations follow from that. But we're in this spot. You forced it and forced the committee to take place and put a lot of trust in the government.

I take it you're not going to support this amendment. If we don't get the law changed, intent is helpful. So is it the intent of the government to have a certification

process for OSPCA inspectors that will ensure they have marine mammal training?

**The Chair (Mr. Peter Tabuns):** Are there any comments?

**Mr. Tim Hudak:** I'm sorry. It would help me, Chair, through you—I know I went on a bit long there. I'll just ask a quick question.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak, and just for clarification for everyone, I take all your comments. I'm very happy to hear the comments. We're not in question period, so I just point that out to all those here. I understand the way you're phrasing it, and I think it's an effective rhetorical technique.

**Mr. Tim Hudak:** Thank you.

**The Chair (Mr. Peter Tabuns):** Please proceed.

**Mr. Tim Hudak:** Yes, because I think I should know. As those down the road look at the legislation, while the legislation may not change, intent is a helpful aspect as well. I just ask a simple question: If you're going to reject my amendment, is it the intent of the government, through regulations, to bring in a certification process for OSPCA inspectors to ensure they're trained in marine mammal biology?

**The Chair (Mr. Peter Tabuns):** Any further comments by any members of the committee? There being none, we go to the vote.

**Mr. Tim Hudak:** Recorded vote.

**Ayes**

Hudak, Nicholls.

**Nays**

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** The motion fails. We go to the next amendment, PC motion 7. Mr. Nicholls.

**Mr. Rick Nicholls:** I move that subsection 11.4(1.1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 4 of the bill, be struck out and the following substituted:

“Accompaniment

“(1.1) An inspector or an agent of the society conducting an inspection under this section shall ensure that he or she is accompanied by at least one veterinarian. The inspector or agent may be accompanied by additional veterinarians or other persons as he or she considers advisable.”

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls.

**Mr. Rick Nicholls:** I recall that, back when the government first introduced this bill, we had a briefing. We were briefed on what the bill is and so on. I had a red flag that kind of popped up in my mind, and that was with regard to training. Of course, my background, over 25 years, is training and development. One of the worst things that can happen is someone not being trained for a

position that they are holding and being held accountable for. I cited at that time an example of an OSPCA inspector who went to a particular farm, in this case, back in my riding. I'm in an agricultural area back in the riding of Chatham-Kent-Essex. He went to a farm and actually investigated a concern. Of course, I understand that aspect of it. He found cattle just standing in water after a heavy rain. He felt that was inhumane, and put a huge fine on the farmer in question. To my way of thinking, it was certainly not necessary—not necessary at all.

It raised the question in my mind, then, about training. How trained was that inspector at that point in time to be able to go out and just suddenly drop the bomb on this farmer and, in fact, penalize him, which costs money as well?

Then I thought, "This isn't the Wild West. What we need to look at is specific training for OSPCA people." This is why we've brought in this particular amendment: to ensure that, in fact, the OSPCA officers or inspectors receive an expert opinion from medically trained professionals on an animal that may be suffering a health issue. If they walk into a situation, can they really determine if an animal is in distress or not? If they are trained and if they have medical advisers with them—a vet—the vet can make that decision or make that assessment, anyway, with regard to the well-being of the mammal in question.

The other major problem that we have under the current model of the OSPCA is that the OSPCA inspector isn't required to have the educational background in animal sciences or animal biology which is necessary for determining the health issues that an animal may be suffering from. So now I'll go right back to the training; they're not required to be, and we're suggesting that they be trained.

You have indicated in the past amendment, with all due respect, Mr. Balkissoon: "We'll make sure." I'm saying, "Show us." You say that the minister will, in fact, look at best practices, but we need to have the reassurance that in fact the OSPCA inspectors will have the specific training needed. As well, we're asking, in all fairness, for the health and well-being of animals—especially at Marineland or in other facilities—that they are, in fact, accompanied by an inspector.

Again, one of the things that we need to take a look at and realize is that not all health issues that are caused by animal cruelty are visible through basic observation, and this amendment addresses that particular issue.

I'm sure that if you, at any point, or if any one of us in this room required medical assistance, we would want to ensure that the person attending to us had the necessary training to best address the situation that we are finding ourselves in.

Again, I would ask that you would reconsider and provide us with—we're not asking for a detailed play-by-play in terms of what specifically the inspector needs to be trained in, but they need to be trained thoroughly and properly rather than just, "Here's their unspecified training." They need to have specific training in this, and we're also asking that, in fact, they be accompanied by a

veterinarian who can in fact provide maybe that needed area of expertise that perhaps even a trained OSPCA inspector may not be qualified in.

I would ask that you would reconsider—give us one.

**The Chair (Mr. Peter Tabuns):** Thank you for your comments.

**Mr. Rick Nicholls:** But in fairness—sorry, Mr. Chair.

**The Chair (Mr. Peter Tabuns):** Go ahead, Mr. Nicholls.

**Mr. Rick Nicholls:** I'm a bleeding heart over here, right? But again, there is seriousness involved and I know that you're not taking what we're saying lightly, either. We have to inject a little bit of humour every once in a while, I think. But again, we want to ensure that the OSPCA inspector receives the expert opinion, whether the animal has been endangered or not.

Again, as I've mentioned before, I will reiterate, if I may, Chair, that under the current model an OSPCA inspector isn't required to have a background in animal biology or animal sciences. They are just currently required to have a high school diploma. I'm not knocking that, but they're just required to have a high school diploma or a post-secondary education, say, in police foundations, law or security education or animal enforcement in order to work as an officer.

**1540**

We feel it's imperative, when they visit these facilities, that they are in fact accompanied by an inspector, specifically in the area of expertise that is required—in this particular case, marine biology. That's what we're looking at.

Again, remember, it's not easy to identify, perhaps, visible signs of trauma to an animal. It's even harder to determine whether an animal is suffering from health issues or not.

Going back a little bit further, we had talked about the suggestion by one of the "experts," Dr. Rose, who stated that maybe that animal should be moved. We heard experts state that that animal, Kiska, cannot be moved. Therefore, we are challenging her opinion on that particular matter.

Let's ensure that veterinarians are in fact present. Let's ensure that the OSPCA officer can in fact receive expert opinion on whether an animal is truly in distress or not. That's all we're asking for, with this particular amendment, Mr. Chair.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Nicholls. Any other comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** You know, I hear Mr. Nicholls's appeal and his compassion for this particular area, but he must realize that making it mandatory to have a veterinarian accompany the inspector every time is an undue burden on the government itself. We talked about red tape earlier on.

We as a government see it that we need to provide the flexibility to the inspector from the OSPCA. When they go in to do their compliance inspections, because of all the rules that will be in regulations for standard of care, for administration etc., the inspector will make that call. When a veterinarian is necessary, they will bring the

veterinarian with them and do the appropriate inspection and compliance visitation.

We would rather let the system have that flexibility and provide the inspector with all the tools that are necessary to do the best job. We would have to say that in the regulations, those compliance issues and the standard of care will be very clear, concise and understood by all parties.

We have difficulty with this mandatory requirement, because it puts undue burden on the OSPCA and, again, it's not necessary. So the government will not be supporting this particular amendment.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Balkissoon. Any further comments? Mr. Nicholls.

**Mr. Rick Nicholls:** To my colleague Mr. Balkissoon: Your comment "undue burden on the government"—if an OSPCA inspector is in fact required to have a qualified, medically trained veterinarian along with them—able to identify stress, no stress, or whatever the ailment is for this animal—you say that that will put an undue burden on the government. I would suggest to the government that without that, it's going to put a greater burden on the government if in fact there's misdiagnosis; if in fact the OSPCA inspector who happens to be the one selected to go to that particular facility misdiagnoses, and the animal isn't taken care of immediately, as would be the case if in fact a veterinarian did accompany that OSPCA inspector.

You also used the word—you want to be able to give inspectors flexibility. I would think that by allowing an inspector to have accompaniment with a veterinarian, that would ease, maybe, some of the undue burdens and pressures on that particular inspector in terms of their risk of making an improper diagnosis on a particular animal that may in fact be distressed.

Of course, you also talked about providing all the tools necessary in order to do the job right. To me, by providing a veterinarian to accompany an inspector, that, sir, in my opinion, is providing that inspector with the proper tools necessary so that the proper care can, in fact, be administered to the animal that is requiring attention. So I will use your argument back to you as well.

**The Chair (Mr. Peter Tabuns):** I see no further comment. We're ready to vote on PC motion 7.

**Mr. Rick Nicholls:** Recorded.

#### Ayes

Hudak, Nicholls.

#### Nays

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** The motion fails.

We go to vote on section 4. Mr. Hudak.

**Mr. Tim Hudak:** Just on debate on this section, Chair: In good faith, Mr. Nicholls and I and the support of our PC researcher—Elric Pereira, particularly, has worked hard on this bill. We appreciated his good efforts

and research. He's probably learned a lot more about marine mammals than he ever thought he would in his lifetime.

With respect to this section, I think we actually had some sensible amendments that would ensure that OSPCA inspectors would be qualified to inspect marine mammals. I don't understand the government's reticence to actually put that in legislation, so I just cannot support this section, not without the amendments.

**The Chair (Mr. Peter Tabuns):** It looks to me that the committee is ready to vote.

**Mr. Tim Hudak:** Recorded vote.

#### Ayes

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

#### Nays

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** The section is carried.

Colleagues, we have no amendments in sections 5 to 12.

**Mr. Tim Hudak:** Debate?

**The Chair (Mr. Peter Tabuns):** Pardon?

**Mr. Tim Hudak:** Just quick debate?

**The Chair (Mr. Peter Tabuns):** You'd like to debate all of 5 to 12 as a package, Mr. Hudak?

**Mr. Tim Hudak:** I have no intention of delaying this, Chair. There are a couple of comments I wanted to make on some individual sections, so can we do them individually?

**The Chair (Mr. Peter Tabuns):** Not a problem at all.

**Mr. Tim Hudak:** Thank you.

**The Chair (Mr. Peter Tabuns):** We are going to vote, then, on section 5.

**Mr. Tim Hudak:** Debate on section 5: Chair, thank you for the time. So this section 5 gives the society greater powers to demand records or things, the inspections again. I would feel much more comfortable supporting this aspect of the legislation if I knew the inspectors were actually trained in marine mammal biology. As I said from the beginning, our comfort level is raised when it comes to the government's motives in this legislation if we know it's based on the best scientific evidence, the highest quality of care and practice. But if we don't know if the inspectors are qualified, how can I support this section?

**The Chair (Mr. Peter Tabuns):** I see no other comments. We're ready to go to the vote.

**Mr. Tim Hudak:** Recorded vote.

#### Ayes

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi.

**Nays**

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** The section is carried.

We go to section 6. Going to the vote on section 6.

**Mr. Tim Hudak:** If I could, Chair?

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** Again, if the government had supported our amendment on the humane treatment of Kiska, as opposed to condemning Kiska to a life of isolation, we would be more amenable to supporting this section. But if the government is going to go down the inhumane path that nobody recommended at committee, we cannot support this section of the bill.

**The Chair (Mr. Peter Tabuns):** You're ready to vote?

**Ayes**

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**Nays**

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** Carried.

We go to section 7. Ready for the vote?

**Mr. Tim Hudak:** Just a quick debate.

**The Chair (Mr. Peter Tabuns):** Mr. Hudak.

**Mr. Tim Hudak:** I just want to reiterate my points from section 6, the same concerns with section 7.

**The Chair (Mr. Peter Tabuns):** Ready to vote on section 7?

**Mr. Tim Hudak:** Recorded vote.

**Ayes**

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**Nays**

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** It is carried.

We shall go to section 8. I see no commentary. Are we ready to vote? Shall section 8 carry? Carried.

We go to section 9. Are there any comments? Mr. Hudak.

1550

**Mr. Tim Hudak:** I just want to say that I'm going to support section 9. I think that this is an appropriate approach to ensure the continued objectivity of scientific research.

I just want to show that we're very reasonable and balanced and voting for the best possible legislation, Chair.

**The Chair (Mr. Peter Tabuns):** I understand, Mr. Hudak, entirely.

We're ready to go to the vote. Shall section 9 carry? It is carried.

Section 10: Any commentary? You're ready to vote? Shall section 10 carry? It is carried.

Section 11: Is there any commentary? You're ready for the vote? Shall section 11 carry?

**Mr. Tim Hudak:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** You know, you have to jump in a bit sooner. I'll go to a recorded vote, but the next time, Mr. Hudak, I'm just going to keep going through.

**Ayes**

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi.

**Nays**

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** Carried.

Section 12: Comment, debate?

**Mr. Tim Hudak:** Again, showing the reasonable and balanced approach of the PC caucus, we will support the name of the bill.

**The Chair (Mr. Peter Tabuns):** So you'll support 12 and the name of the bill?

**Mr. Tim Hudak:** Section 12.

**The Chair (Mr. Peter Tabuns):** Just 12.

**The Clerk of the Committee (Ms. Valerie Quioc Lim):** Section 12 is the short title.

**The Chair (Mr. Peter Tabuns):** Ah, the short title. Okay.

Any further comment? People are ready to vote?

**Mr. Tim Hudak:** Recorded vote.

**Ayes**

Balkissoon, Colle, Hudak, Lalonde, Naidoo-Harris, Rinaldi, Singh.

**The Chair (Mr. Peter Tabuns):** It is carried.

Title. Colleagues, we're at the title. I don't see any indication of discussion. Are you ready to vote? Shall the title of the bill carry? Carried.

Shall Bill 80 carry?

**Mr. Tim Hudak:** Debate?

**The Chair (Mr. Peter Tabuns):** My apologies. Mr. Hudak.

**Mr. Tim Hudak:** I think I laid out my comments from the beginning, as did Mr. Nicholls. He may have some concluding comments to make.

We had hoped that this would be a process where all three parties could agree to make sure we have world-class standards when it comes to animal welfare, particularly marine mammal welfare, in the province. We had done our research. We had listened closely at committee to deputations and brought forward seven very responsible and thoughtful amendments that would ensure those standards. We did, however, sadly see that not a single one of our amendments was passed.

As I said at the beginning I think there are two approaches: You permit Marineland to continue to operate—“permit” is probably not the right word—ensure that they continue to operate and offer that choice to families with world-class standards, or you could follow the activists’ advice—again, I respect their opinion, but I disagree with their view that all animals in captivity should be banned in the province of Ontario; I just don’t think that fits with mainstream opinion.

We tried to follow path number one and ensure we’d have the world-class standards and offer that choice and continue the jobs and investments to give confidence. We tried to do so in three respects: one, to make those standards—we had a chance here for an Ontario-made solution, a made-in-Ontario solution that would look at the best and most modern scientific evidence anywhere in the world and put that into regulations.

A lot of that work was already done by the CCAC committee. Dr. Rosen, the government’s own hand-picked expert, the chair of that committee, brought testimony before the committee that I read into the record. He wasn’t able to make it, but he strongly recommended that. We brought forward amendments that would enshrine that both in spirit and letter—defeated by the government.

We have great concern about the imposition of UK standards. I think probably the most useful quote on that comes from Dr. Rose, who is an activist and, as Dr. Cornell described, a bureaucrat more than a scientist. She’s not a veterinarian per se, but she did her doctorate of philosophy in orca behaviour in the wild. Nonetheless, she was clear about what the agenda of some of these groups is. She said, “In the case of the UK standards, they in fact did close down all the facilities in the UK, because they decided it wasn’t worth operating under those standards, and their profit margins shrank to the point where they didn’t think it was worth operating.”

Dr. Cornell thinks standards like the UK model might be feel-good proposals but they have no scientific basis. They are solely designed to eliminate zoological facilities altogether. We had hoped that we would achieve at least the second goal, for the government to reject the UK standards. They haven’t told me that, and that’s going to undermine confidence in investment in this facility until they distance themselves from them. I’ll remind them that it’s not used anywhere in the world—not a single institution—and it achieved the closure of like institutions in the United Kingdom. The sooner we get clarity from the government that they’re rejecting the UK standards on tank sizes, the more confidence people are going to have moving forward.

Our third helpful amendment was a humane amendment to allow Kiska, under prescribed circumstances, to have a companion. The government has decided to go down an inhumane path by legislating in law a life sentence of isolation. That’s a mistake. I think it’s inhumane. I think it’s the wrong thing to do.

I’m satisfied that Mr. Nicholls and I brought forward the best recommendations from the committee. We would have made this bill stronger with world-class

standards we could be proud of. We would see confidence in Marineland and the jobs it creates. We would continue to see Ontarians of all shapes, sizes and backgrounds benefit from the educational entertainment facilities there at Marineland.

I do worry that the government, by rejecting these things, has actually made their approach seem arbitrary as opposed to being based on science. I find that regrettable, and I cannot support the bill in this form.

**The Chair (Mr. Peter Tabuns):** Mr. Nicholls.

**Mr. Rick Nicholls:** Again, one of the red flags that popped up during the briefing the government provided us with at the very beginning of this was, if this is about orcas—is it really about orcas? What’s next? My concern is, is it beluga whales? Is it dolphins?

Of course, Mr. Hudak quoted Dr. Lanny Cornell: “These are ‘feel-good’ proposals only, and have no scientific basis. They are solely designed to eliminate zoological facilities altogether.”

Dr. Michael Noonan was quoted as saying, “The second point that I can speak to is a lack of evidence regarding the effects of additional space. If the UK standards were to be adopted—it’s my opinion that there’s a lack of evidence to support that.”

Again, Chair, we don’t want to see undue hardship on Kiska, on any marine animals. We also don’t want to see hardship on private enterprise and the potential closure of Marineland. If that’s the case, this government will wear it. They will wear that.

We have some very serious concerns, because now you’re looking at an entire region. You’re looking at not just one business. You’re looking at 700 families. You’re looking at 36,000 other people affected, perhaps, in tourism in the Niagara region. That has a very serious, serious impact. In a province that is right now, in our opinion, not headed in the right direction, this is going to seriously impact the economics not only of that region, but of this province as well.

For that reason and for many other reasons, I cannot support this bill, and I know that Mr. Hudak is of like mind with me in that regard as well.

**The Chair (Mr. Peter Tabuns):** I see no further comments. Is the committee ready for the vote?

**Mr. Tim Hudak:** Recorded vote.

**The Chair (Mr. Peter Tabuns):** Recorded vote.

### Ayes

Balkissoon, Colle, Lalonde, Naidoo-Harris, Rinaldi, Singh.

### Nays

Hudak, Nicholls.

**The Chair (Mr. Peter Tabuns):** The bill is carried. Last item: Shall I report the bill to the House? Yes. Carried.

The committee stands adjourned.

*The committee adjourned at 1559.*





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