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# Legislative Review of Prairie Dog Statutes

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## Legislative Review of Prairie Dog Statutes<sup>1</sup>

Lyndell Peterson<sup>2</sup>

If I follow my normal pattern in pursuing this subject I will probably make at least half of you mad before the afternoon is over. Within that framework I am going to share with you one of my wife's viewpoints, and that is anger is not a true emotion. You're angry either because you are ashamed or afraid or something, you aren't just mad because you want to be mad.

To philosophize for just a bit before I get into some details about legislation, one of the things I want to share with you is this: Regardless of what you think about your role in life, one of the things that makes it possible for you to be here in the condition that you are in is the fact that man pursues an activity that is designed to imbalance nature in his favor. So, no matter how much of a purist you may think you are, you have benefited from some of that activity--so don't forget it. The other thing I want to share with you is that you are here because we have a system of government that provides for values to have money allocated for supporting them, giving many of you a job. I had a similar job when I was a county extension agent. But if you fail to recognize that, then just reflect back on whatever perception you have of the evolution of mankind and think about the time when your ancestors were sitting around in a cave grunting at each other and chasing their dinner with a stick. When they got to where they could not catch any more dinner, they moved their territory and might run into another group of people who thought that was their territory. And the first thing you know, you either had a war or you figured out a way to get along.

The legislature is a modern version of a system that allows us to get along and bring our values together, sort them out, and establish ground rules under which we function. As we imbalance nature in our favor and apply our values through the legislature and congress, one prevailing value is that most of us will go to war for our right to own property. Yet there are times when our point of view functions in such a way that we say this process should provide us authority and power over somebody else's property as long as nobody exercises that same authority over ours. My philosophy is that you should not seek from government any power over another person that you do not wish to abide by yourself. Within that framework then, one of the principles I have applied in the legislative process

is that everybody in a democratic society is entitled to access that system. In other words, one's point of view, idea, value is entitled to be injected into the legislative system; and, I have faith enough here in South Dakota that the 105 people who meet every year represent enough of our societal values so that the right answer will come out.

It is on that basis then that I function; this consistently has caused Game and Fish people, Forest Service people, Fish and Wildlife people, and others to regard me as their enemy. At the same time, it turns out that there are some private landowners trying to make a living from the imbalancing of nature on that land who think, "By golly, Peterson is all right." There are others who, because maybe they think they have risen above this process of imbalancing nature in their favor, take off from a very safe vantage point, because they have nothing to risk, and criticize the people I am trying to represent.

During my time in the legislature (my first session started in 1977) I have been a sponsor of or have generated amendments on legislation dealing with a number of subjects that related to the subject we are talking about here today. The first was an amendment to the Endangered Species Act of South Dakota that (1) took out the right of the Game and Fish Department to acquire land and aquatic habitat for endangered species; (2) put in a provision that the Game and Fish Department has a responsibility to control prairie dogs on private land adjacent to public lands when the infestation is coming from public lands to private lands; and (3) specified that control should be done at no cost to the landowner. The Game and Fish attorney at that time just about went through the roof of the Capitol Building. When he accosted me in the hall after that amendment was adopted he said, "What in the hell do you think you are doing? Do you realize you just cost us a million dollars?" And I said, "Who in the hell do you think has been paying the bill up to now?" The private landowner who happens to be unfortunate enough to live next to Badlands National Park or other federal lands that are being managed for something other than making a living. Well, that little amendment stayed on and it is a part of South Dakota law.

Later on I got involved with Jon Sharps here and his Vulpes velox--the swift fox. It happened we were on friendly terms in that situation. We were trying to make it possible for a situation to develop whereby Jon and ranchers working together could attempt to establish some swift fox in prairie dog areas. I might tell you that that is where the breeding stock for his poodles came from, but be

<sup>1</sup>Talk presented at the 8th Great Plains Damage Control Workshop. (Rapid City, SD, April 28-30, 1987).

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that as it may. Did we get that legislation through, Jon? No, not entirely. We did not get into business. The citizens expected some results from the initial amendment, and it was not happening. In order to move the Game and Fish outfit forward a little bit--I think it was the next year--we put an amendment on the bounty bill for predators, and I think South Dakota is the only state in the nation where prairie dogs are listed as predators. But that tied them together with the money that was being spent on predator control, and the first thing you know we had Game and Fish people out there working with private landowners to control prairie dogs when they were coming over from the park and different places.

Then, as we moved along we adopted the State Weed and Pest Law, which Dennis Clarke will talk about, and that kind of brought prairie dogs in. We had an old law on prairie dogs that nobody used, but it allowed for forming prairie dog control districts with the new Weed and Pest Law now in place.

The most recent legislation was passed this year, this session; it separated the two components and viewed the relationship of county weed and pest boards to federal land. And, in those cases where noxious weeds or pests existed on federal lands but the weed and pest board could not get cooperation from the land management agency, the Weed and Pest Board could automatically refer the enforcement notice to the State Attorney General, who could deal with the federal land manager. The idea behind that is that somewhere along the line private citizens who essentially volunteer to serve on a weed and pest board should not spend their money to fight the government. The government ought to be the people who are performing up to the letter of the law rather than be the problem, as it is in some cases. In all of this legislation up to now, with the exception of the Weed and Pest Law adoption, there has always been a polarization of people in such a way that somebody managed to interpret what was being done as though all of Mother Nature was being raped and somebody was throwing down the entire value system of our country and was tearing us apart. It has been an interesting process, and I do not think we have wrecked anything too badly yet.