

Monthly

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EAGLE LAKE DAM DESTRUCTION.

A Tiny Affair, Removed in the Proper Exercise of Individual Right, Says Conservation Commissioner John D. Moore.

"Several of my friends have read Mr. Flint's long article in reference to the destruction of Eagle Lake dam, and expressed their astonishment that this structure could be torn down and the directions of the Conservation Commission defied," said Commissioner John D. Moore. "Inasmuch as I knew that this structure was only twelve feet long and five feet high I was a good deal more astonished than they were at reading all Mr. Flint had to say.

"I am sorry the dam has been destroyed. I am sorry that the level of Eagle Lake has been lowered and boathouses and cottages left high and dry. If the fishing in Eagle Lake has been injured I am sorry for that too. If all these things have happened they have been brought about simply because a citizen of the State of New York has availed himself of the rights and privileges which our Constitution and laws appear to give him.

(?) This tiny dam was on private property. It was unsafe. After much difficulty we learned who owned it, and our Chief Engineer advised the owner that since the old dam was unsafe a new one should be constructed, and a copy of that portion of the Conservation Law which refers to dams was sent for the owner's information. Then the owner tore the dam down. Our Counsel advises that he had a perfect right to tear it down, and that there is no power in the State which can compel him to build a new dam in place of the old one.

(?) "Here is a perfectly fair comparison which will be apparent to the city man. Under the New York City charter and ordinances the Building Department has the power to condemn unsafe buildings and compel the owner to make them safe, or in special cases to remove them. No one will contend that any city authority can compel a man to erect a new building in place of the one which he has torn down. No more can the Conservation Commission compel a private owner to replace an old dam with a new one. The Commission can declare the dam unsafe and order the owner "to remove or reconstruct the dam." Under the law he can pursue either course he likes, just as the owner of a New York building can.

"As a matter of fact, the Commission never issued any order whatever to the owner of this dam. As I have said before, we made certain suggestions in regard to reconstruction which the owner chose to disregard, and in so doing exercised what seems to be an inalienable right.

"Mr. Flint and his friends naturally objected to the lowering of the lake level and the consequent inconvenience and loss of beauty in the surroundings. They forget that they have been able to enjoy the higher level and the accustomed beauty of the lake solely because of the existence of a dam which another man built and paid for, and I have yet to learn that they made any

effort to co-operate with the dam owner. I understand that they have expressed to this Commission a willingness to bear part of the expense of a new dam, but I never heard that this information had been conveyed to the owner who holds the key to the situation.

"In brief, a great tumult has been raised over a tiny dam, when it is altogether likely that by neighborly advances to the owner a friendly arrangement for reconstruction could have been made with little difficulty and less expense."