

This Week in Saratoga County History

McGreivey's Restaurant Not Guilty

Submitted by Russ VanDervoort September 7, 2022

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*John C. McGreivey
Waterford Bar Owner*



*Henry H. Lyman
Enforcer of Raines Law*



*Levi Morton
Governor of NYS*

An 1896 law, the Raines Law, brought these three gentlemen together in a most ungentlemanly nature.

The New York State liquor tax law of 1896, also known as Raines law, was authored by the State Senator John Raines and adopted in the NY State Legislature on March 23, 1896. It took effect on April 1, 1896, was amended in 1917, and repealed in 1923.

Among other provisions, the Raines law increased the cost of liquor licenses, raised the drinking age from sixteen to eighteen, and prohibited the sale of alcoholic beverages on Sundays except in hotels, as well as in lodging houses with at least 10 rooms that served drinks with complimentary meals. Most men worked a six-day week, and Sunday was the only free day for recreation, so the new law was not very popular.

Governor Morton inherited the law. Henry Lyman on the other hand had spent the better part of the last five years preparing to enforce this law.

John Crowe McGreivey, in the tavern business since 1872, was an outspoken critic of this 1896 legislation. He was not alone in his criticism, and many tavern owners pledged to resist this tax levy. Lyman has pledged to target the collection of excise taxes on bars and taverns, so conflict was inevitable. McGreivey had become a case in point. But, at the outset, he played along.

The law stated that; the sale of Intoxicating Liquor shall be taxed by the population. Laws 1896, c. 112, § 11, assessed excise taxes upon the business of trafficking in liquors, based on population numbers. It further provides that all taxes assessed upon the business of trafficking in liquors, except taxes assessed in counties containing a city of over 1,500,000 people, and on a business conducted on a railroad, steamboat, or other vessels, which taxes were to be collected by and paid to the state excise commissioner or his deputies, shall be paid to the county treasurer of the county in which the business is carried on.

John has complied with this edict by filing with the Saratoga County Treasurer the sum of \$100. The amount of the tax assessed upon the business of trafficking in liquors in the village of Waterford, Saratoga county, under class 1, subdivision 1, § 11, of the act, which established the amount for villages with a population between 1,200 and 5,000. This was duly paid, as prescribed, to the Saratoga County Treasurer.

But this did not satisfy Lyman. He responded with the following notice and ordered the Saratoga County Treasurer to effect the following steps. Based on the returns of the last United States census for the districts embracing the town and village of Waterford, Lyman concluded that the United States census did show that the population of the village of Waterford was more than 1,200 and less than 5,000, and thereupon, in December 1896, he stated "the amount of the tax assessed at \$200 for the year commencing May 1, 1896, and then instructed the county treasurer to give the defendant notice and to demand the unpaid balance of \$100. This the county treasurer did.

The defendant (McGreivey) refused to pay the additional \$100. The treasurer demanded a return of the tax certificate. This the defendant refused. The plaintiff thereupon caused a notice of a lien for \$100 to be filed with the clerk of the town of Waterford upon the property of the defendant in the premises where he carried on his liquor traffic, assuming to act under section 12, and then commenced this action to foreclose the lien. McGreivey hired Waterford Attorney Thomas O'Connor to represent his interests in this case.

The result of the Hearing: The action by Henry H. Lyman, as state excise commissioner, against John C. McGreivey was dismissed. It was then argued before P. J. Parker P. Landon, Herrick, Putnam, and J.J. Merwin. Nussbaum & Coughlin, for appellant. (Lyman) Thomas O'Connor and J.

W. Houghton, for respondent (McGreivey). Lyman took the stand and reiterated that McGreivey should have remitted excise tax in the amount of \$200, not the \$100 received by the County Treasurer. The defense called its only witness, George S. Donnell, Chief of Census Division, of the Department of the Interior, who was called to testify, "that the paper hereto attached is a statement as nearly correct as can be ascertained from the population schedules of the population according to the census of 1890 of the towns and villages named therein." The paper thereto attached stated the population of the village of Waterford to be 4,251. The official character of Mr. Donnell was duly certified.

The Verdict: The trial court properly excluded the certificate, and properly held that resort could not be had to any other evidence than one or the other census to show the population of the village. The defendant paid the tax that the statute assessed, and no larger sum could be lawfully required of him. The judgment was affirmed, with costs. All concur.

The hearing was summed up in the Glens Falls Post Star as follows.

Judgment in the amount of \$1,714.43 have been entered in Saratoga County against Excise Tax Superintendent Lyman on the finding of Justice McCloughlin in the action of the superintendent against John McGreivey of Waterford and 15 others. The judgment in favor of McGreivey is \$592.33, 3 others receive \$76.44 each, and remaining 12 \$75.44 each.

McGreivey's currently operates in Waterford, now in its 150th year.

Sources: The Glens Falls Star, Wikipedia, NYS Senate Records., McGreivey Family History