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Lesbians in Modern England: Escaping Legislation Through Indefinability

ABSTRACT: *This article explores the mystifying absence of references to same-sex intimacy between women in English legislation. Through an exploration of primary sources, including newspaper articles, diary entries, and court transcripts, as well as a comparison of previous work done by historians, it discusses ideas established in the late nineteenth century. The author argues that heteronormative societal attitudes in conjunction with sexism were bolstered by the oppressive institution of marriage and created an atmosphere that the English legislatures deemed efficient enough to discourage lesbianism, thus eliminating the “risk” of exposing the public to the idea of homosexuality between women by promulgating criminalizing legislation.*

KEYWORDS: *modern history; England; legislation; lesbians; identity; homophobia; heteronormativity; marriage; Radclyffe Hall; queer history*

Introduction

After the publication of Radclyffe Hall’s lesbian novel *The Well of Loneliness* (1928), an uproar concerning the story’s “obscene content” spread across England. An anonymous journalist writing for *The Sunday Express* declared that he “would rather give a healthy boy or girl a phial of prussic acid than this novel. Poison kills the body, but moral poison kills the soul.”¹ However, despite the strong opinions articulated concerning lesbianism, there was no major push for legislation targeting same-sex intimacy between women. Instead, the Home Secretary (i.e., the head of the Home Office) banned the book and had all printing of it terminated. This action resulted in a backlash from major authors and those employed in the field of journalism. Rather than outlawing lesbianism—a dangerous moral deficiency believed to be capable of spreading throughout society—the Home Secretary risked an extremely adverse response for limiting the freedom of the press. Why?

From the nineteenth to mid-twentieth centuries, lesbianism was not subject to legal prohibition in England because men did not perceive it as a threat. Contrary to the experience of gay men, sex was not associated with close relationships between women. Even when women lived together for most of their lives, members of the community attributed their relationship to one of convenience. This article argues that lesbians did not face direct legislative targeting comparable to that experienced by gay men due to the intersection of heteronormative culture and sexism, which delegitimized relationships between women. Additionally, the institution of marriage limited opportunities for lesbians, while the legal definition of sex excluded sexual acts between two non-men.

¹ Anonymous, “A Book That Must be Suppressed,” in *The Lesbian History Sourcebook: Love and Sex Between Women in Britain from 1780–1970*, ed. Alison Oram and Annmarie Turnbull (New York: Taylor and Francis, 2013; originally published 2001), 187.

Throughout this article, I use the term “lesbian” to refer to women who participated in romantic and/or sexual relationships with other women. As a lesbian myself, I would not use the term as liberally if I were writing about figures today. When referring to women who engage in relationships with other women today, if a person has not identified themselves as a lesbian, they would be described as “queer” or “sapphic” (which is another term that can be used to describe a woman who is romantically and/or sexually attracted to other women). These terms encompass a range of sexualities, such as lesbianism, pansexuality, and bisexuality, without assuming the attraction or unattraction to other genders. Nonetheless, given the impossibility of knowing for certain how people in the late nineteenth and early twentieth centuries would have identified, I use the term “lesbian” broadly to refer to women who engaged in relationships with other women. In other words, I use the word as it was used then rather than now. My use of the word should not invoke associations with the modern usage, which narrows and broadens the definition of a lesbian as being a non-man attracted to non-men. English literature scholar Jodie Medd goes as far as extending the use of the word “lesbian” to refer to “forms of female deviance or deviant femininity,”² the reason being that women were often accused of lesbianism for acting in ways that challenged patriarchal standards, but not for desiring other women sexually. However, this article uses the term “lesbian” in a manner similar to how it has been used by Alison Laurie, a prominent LGBTQIA+ activist from New Zealand, who explains that applying modern identities to historical figures would be ahistorical, and thus – since lesbian is “the oldest word consistently used to denote same-sexual relations between women” – it is the most pragmatic.³

I. Historiography

Historian Rebecca Morgan discusses legislation that targeted homosexual behavior between men in England, pointing out that none of it mentioned women.⁴ When Frederick Macquisten (1870–1940), a British politician, proposed criminalizing lesbianism on the grounds that it was a “deep-seated evil and [that] it is only right that this House [i.e., Parliament], which has the care of the law and to a large extent the morals of the people, should consider it to be its duty to do its best to stamp out an evil which is capable of sapping the highest and the best in civilization,” legislators refused, believing a law regarding the subject would just disseminate the idea of same-sex desire between women and cause it to become

² Jodie Medd, *Lesbian Scandal and the Culture of Modernism* (New York: Cambridge University Press, 2012), 9, ProQuest Ebook Central.

³ Alison J. Laurie, “Foreword: Special Issue: A History of Lesbian History,” *Journal of Lesbian Studies* 14, no. 4 (2010): 284.

⁴ Rebecca Jane Morgan, “The Lesbian Paradox: Homophobia, Empire, and the Law in 1950s Britain,” *Medium*, June 11, 2020, [online](#).

more of an issue.⁵ Even in the 1950s, when legislating homosexuality between men was becoming a matter of public debate, British politician Quintin Hogg (1907–2001) argued that sex did not exist in lesbian relationships and that it was thus not fair to compare the latter to relationships between men. Lesbians were perceived to be less of a threat to traditional gender roles than gay men, with some Members of Parliament even arguing that “lesbian relationships in many cases supply a social purpose, because they tend to be much more lasting or permanent than homosexual associations.”⁶ This point is interesting given that butch-femme relationship binaries were and are a manifestation of lesbianism and directly challenged the behavior expected of women.

Historian Barry Reay disagrees with histories that attempt to identify sexual identities before the late nineteenth century. He believes that doing so limits the scope of research by only searching for modern structures and imposing them onto the past, although he admits that some aspects of homosexuality are transhistorical. As a result, Reay only analyzes authors who write queer histories without attempting to identify and label actions using a modern framework. In a section that discusses female same-sex histories, Reay explains that the emphasis on homosocial environments in the nineteenth century aided in normalizing close relationships between women. Reay discusses English literature scholar Sharon Marcus’s scholarship on the subject, noting that these relationships often continued despite a woman’s marriage to a man. While the trial of Oscar Wilde, the famous nineteenth-century Irish poet and playwright, as well as the trial of Thomas Boulton and Frederick Park, two Victorian cross-dressers, associated effeminate behavior with homosexuality, similar observations regarding associations between lesbianism and masculinity were not made regularly until Radclyffe Hall’s novel *The Well of Loneliness* was banned in England. Reay also discusses the use of the word “lesbian,” which did not appear regularly amongst the public until the 1950s; however, it was the term used in legal discussions and amongst the elite. Some women continued to describe their domestic and sexual relationships with other women as “friendships,” even when these partnerships resembled what was expected of a typical heterosexual marriage. Reay emphasizes that this history is messy and should not be examined with the intention of creating a timeline for the evolution of an identity.⁷

Sharon Marcus addresses all aspects of relationships between women, including friendships, romantic relationships, and the dynamics between mothers and daughters. Marcus focuses almost exclusively on the timeframe between 1830 and 1880. In addition to analyzing bonds between women, she poses questions

⁵ House of Commons, “Parliamentary Debates, Criminal Law Amendment Bill, 4 August 1921,” in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 167.

⁶ Morgan, “Lesbian Paradox,” [online](#).

⁷ Barry Reay, “Writing the Modern Histories of Homosexual England,” *The Historical Journal* 52, no. 1 (2009): 213–233.

regarding the role of fashion and dolls in conditioning women to participate in behaviors that were present in pornography, which included depictions of lesbians. She specifically emphasizes the common occurrence of “aggression, hierarchy, objectification, and voyeurism” within representations of bonds between women.⁸ Additionally, Marcus distances herself from previous scholars by choosing to exclude discussions concerning whether sexual relationships occurred between certain women and instead examines what other aspects made a marriage.

English literature scholar Martha Vicinus’s approach to lesbian history is unique in that she emphasizes the sexual aspects of romantic friendships between women. Vicinus’s work involves discussions about the validity of sources, as most women wrote in code or used figurative language to convey their feelings for other women in order to avoid losing social capital if someone were to intercept their correspondence.⁹ She also addresses the way class and race impacted the behavior of women, as women were “economically and socially dependent upon male relations” throughout the eighteenth century, and thus typically only educated, white women with the financial resources necessary to support themselves could afford to pursue relationships with women and forgo marriage to a man.¹⁰ Vicinus echoes points raised by Reay regarding the lack of association between masculinity in women and lesbianism until the twentieth century—although Vicinus points out that “mannish” behavior did raise suspicion. As a result, silence and denial serve as indications of lesbianism for historians poring over court cases and newspaper articles. Women accused of lesbianism stood to lose more than they could hope to gain from a sapphic relationship and thus avoided any kind of public admission of their intimacy. However, as Vicinus points out, most circumstances involved everybody knowing and nobody telling. In other words, even if people suspected that a relationship had evolved to include “inappropriate behavior” between women, no one would bring it up for fear of making it real.

English literature scholars Suzanne Raitt and Claire Buck analyze the works of both Vicinus and Marcus, comparing their two approaches to lesbian history given that their books were published only three years apart. Marcus prefers drawing distinctions between different romantic or friendly relationships that women had with other women, whereas Vicinus imagines these relationships occurring along a continuum of same-sex desire. Marcus’s approach reveals her interest in how these relationships functioned alongside heterosexual relationships, while Vicinus is dedicated to relationships that she perceives to have excluded men. Both authors actively try to incorporate evidence—diaries, autobiographies, poetry, and

⁸ Sharon Marcus, *Between Women: Friendship, Desire, and Marriage in Victorian England* (Princeton: Princeton University Press, 2007), 21.

⁹ Martha Vicinus, *Intimate Friends: Women Who Loved Women, 1778–1928* (Chicago: University of Chicago Press, 2006), xxi.

¹⁰ Vicinus, *Intimate Friends*, xxx.

letters – that provides direct insight into the minds of women from the period they are studying. However, this does lead to focusing on women from higher socio-economic classes, due to the limited extant sources concerning working-class women. Marcus’s work challenges that of earlier historians – like Vicinus – who have tackled lesbian history, as she proposes that same-sex relationships “reinforced patriarchal norms” rather than challenging them.¹¹ Lesbians often sustained romantic and/or sexual relationships with women while either seeking or maintaining a marriage with a man. Raitt and Buck commend Marcus for suggesting that lesbianism expressed in this way reinforced patriarchal norms by covertly carrying on with romantic friendships while overtly participating in heterosexuality.¹² Scholars like Vicinus, however, perceive romantic friendships to be a form of resistance to heterosexuality and patriarchy.

English literature scholar Catherine Ingrassia argues that academics interested in lesbian historiography tend to quote each other, warning against getting caught up in circular reasoning.¹³ Similarly, British and Indian literary historian Ruth Vanita asserts that Vicinus’s book is repetitive for those who have engaged with lesbian historiography before its publication. However, Vicinus is recognized for emphasizing sex and sexual attraction between women in the nineteenth century, whereas most of her peers stretch the limitations of intimate friendship and romantic friendships, focusing little on the sexual aspects of these relationships. Vanita praises Vicinus for approaching love and friendships concurrently rather than viewing homosexuality through a progressive lens, which is often binary and would place the nineteenth century in a restrictive era; instead, Vicinus argues that “the lesbian was an integral part of society” throughout the 1800s.¹⁴ Vanita also notes that Vicinus does not do much comparative work, but that she does address disagreements surrounding interpretations of shame, suggesting that a woman’s shame surrounding same-sex desire originated not from Christian intolerance of homosexuality but because of Christian opposition to desire and lust in general. This point is echoed by Gender Studies scholar Naomi Lloyd, who, rather than suggesting that Constance Maynard (1849–1935), an evangelical Anglican who pursued relationships with women in the late 1800s, struggled with her homosexuality because of conflicting ideas regarding relationships in the Bible,

¹¹ Suzanne Raitt and Claire Buck, “Friendship and Lesbian Studies,” *Feminist Studies* 36, no. 3 (2010): 598–617.

¹² Raitt and Buck, “Friendship and Lesbian Studies,” 609.

¹³ Catherine Ingrassia, review of *Lesbian Dames: Sapphism in the Long Eighteenth Century*, ed. John C. Beynon and Caroline Gonda, *Journal for Early Modern Cultural Studies* 12, no. 2 (2012): 146–153.

¹⁴ See Ruth Vanita, “Renewed Pleasures: Loving Friendship and Friendly Love in the Long Nineteenth Century,” *Journal of Women’s History* 20, no. 4 (2008): 136.

argues that Maynard found love through her understanding of the Bible and evangelicals' perception of the meaning of marriage.¹⁵

Jodie Medd argues that the scandal surrounding the suggestion of lesbianism was influential in developing politics, law, and literature. In the eyes of the law, lesbianism did not exist, but the accusation still held power. Medd argues that an identity that excluded men did not make its way into legislation because the "heterosexual phallogocentric matrix" society was built around associating power with masculinity, and any relationship lacking the presence of a man would not be acknowledged. Medd is concerned with how the suggestion of lesbianism functioned as a factor in developing culture, rather than attempting to pinpoint what lesbianism involved in the late nineteenth to mid-twentieth centuries. Medd mentions cultural anthropologist Gayle Rubin when discussing sexual essentialism and moral panic, as they both document how public paranoia played a role in developing legislation. Based on her research, Medd broadens the definition of lesbian to include not just sexual behaviors but deviant female behaviors as well. Medd also explains why she uses the word "lesbian" rather than "sapphism," citing discussions of Members of Parliament and letters from the time period. Medd suggests that the "unknowable" aspect of lesbianism made it a powerful accusation as it inspired dramatic responses.¹⁶

II. Heteronormativity

Heteronormativity influenced the population to assume that a relationship could not exist without the involvement of both a man and a woman. In fact, Victorian England (1837–1901) stressed the importance of homosocial circles and unwittingly aided in the creation of a sphere where romantic friendships thrived – by which I mean relationships between women that existed beyond the realm of platonic feelings and evolved into romantic and/or sexual relationships. Despite the encouragement of close relationships between women, heterosexuality was so deeply engrained in Victorian culture that same-sex relationships between women were not considered a possibility by the general population, even when they witnessed women openly expressing affection for one another. This was compounded by the "dominant beliefs that middle-class women were without sexual passion."¹⁷ For instance, when Eleanor Butler (1739–1829) and Sarah Ponsonby (1755–1831) attempted to run away together and were subsequently caught by their families, a friend of Sarah's remarked, "we shall soon see our amiable friend again whose conduct [...] is I am sure void of serious impropriety. There were no gentlemen concerned, nor does it appear to be anything more than

¹⁵ Naomi Lloyd, "Discourses of Desire: Religion, Same-Sex Love and Secularisation in Britain, 1870–1930," *Gender & History* 26, no. 2 (2014): 313–331.

¹⁶ Medd, *Lesbian Scandal*.

¹⁷ Alison Oram and Annmarie Turnbull, eds., *The Lesbian History Sourcebook: Love and Sex Between Women in Britain from 1780–1970*, ed. Alison Oram and Annmarie Turnbull (New York: Taylor and Francis, 2013; originally published 2001), 50.

a scheme of Romantic Friendship.”¹⁸ The behavior of these two women was chalked up to a dramatic demonstration of devotion between close friends. Since a man was not involved, there was no inclination that their friends and family should be concerned that any inappropriate sexual behavior had occurred. However, the two women in this relationship rejected the heterosexual future that society and their families had planned for them. Sarah reaffirmed her love for Eleanor, declaring that “if the whole world was kneeling at her feet it should not make her forsake her purpose, she would live and die with Miss Butler.”¹⁹ While Sarah Ponsonby and Eleanor Butler did eventually end up living together, it cost them greatly. They were ostracized by their friends and families, isolated in a rural area with only each other’s company due to their deviance from the heterosexual norm.

In 1812, when Anne Lister (1791–1840), a woman with the means to support herself financially, met Mariana Belcombe (1788–1868) and decided to pursue a relationship with her, Mariana needed to marry for money. However, Mariana’s marriage to Charles Lawton did give Anne and Mariana a degree of safety as they continued their affair.²⁰ Anne went as far as “replac[ing] Charles’s ring [for Mariana] with a similar one in which she had inscribed her initials in place of his,” hoping it would strengthen the bond between her and Mariana even when they were apart.²¹ Anne also referred to Mariana as her wife: “How dull without M—, my wife and all I love.”²² Lesbians at this time often referred to their partner as their wife, “sposa” (i.e., the Italian word for a female spouse), or husband. Sharon Marcus argues that these relationships operated alongside heterosexual ones and therefore were not perceived as a threat and in fact thrived within power structures that typically oppressed women, but in this case gave them an explanation for their attachment to their “friends.” Women were expected to surround themselves with other women in order to observe them, effectively learning how to become good wives and mothers.

Anne Lister is an important figure because, rather than debating whether her same-sex relationships were romantic friendships or not, scholars can move on to more specific questions about her experience, given that she left behind a coded diary that explicitly documented her sexual relationships with women. Lister created her own identity in a space that lacked a prominent queer sub-culture. Her education gave her an advantage over other women, as she perused classics for

¹⁸ G. H. Bell, “Letters and Journal Entries Concerning the Flight of Butler and Ponsonby,” in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 55.

¹⁹ Bell, “Letters and Journal Entries,” 55.

²⁰ Anna Clark, “Anne Lister’s Construction of Lesbian Identity,” *Journal of the History of Sexuality* 7, no. 1 (1996): 28.

²¹ Vicinus, *Intimate Friends*, 20.

²² Helena Whitbread, ed., *I Know My Own Heart: The Diaries of Anne Lister, 1791–1840*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 62.

mentions of sapphism and studied texts that discussed homosexual behavior between men in societies like that of ancient Greece. However, she kept up a public appearance as an heiress that was just unconcerned with marriage, careful not to reveal her feelings toward women until “the other woman had made herself vulnerable” first.²³ Like others at the time, Lister “create[d] several different selves to suit public and private identities” in order to appear respectable to the general public while allowing herself a degree of freedom when surrounded by people who had gained her trust.²⁴ While she did transcend the traditional gender binary, Lister showed no inclination of wishing to be a man. She actually believed that—since women and men were not that different physically—she was free to take on masculine traits. This would give her access to male privileges, like maintaining relationships with multiple mistresses. Masculinity was not yet linked to lesbianism in the way that effeminacy was linked to homosexuality. While masculinity was thought to be “the chief characteristic of the sexually inverted woman,” not all women who “adopt[ed] the ways and garments of men” were perceived to be inverted.²⁵ Rather, Lister was mocked by men when she cross-dressed because it appeared to be an attempt to usurp power from them, even if she lacked the ability to truly do so.

Lesbians were critiqued more for cross-dressing than for engaging in romantic friendships. The act of trans-ing gender made their attraction to women more threatening and real to men than in femme-femme relationships. By trans-ing, I mean the act of subverting traditional gender roles, either by way of dress or through action and behavior. After a case was brought against a woman for passing as a man, the magistrate overseeing the case regretfully informed those in attendance that, although “she may be a disorderly and disreputable character [...] [as] her dressing as a man clearly shows, [he knew] of no law to punish her for wearing male attire.”²⁶ The gender expressions of masculine lesbians challenged heteronormativity in a more visible way, attracting more attention than romantic relationships between two femmes. A relationship between two femmes could be perceived by society as the women merely being close friends, both dedicated to learning from one another and improving their performances as Victorian women.

While twentieth-century women were intimidated into hiding their romantic experiences with other women, nineteenth-century women had their lives edited by people in the twentieth century due to their lack of discretion regarding their lesbian relationships. In many instances, biographers desperately searched for men who could be suggested as the subject of romantic letters and poetry written by women. In other cases, female writers had their work edited without their

²³ Clark, “Anne Lister,” 39.

²⁴ Clark, “Anne Lister,” 29.

²⁵ Oram and Turnbull, *Lesbian History Sourcebook*, 14.

²⁶ Anonymous, *The Sinks of London Laid Open: A Pocket Companion for the Uninitiated*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 25.

consent in order to cover up any lines that could raise questions about homosexuality.²⁷ This conflicts with Vicinus's idea that there was not an absence of lesbians in the Victorian period. Vicinus suggests that women who engaged in relationships with other women did not advertise their actions, remaining silent. However, women may have been silenced in a century where suggestions of sapphism held steeper consequences, and thus any sources that may have caused scrutiny were edited or destroyed. As moral panic concerning lesbianism grew in the early twentieth century, "gushing affection[ate] [...] Victorian letters between" women were edited by family members to avoid any accusations of sapphism.²⁸

III. Sexism

The argument that heteronormativity is responsible for the absence of legislation regarding same-sex behavior between women in England cannot stand on its own, as gay men were charged, convicted, and even killed for their "crimes." Sodomy was first criminalized in England during the reign of King Henry VIII with the adoption of the Buggery Act of 1533, which made sodomy a felony and subjected those convicted of participating in the act to "suffer[ing] such pains of death, and losses and penalties of their goods, chattels, debts, lands, tenements and hereditaments."²⁹ Homosexual behavior between men was further restricted in 1885 with the passage of the Criminal Law Amendment Act, which broadened the criminalization of homosexuality to include "any male person in public or private committing any act of gross indecency with another male person."³⁰ It is the absence of lesbianism in this amendment that is most interesting.

While it was suggested that gross indecency between women be added to the amendment in the 1920s, the House of Lords quickly denied the proposal.³¹ It was believed that by introducing legislation intended to deal with the issue of lesbianism in England, the House would actually "do harm by introducing into the minds of perfectly innocent people the most revolting thoughts."³² Homosexuality between men was partially decriminalized in 1967, when the Sexual Offences Act was passed, specifying that "a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years."³³ There were still restrictions, and homosexuality between men was not decriminalized completely in England until the passage of

²⁷ Lillian Faderman, "Who Hid Lesbian History?" *Journal of Lesbian Studies* 1, no. 2 (1997): 149-154.

²⁸ Vicinus, *Intimate Friends*, 95.

²⁹ The Buggery Act, 1533, 25 Hen. 8, c. 6, *The Statutes Project*, [online](#).

³⁰ Criminal Law Amendment Act, 1885, 48 & 49 Vict., c. 69, [online](#).

³¹ 43 Parl. Deb. H. L. (5th ser.) (1921) cols. 567-577, [online](#).

³² House of Commons, "Parliamentary Debates," in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 168.

³³ Sexual Offences Act, 1967, Chapter 60, [online](#).

the Sexual Offences Act of 2003. Despite this legal history, “intimacy between women was never explicitly covered by the law’s proscriptions.”³⁴

The changing legal system increasingly silenced defendants, compounding the unspeakability of the crime. Up until the mid-eighteenth century, the Old Bailey Sessions Paper (1674–1913) had provided defendants with the opportunity to make statements in their defense, but as trials began increasing the burden of proof – and newspapers began limiting their coverage of sodomy – opportunities to be heard became limited. However, those who were accused of being sodomites were still able to have their voices heard in biographies, minor newspapers, petitions, and speeches. This also allowed communities to engage in a dialogue surrounding the criminality and punishment of homosexuality, especially through the circulation of criminal court petitions.³⁵ The transcription of a House of Lords debate regarding amending the Criminal Law Amendment Act of 1885 reveals the ideas involving lesbians held by members of the British elite in the 1920s. During this debate, Lieutenant Colonel Moore-Brabazon (1884–1964) suggested that there were three ways to deal with homosexuals: “the death sentence [...] lock[ing] them up for the rest of their lives [...] [or] leav[ing] them entirely alone.”³⁶ Moore-Brabazon explained that cases of lesbianism were “self-exterminating” and therefore nothing should be done, lest it draw more attention to the vice and risk introducing innocent people to it. This demonstrates that, excluding passive suggestions, there were no movements committed to criminalizing homosexuality between women. These men believed that women could not conceive of expressions of sexuality outside of heteronormative practices and therefore sought to limit the public’s exposure to conversations involving female homosexuality.

Sexism invalidated relationships between women by denying the possibility that women could be engaging in romantic and/or sexual relationships with one another due to the lack of substance that could theoretically exist in their interactions. While “people used to make joking allegations to ‘schoolgirl crushes,’” any women who failed to outgrow this “phase” learned that it was inappropriate for them to desire to be with another woman.³⁷ Women who failed to enter into a relationship with a man were perceived to be “undersexed and bitter – thwarted in women’s true desire for marriage and motherhood.”³⁸ Education was intended to teach young girls to prioritize securing “a heterosexual future of marriage and motherhood.”³⁹ Thus, a rising number of “spinster

³⁴ Morgan, “Lesbian Paradox,” [online](#).

³⁵ H. G. Cocks, “Making the Sodomite Speak: Voices of the Accused in English Sodomy Trials, c.1800–1898,” *Gender & History* 18, no. 1 (April 2006): 87–107.

³⁶ House of Commons, “Parliamentary Debates,” in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 168.

³⁷ Olivia [Dorothy Bussy], *Olivia*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 69.

³⁸ Oram and Turnbull, *Lesbian History Sourcebook*, 131.

³⁹ Oram and Turnbull, *Lesbian History Sourcebook*, 129.

teachers” raised alarm in the nineteenth century, as it was suggested that this could negatively impact the next generation. Attraction to another woman was interpreted as immaturity, and fear that unmarried teachers could influence young girls to reject prioritizing their responsibility to marry men and raise a family led to a push for schools to balance the number of married and unmarried teachers.

Sexism, in tandem with heteronormativity, convinced the public to assume that women could not be attracted to each other in a way that would inspire anything close to a heterosexual relationship. Despite this, women within such relationships recorded feelings that clearly demonstrated their devotion to their partners: “I love you more sincerely than any man can [...] don’t let any man stand between us.”⁴⁰ Heterosexuals closely observed lesbian relationships where women did not attempt to hide their feelings. Explanations that differentiated these relationships from heterosexual ones often involved stripping women of any agency and belittling any activities they participated in that did not include men. In the mid-nineteenth century, female convicts transported to Van Diemen’s Land (i.e., the colonial name for the island of Tasmania, located south of the Australian mainland) participated in lesbian sub-cultures as an act of defiance. British officials attempted to regulate “unnatural” behaviors between women, but due to limited space and resistant women, convicts acted out in order to get sentenced again so they could remain close to their partners and the environment they had created within the factories. Women in the factories were separated into three classes; the women in the crime class—the third class—were perceived to be associated with anarchy because they had crossed boundaries associated with proper gender performance for women. This included taking on masculine traits or immorally acting in a way that a man would. “Unnatural” crimes were observed and documented by authorities. Sexual relationships between convicts were explicitly described, clearing up any doubt regarding whether these women were indeed partaking in sexual relationships with one another.⁴¹ However, because these women were criminals, this evidence served no purpose when it came to the general public, as lesbianism was just another example of how women in Van Diemen’s Land were morally deficient.

IV. Marriage as a Tool of Oppression

The institution of marriage limited women’s opportunities to pursue lesbian relationships because partnerships between women would not be recognized in the eyes of the law, and thus there was no opportunity to maintain or improve one’s class standing without ultimately seeking marriage with a man. The inability to get properly married also caused tension, which impeded the growth of healthy same-sex relationships. While lesbians could certainly “secretly exchang[e] rings

⁴⁰ Thomas Hardy, *Desperate Remedies*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 65.

⁴¹ Bláthnaid Nolan, “Up Close and Personal: Lesbian Sub-Culture in the Female Factories of Van Diemen’s Land,” *Journal of Lesbian Studies* 17, no. 3–4 (2013): 291–304.

and vows [...] public acceptance and the rituals of betrothal and marriage [which] stabilize passion [...] [were] denied to two women.”⁴² Legal benefits and social support would not be extended to women who refused to pursue a traditional marriage and therefore chose to “marry” their same-sex partner, knowing it would be a difficult life.

While the existence of female husbands could be seen as a threat to the institution of marriage—a ceremony sacred to heterosexual tradition—women could only “marry” another woman if they had access to inherited wealth and could afford to. While some women were able to take up wage work and could potentially support themselves, unofficially marrying another woman would also mean becoming social outcasts. The main character from *The Well of Loneliness*—Stephen—is ostracized by her family due to her embodiment of queer characteristics as well as her close relationships with other women: “Stephen’s recently widowed mother, horrified by her daughter’s masculinity and fearful of scandal, banishes her from Morton, her country home, forever. Leaving the estate symbolizes exclusion from normality, order, and ethical standards.”⁴³ This was the typical outcome for most lesbians who decided to pursue marriage with another woman. The existing legal system was therefore already a barrier that discouraged women from participating in same-sex relationships without explicitly outlawing lesbian relationships.

Laws in England criminalizing homosexual behavior trace back to beliefs attributing the fall of empires to the spread of declining moral standards. The belief that male homosexuality led to the decline of the empire through emasculation explains the prioritization of legislating male homosexuality, but “eugenics shifted the meaning of marriage from a spiritual union to a reproductive one that depended on heterosexual fertility and promoted racial purity.”⁴⁴ As a result of this, it was emphasized that “a girl’s education should be for marriage.”⁴⁵ By choosing not to marry a man, a woman was condemning herself to a lifetime of judgment by those around her due to her failure to achieve the two goals for Victorian women: marriage and motherhood. Female husbands were unable to perform the actions society expected of cis-male husbands, both socially and sexually. As demonstrated by this street ballad from the nineteenth century, women who “married” women were thought to remain virgins:

This poor woman had a husband, / That had nothing at all.
Twenty years she lived a married life. / Still a maid she may remain,
But we trust she’ll find a difference, / If she ever weds again.⁴⁶

⁴² Vicinus, *Intimate Friends*, 82.

⁴³ Vicinus, *Intimate Friends*, 217.

⁴⁴ Marcus, *Between Women*, 6.

⁴⁵ Vicinus, *Intimate Friends*, 209.

⁴⁶ Anonymous, “The Female Husband,” in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 23.

While there were ballads mocking the actions of female husbands, tensions between European states encouraged the English to question whether “the female husband might be seen as a challenge to the institution of marriage and heterosexuality, to the gender order, and to the nation itself.”⁴⁷

V. Indefinability in Legislation

The indefinability of lesbianism within the law and the societal understanding of sex made it impossible for sexual relationships between women to be considered as having occurred. Women like Anne Lister were able to exercise a great deal of freedom due to “the widespread belief that male penetration constituted ‘sex.’”⁴⁸ Lister was able to exploit cultural assumptions regarding sex, including the idea that female husbands were “hermaphrodite[s] [...] [or] incomplete sexual subjects. Whatever passed between this type of husband and wife was thus not regarded as a real sexual relationship.”⁴⁹ This perception of lesbians supported the idea that a sexual relationship could not exist between two women because it was not anatomically possible for them to mimic the sexual practices of heterosexual couples. In fact, when discussing an accusation of unchastity, a judge declared that in the Slander of Women Act of 1891, “the word ‘unchastity’ [...] is limited to unchastity between a woman and a man and excluded immorality between persons of the same sex.”⁵⁰ While “stimulation” between women was certainly looked down upon, it was not perceived to be sex or a “real union.”⁵¹ “Unnatural relations” between women were thought to be perverse “because the sexual organs [were] being used purely for the purpose of pleasure, and without any connection with their biological purpose – that of reproduction.”⁵²

Laws regulating social behavior often depended on intense support from the public in order to make their way into the legislature. In the case of same-sex legislation, moral panic played a major role in inspiring the creation of laws to outlaw aspects of queer identity. However, lesbians were invisible in the eyes of the law due to lesbianism, as a concept, being essentially unacknowledged by English society.⁵³ The publication of Radclyffe Hall’s novel *The Well of Loneliness* in 1928 sparked the first major discussion concerning lesbianism in England. An article printed after the banning of the book mentions the hysteria that surrounded conversations concerning lesbians. The book is described as having caused “a

⁴⁷ Oram and Turnbull, *Lesbian History Sourcebook*, 14.

⁴⁸ Vicinus, *Intimate Friends*, 22.

⁴⁹ Oram and Turnbull, *Lesbian History Sourcebook*, 14.

⁵⁰ *Kerr v. Kennedy*, 1 All ER (1942) 412, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 170.

⁵¹ Marie Stopes, *Enduring Passion*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 112.

⁵² Laura Hutton, *The Single Woman and her Emotional Problems*, in *Lesbian History Sourcebook*, ed. Oram and Turnbull, 115.

⁵³ Medd, *Lesbian Scandal*, 2.

great sensation in England.”⁵⁴ This convinced the Home Secretary—William Joynson-Hicks (1865–1932)—to bar the printing of the novel because it promoted moral indecency. After the publication of the *Newcastle Chronicle* on October 4, 1928, all copies of the novel being shipped by mail were seized and held by Customs officers.⁵⁵ Some journalists equated the action of shipping banned books to working against the government, demonstrating the social phobia that followed the increase in discussions involving same-sex relationships between women.⁵⁶ However, Joynson-Hicks risked a legal battle involving the freedom of the press in order to prevent the further spread of lesbian content.

Conclusion

Few amongst the general population were willing to admit the existence of lesbianism in the eighteenth to mid-twentieth centuries. Women involved with other women were perceived to be dedicated to their friends, and the practice of not advertising one’s lesbian relationship socially meant that it was not a conversation that the community witnessed unless there had been a major scandal. Legislation was not used to target lesbians in a manner similar to gay men because heteronormativity and sexism influenced the population to assume that a relationship could not exist without the involvement of both a man and a woman; the institution of marriage left women with little choice but to marry a man; and the legal definition of sex made it impossible for sexual relationships between women to be considered as having occurred. Despite societal disapproval of the “perversion” known as lesbianism, Radclyffe Hall refused to continue participating in prolonging the general silence surrounding the topic, and “treated [lesbianism] as a fact of nature—a simple though, at present, tragic fact.”⁵⁷ Despite intense reactions to the contents of her book, Hall avoided any legal battles concerning her own sexuality, remarking that “in the eyes of the law [she was] nonexistent.”⁵⁸ Lesbianism did not need to be explicitly made illegal because it was already excluded as a possibility of desire due to systemic power structures that prioritized policing masculinity and subsequently oppressed women, limiting their freedom to pursue opportunities without the support of a man.

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⁵⁴ “Well Out of Its Loneliness: Paris Offer of Book England Disliked,” *Newcastle Chronicle*, October 4, 1928.

⁵⁵ “Watch at the Ports,” *Daily Express* (London), October 5, 1928.

⁵⁶ “The Banned Book,” *Daily Express* (London), October 5, 1928.

⁵⁷ Vicinus, *Intimate Friends*, 218.

⁵⁸ Medd, *Lesbian Scandal*, 2.