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## Criminalization of Same-Sex Desire: 18th & Early 19th Century Britain

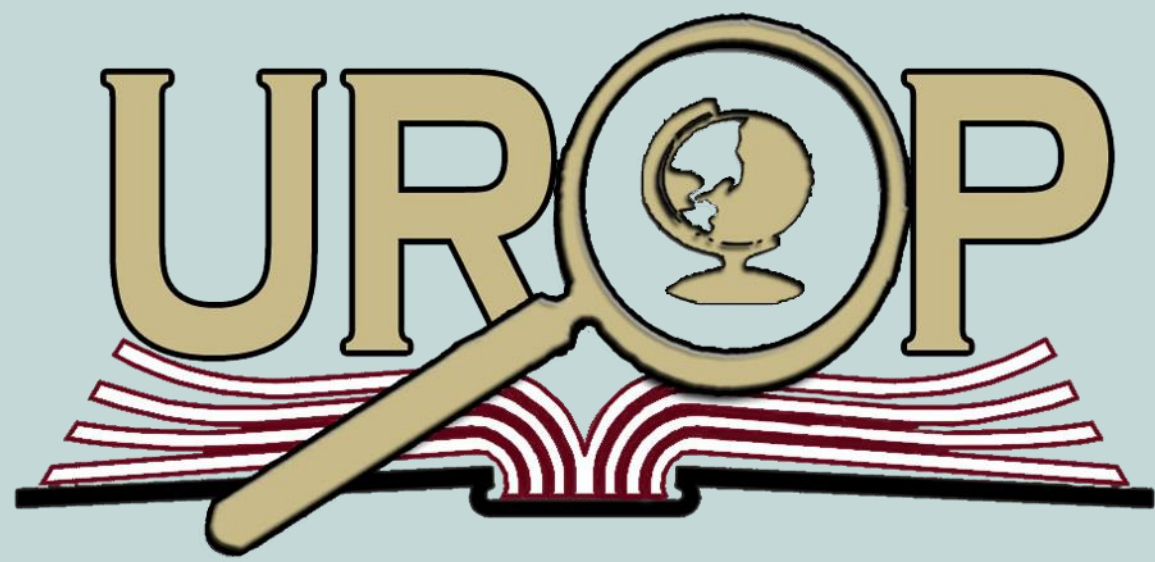
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# Criminalization of Same-Sex Desire: 18th & Early 19th Century Britain



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## Abstract

This projects goal is to understand the illegality of homosexuality in the early part of the 19<sup>th</sup> century in Great Britain through Newspaper reports and criminal charges. This contributes to the research of Professor Charles Upchurch of the History Department as he writes his second book. In large, the concern is contextualizing the Summer of 1825 as an increase in charges published and put forthright against men for same-sex desire escalated. As homosexuality is more accepted in our society it is important to understand the beginning of reforms made in the legal system that move towards or deviate from this progress. In *the Times Digital Archive 1785-1985*, looking for three key words Sodomy (or fodomy), Unnatural Crime, and Abominable Crime between the years 1785-1805 one can see numerous instances of men charged or even given capital punishment for homosexuality. The *British Newspaper Archive* has similar and more articles published that can confirm cases that appear relevant based on the articles found in the *Times Archive*, by using the same key words and specific names. This resulted in an understanding of inaccuracies in the databases for finding reliable or conclusive evidence. However, it did prove that not only was homosexuality reported on often there were common legal procedures and punishments for such “crimes.” By looking through primary source articles about the illegality of homosexuality at the end of the 18th and increasingly in the early 19<sup>th</sup> century, this was able to show social taboos associated with class and sexuality. Additionally, it provided a point to question why homosexuality was a larger social issue for men than women within a traditional patriarchal society.

## Background

The Summer of 1825 is particular to this research since it resulted in three members of parliament being lost to scandals related to homosexuality all with in such a short time span. Robert Peel's heavy-handed reaction to these scandals was countered by public outcry to reform the sodomy laws. Unequal protection under the law was more than evident since the elite class could circumvent punishment for committing the same crime as a working class member of society, breaking the sodomy law was no exception. All of this would culminate in a group of activist to lobby the parliament beginning at this time and trudging along through the 1830's and 1840's. In order to understand this sudden changes occurring, it in important to see the frequency and rhetoric around these sodomy laws which is why this project looks thought the years 1785-1805. Also important to keep in mind when contextualizing this time is to think about the revolutionary attitudes that came to question traditional authorities on the continent and abroad. With Liberalism in the air, this time more than any before would create a perfect environment for progressives to envision what a reformed government or society would look like; what values it would enforce.

## Discussion

All that is known about William Powell is that he was a 70 year old convict resulting from his same sex desire. Likewise, all that can be known about Methuselah Spalding is that he too was a martyr to the law for his desire. Their lives can be marginalized into charts by how they are described in a single sentence hidden in bulk criminal charges recorded in newspapers across England. These stories span seven years from each other, one on the cusp of a new century, and the other only at the start of a new one. Yet all that is worthy to know about their stories is that these men broke the sodomy laws and as a result, the newspapers informed the pubic of their execution to shame these men for their crime. Spalding became lost to the *Times* database. Working with these online technologies is convenient and accessible; however, attempting to further investigate Spalding is a wild goose chase. Even the articles that evidently exist about him are not among search results. When looking for last name only, a flood of Spalding's come through the results, none of whom are Methuselah. Unfortunately, this means if there happens to be a more descript article describing this man or his crime at this time it is unavailable via the *Times Digital Archive*. However, it is remarkable that these stories exist in the volume that they do. The *British Newspaper Archive* displays that these stories were worthy of receiving public chastisement across England, not just in London. The notion that same-sex desire is only sensationalized in contemporary media is the result of a gap in the illegality of same-sex desire as something that has a history in society and law.

## Discussion

The difficulty in closing this gap in our understanding through old newspapers can also come from nuances in type print. The letter *s* is often printed as a lower case *f* in order to distinguish between an *s* as a proper noun or the beginning of a sentence. As a result, the word sodomy was often printed in a way that made it look like “fodomy.” By searching this word in the database it had its own plethora of results. For example, all of the cases about Powell recorded in the *British Newspaper Archive* on this poster came from searching fodomy rather than sodomy. This shows that there is a particular amount of trouble shooting in methodology while looking through online archives. In order to detect articles and documents that would otherwise been lost to the limitations of a computer's capacity to read this old print, researchers must adapt their methods through trial and error. One other such case found by searching fodomy in the *Times* archive was from 1787. The article chronicles the charges against Phillip Maul for attempting to commit sodomy against Richard Gillian. Gillian was walking home at night and went behind a building to relieve himself. On his way, Maul touched him, and Gillian said he believed he attempted to pickpocket him. Next, when he went to urinate Gillian said Maul touched his private parts, and so Gillian moved and continued to do this when Maul approached him again making it clear that it had not been a mistake to grab him, doing it once more. At this point the two men get into a fight and are separated by a watchman. The watchman is able to get the story from the two men. Both parties were described as good men. Ultimately Maul was found guilty, fined and sent to a year in prison. The article then gives significantly shorter descriptions of various other cases, none given in the same amount of description as this one.

This begs the question, why talk about this particular story in such graphic detail but not about the particular courtroom account? This story does many things in its capacity to illustrate what these instances would have looked like. Often accounts of same-sex desire run-ins were in the evening, and in public places rather than in quiet domestic settings. An article may leave out any courtroom accounts except for the outcome of a trial or speaking about the character of the men in question. Character witnesses were essential to acquittal of a crime. It proved status and reputation, something that poor citizens would not be able to provide or would not be allowed to provide based on assumption of corrupt character. This story is included in the database discrepancies. Nowhere else in the *Times Digital Archive* would one be able to find this long, graphic story without the understanding of this trial and error methodology to uncover some hidden articles in the database. This means there could be more stories like this that are unintentionally, but so easily overlooked.

Each of the three key words used in the database searches were sodomy (fodomy), unnatural crime, and abominable crime. Sodomy is explicit in meaning homosexuality between two men and not two women. This along with the diction itself leads to associations people had with religion and views of same-sex desire. “Unnatural crime” and “abominable crime” were the other two key words and are biblical in their description, as if people were classifying same-sex desire as “an act against god.” This attitude of intolerance is commonly pulled from the bible verses in Leviticus that states, “Thou shalt not lie with mankind, as with women; it [is] an abomination.” This of course depends on the religious context these people are living in. While the 19<sup>th</sup> century saw a fair amount of questioning of religious and other authorities, it is possible that the default in society was so well ingrained as to make reform a matter of not law alone, but also religious reform. This attitude is synonymous with attitudes seen about homosexuality currently; however, the current debate is less about the legitimacy of homosexuality as a whole and more about its place in the domestic sphere.



1818 Caricature of two men sneaking off at a public gathering

	Times Digital Archive	Language Used	British Newspaper Archive	Language Used
William Powell	Monday, Sep 04, 1797 <i>Times London</i>	Unnatural Crime Executed	Friday, Aug. 18, 1797 <i>Stamford Mercury</i>	Sodomy Punished by Death
			Saturday, Aug. 19, 1797 <i>Ipswich Journal</i>	Sodomy “Left for execution”
			Saturday, Aug. 26, 1797 <i>Oxford Journal</i>	Sodomy Sentenced to death

Times Digital Archive

British Newspaper Archive

	Times Digital Archive	Language Used	British Newspaper Archive	Language Used
Methuselah Spalding	Saturday, Dec. 03, 1803 <i>Times London</i>	Unnatural Crime “found guilty”		
	Monday, Dec. 05, 1803 <i>Times London</i>	Sodomy Guilty	Monday, Dec. 05, 1803 <i>Old-Baily</i>	Sodomy Guilty
	Saturday, Feb. 04, 1804 <i>Times London</i>	Unnatural Crime Executed		

Times Digital Archive

British Newspaper Archive

## Acknowledgments

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