

**Recovering Queer History in Texas:  
Female Impersonators, Public Opinion, and Policy Responses  
in the Early Twentieth Century**

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In the summer of 1938, a building was ablaze, a community disheartened, and a perpetrator unpunished.<sup>1</sup> A newspaper three-hundred miles away, in another city, documented the incident. Houston, Texas, where the building once stood, no paper chronicled the ruined establishment within its pages. The Wagon Wheel Night Club opened roughly in 1936 as a heterotopia for homosexual individuals and those currently accepted under the modern LGBTQ+ community.<sup>2</sup>

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I would like to take this moment to acknowledge the contributions of my mentor Dr. Elaine Turney, whose guidance and support made this project possible, thank you.

<sup>1</sup> "Believe Club Blaze Arson," *San Antonio Light*, June 10, 1938, Texas Newspaper Archive, 6.

<sup>2</sup> "New Business Firms," *Daily Court Review*, May 14, 1938, Texas Newspaper Archive, 4.; "Application For Beer Licenses," *Daily Court Review*, December 18, 1937, Texas Newspaper Archive, 4.; "Believe Club Blaze Arson," *San Antonio Light*, June 10, 1938, Texas Newspaper Archive, 6.

\*The acronym LGBTQ+ stands for the various sexual and gender preferences of modern individuals. Broken down it is as follows: Lesbians, Gay, Bisexual, Transgender, and Queer. Although these may be the more predominant of the various preferences, they are by no means

While homosexuality was a commonly used term to describe the romantic and sexual attraction between individuals of the same sex, during the period under discussion 1900 to 1950, there is no terminology that defined those emotions publicly among homosexuals. In order to define homosexuality in the context of the time period, terms such as same-sex, same-sex desire, masculine desire, and queer substitute the modern lexicon.<sup>3</sup> Also, the locations that admitted and tolerated homosexuality within their establishment were not solely homosexual institutions, referring to the servicing of both heterosexual and homosexual individuals simultaneously. Also, many individuals that were homosexual were not discernable to the average heterosexual individual. The lack of transparency and guarded nature of homosexual individuals generated a culture of secrecy that produced a limited amount of biographical information or testimonials.

Deficiency of information in the current volume of historical works, concerning homosexuality offers a disproportional selection of writings, particularly within conservative regions in the United States. The absence of available literature on

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the only labels within the LGBTQ+ community. Though due to the timetable of this paper the less predominant variances shall not receive priority attention for now.

<sup>3</sup> The term Same-Sex will be used in reference to homosexuals and homosexual sexual activities. While Same-Sex desire, and Masculine Desire will be used in place of homosexuality. The term Queer while within the time period is used interchangeably for the word "strange", however, for the purposes of this paper it will be used when referring to the men and women who adopted their opposite genders' dress and mannerisms. Also, when referencing the wider LGBTQ+ community in Texas, the term queer community will be used.

homosexual history propagates ignorance and develops an abhorrence towards gay individuals in contemporary America. The effects of this disparity in homosexual historiography have resulted in an increasing volume of legislation directed towards homosexuality, and the LGBTQ communities, in the United States. Legalizing such discriminatory ideologies has reinforced specific cultural norms to which heterosexual individuals subscribe, and has propagated inaccurate information concerning gay individuals, and the LGBTQ communities. Though the history of homosexuality and the greater theme of queer history has limited documentation, additions to the field are offering new information and methods to promote a greater understanding.

The intention of this research is to promote the equality and equity of marginalized segments of society, give agency to people who hid themselves out of fear of being ostracized from society, or who bravely lived as themselves and became targets of hostile elements of the public. In addition, this exploration of history offers the LGBTQ community the opportunity to gain insight into historical examples of homosexual individuals existing, if not openly, clandestinely in history. Also, it promotes an understanding and awareness of homosexuality, alongside LGBTQ history for the general public. Finally, the discriminatory legislation and civic actions taken against the LGBTQ community in Texas during the period, provide a reflection of similar legislation in the contemporary world.

The state of Texas has a large conservative and rural population owing in part to its immense geographical size, which obstructs the understanding and acceptance of LGBTQ individuals by the state and its populace. An examination of the period 1900-1950 distinctly rectifies this non-inclusion by proving that homosexuality existed within the state of Texas legal system. Additionally, by focusing on the enactment of ambiguous and discriminatory legislation by Texas lawmakers, the contemporary interpretation of homosexuality is redeemed. Likewise, an analysis of the popular performances of female impersonators and their clashes with law enforcement will also service the discussion of homosexuality, and the LGBTQ community's, existence within the state.

The state of Texas's first Penal Code in 1857 failed to contain any criminal definitions of masculine desire or the associated sexual acts.<sup>4</sup> The adoption of the 1879 Penal Code by Texas's sixteenth legislature formally introduced Article 342, which criminalized and outlined the act of sodomy.<sup>5</sup> The statute stated, "If any person shall commit with mankind or beast the abominable and detestable crime against nature, he shall be deemed guilty of sodomy, and on conviction thereof, he shall be punished by confinement in the penitentiary for not less than five nor more than fifteen years."<sup>6</sup>

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<sup>4</sup> State of Texas, 6<sup>th</sup> Legislature, *Penal Code of the State of Texas*, Galveston News Office: Galveston, 1857.

<sup>5</sup> State of Texas, 16<sup>th</sup> Legislature, *Penal Code of the State of Texas*, State Printing-Office: Austin, 1879. 46.

<sup>6</sup> *Ibid*, 46.

Under the addition of Article 342 the sexual practice of same-sex individuals became illegal in the state of Texas, criminalizing an entire portion of society.<sup>7</sup> Article 342 contributed to the development of an era of secrecy characterized by a growing societal dissonance between same-sex culture and heterosexual society within the state. The gulf created by Article 342 further reinforced the criminalization of same-sex communities, allowing for comparisons between masculine desire and other criminal actions such as theft or rape.<sup>8</sup> Texas courts and statutes unjustly sought to forbid same-sex individuals existence within the state through Article 342 and subsequent legislation.

Under the Texas Penal Code of 1857 an individual conducting or participating in same-sex behavior was not violating Texas law because the statutes did not explicitly cover masculine desire in their tenets.<sup>9</sup> During this period a same-sex individual could potentially live their lives in legal safety. This period of security did not last. The state's adoption of the 1879 statutes ended this period of personal freedom. The introduction of Article 342 forever changed the course of same-sex individuals regarding their conduct in public and in private. It is important to note these earlier editions of the penal codes as their definition of sodomy will remain unaltered in later revisions of the Texas Penal Codes well into the twentieth century. The sodomy

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid, 70.

<sup>9</sup>6th Legislature, *Penal Code*, 1857.

statutes as written law provides strong support of the existence of a queer population within Texas. Following the 1879 statutes, sodomy as defined in the 1911 Penal Codes Article 507 is as follows: “If any person shall commit with mankind or beast the abominable and detestable crime against nature, he shall be deemed guilty of sodomy, and, on conviction thereof, he shall be punished by confinement in the penitentiary for no less than five nor more than fifteen years.”<sup>10</sup> As stated before this definition is identical to that of the 1879 Article 342 and compounding on that issue this delineation offers no palpable understanding as to what the state considers sodomy. Vague as it is, this is the definition that would ultimately dictate the outcome of cases involving same-sex individuals and behavior.

As per the 1869 case of *Fennell v. State*, the defense argued under the jurisdiction of the 1857 penal codes, in what was most likely the first case of same-sex sodomy in Texas.<sup>11</sup> The case involved the defendant appealing to the state’s supreme court to argue the legal validity of the imprecise language expressed in the state’s sodomy statute.<sup>12</sup> The defense provided the reasoning for this with specific articles present in both the 1857 penal codes and George Pascal’s *Digest of the Laws of Texas*.<sup>13</sup> The articles,

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<sup>10</sup>State of Texas, 32<sup>nd</sup> Legislature, *The Penal Code of the State of Texas*, Austin Printing Co.: Austin, 1911. 131.

<sup>11</sup> *Fennell v. The State*, 32 Tex. 378 (1869).

<sup>12</sup> *Ibid.*

<sup>13</sup> 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2; George, Pascal. *A Digest of the Laws of Texas: Containing Laws in Force, And The Repealed Laws on Which Rights Rest*. W.H & O. H. Morrison: Washington, D.C. 1870. 395-396.

which dictated the necessity of concise language in Texas statutes to allow for an individual's apprehension by the state, within the Texas Penal Code is Article 1 stating, "the design of enacting this Code is to define in plain language every offence against the laws of this State and affix to each offence its proper punishment." and Article 3 stating:

In order that the system of penal law in force in this state, may be complete within itself, and that no system of foreign laws, written or unwritten, may be appealed to, it is declared that no person shall be punished for any act or omission as a penal offence, unless the same is expressly defined and the penalty affixed by the written law of this State.<sup>14</sup>

The articles in Pascals *Digest*, numbered 1603 and 1605, read verbatim to Articles 1 and 3 in the 1857 Penal Codes.<sup>15</sup> Due to the language presented in these statutes the court ruled in favor of the defendant and reversed the earlier conviction of sodomy.<sup>16</sup> The importance of the ruling in *Fennell v. State* is that the case affirmed the state's inability to legally prosecute individuals that committed sodomy, such as same-sex individuals. Therefore, even though the Texas code prohibited the action of sodomy, that same law could not be used to convict same-sex individuals under the expressed definitions provided by the state.

The ruling, however, would not last because the adoption of the 1879 penal codes superseded the language expressed in the 1857 statutes. The new codes adopted in 1879 now stated, "it is declared that no person shall be punished for any act or

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<sup>14</sup> 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2.

<sup>15</sup> Pascals, *Digest*, 395-396.

<sup>16</sup> 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2; Pascals, *Digest*, 396-395.; *Fennell v. State*, 1869.

omission, unless the same is made a penal offense and a penalty is affixed thereto by the written law of this state," resulting in the removal of the phrase "expressly defined" as part of the judicial requirements for an individual to be punished under the state's penal code.<sup>17</sup> The state not only criminalized masculine desire with their legislation reforms, but also laid the groundwork for an increase in criminal prosecutions because of the removal of "expressly defined" from the penal codes.<sup>18</sup> The state, rather than simply redefining the statute to be more descriptive, chose to allow a vague definition to remain in place for a punishable offense. An offense that could submit individuals to a prison term of five to fifteen years for engaging in a "crime against nature," or an "abominable and detestable" act such as murder, rape, theft, or arson.<sup>19</sup> These crimes met the expressed requirements of the Article 342 in the 1879 penal code, and illustrate the intent of the state's actions.<sup>20</sup> The alterations made to the Texas Penal Codes served the states' desired effect as later defendants, while attempting to mimic the defense in *Fennell v. State*, would discover the adjustment to the state's statutes.

The case of *Ex parte Bergen* and its ruling led to the discovery of the state's amendment of the 1857 statutes.<sup>21</sup> As stated previously the ruling in *Fennell v. State* was granted due to the language presented in Texas's Penal Code concerning the

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<sup>17</sup> 16<sup>th</sup> Legislature, *Penal Code*, 1879, 1.

<sup>18</sup> 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2.

<sup>19</sup> 16<sup>th</sup> Legislature, *Penal Code*, 1879, 46.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ex parte Bergen*, 14 Tex. Ct. App. 52 (1883).



prosecution of an individual in relation to their assumed crimes being “expressly defined” as stated in Article 3 of the 1857 statutes and Article 1605 in Pascals *Digest*.<sup>22</sup> The defense attempted to mirror the strategy of *Fennell v. State*, by counterarguing that sodomy, “is not defined as an offense by the Penal Code . . . .”<sup>23</sup> Though the court did acknowledge the ruling of *Fennell v. State*, they also presented an analysis concerning the purpose of Article 3 in the 1857 Penal Code. The court proposed the intention of Article 3 and the language therein, concerns the prevention of the judiciary from seeking foreign council, and that the need for such protection is redundant.<sup>24</sup> The removal of this provision within the 1857 Penal Codes allowed the use of the common law in the facilitation of prosecuting citizens, which as stated by the court was a “prevailing practice” for the states judiciary.<sup>25</sup> The court stated that, “Article 3 was not intended, and cannot be legitimately construed, to mean that resort may not be had to other systems for illustration, or in aid of the construing . . . or uncertain provision of the Criminal Code.”<sup>26</sup> This statement challenged the necessity of the language in Article 3 and the security it provided same-sex individuals. Though the court attempted to cloud the reasoning for amending Article 3 under the guise of allowing the judiciary diverse resources to aid them in the prosecution of criminals, the true intentions

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<sup>22</sup> 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2; Pascals, *Digest*, 395-396.

<sup>23</sup> *Ex parte*, 1883.

<sup>24</sup> *Ibid*.

<sup>25</sup> *Ex parte*. 1883.; 6<sup>th</sup> Legislature, *Penal Code*, 1857, 2.; Pascals, *Digest*, 395-396.

<sup>26</sup> *Ibid*.

targeted same-sex individuals. The preceding discussion of *Fennell v. State* and the use of Article 3 to escape prosecution is notable, because the case was the primary motivation for amending Article 3 in the 1857 Penal Codes.<sup>27</sup> In *Ex parte Bergen* the court simply conceded that while the *Fennell v. State* ruling was correct, the court based it on a previous statute that had now been amended.<sup>28</sup> The court then stated, “it is no longer required that the offense should be expressly defined” thereby allowing the criminal prosecution of individuals without a clearly defined legal statute, and providing a method of discrimination and corruption into the Texas legal system that remained unaltered for over half a century.<sup>29</sup> Moreover, the relative secrecy of this revision within the 1879 penal code is clearly illustrated by the defendant’s use of an outdated argument. The case appears to have taken the defendant by surprise, as no sooner than the court had stated why the argument was no longer valid, it affirmed the previous guilty ruling of the defendant, ending the session.<sup>30</sup> *Ex parte Bergen* is a case that exposed flaws of character within the legislative and judiciary systems of the State

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ex parte*, 1883; 16<sup>th</sup> Legislature, *Penal Code*, 1879;2.; 50<sup>th</sup> Legislature, *Vernon’s Texas Statutes 1948: Volume 2 Penal Code, Code of Criminal Procedure Tables – Index*, Vernon Law Book Co.: Kansas City. The amended Article 3 remains unaltered by the Texas Legislative system through the period of discussion. It is beyond the scope of this paper to examine whether the amendment remains in subsequent revisions of the Texas Penal Code, however, later additions of the paper will attempt to address the question.

<sup>30</sup> *Ex parte*, 14 Tex.

of Texas. The supplanting of the language in Article 3, illustrates the discrimination towards the same-sex community and other minorities groups within the state.

The amendments made in the 1943 supplementary statutes, Article 524, finally changed the state's definition of sodomy. The new statute read:

Whoever has carnal copulation with a beast, or in an opening of the body, except sexual parts, with another human being, or whoever shall use his mouth on the sexual parts of another human being for the purpose of having carnal copulation . . . and upon conviction thereof shall be deemed guilty of a felon, and shall be confined in the penitentiary not less than two (2) nor more than fifteen (15) years.<sup>31</sup>

The language within the new statute did stipulate what, in the state's definition, constituted sodomy. Moreover, the statute contained a few choice words that indicated the criminalization of same-sex individuals within the code. For example, the code used the word "his" in the description of oral sex as an act that equated sodomy.<sup>32</sup>

Although the rest of the sentence includes the phrase "human being" the use of the word "his" clearly alludes to same-sex men as the target of the revised statute.<sup>33</sup> The minimum sentencing period for sodomy from the prior five years penalty to the reduced two years in state custody could allude to the frequency of this charge appearing within the Texas court system. Furthermore, same-sex individuals' methods of communicating sexual affection fell into the penal code as "Title 10: Offences against

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<sup>31</sup>State of Texas, 48<sup>th</sup> Legislature, *Vernon's Texas Statutes: Centennial Ed. 1943 Supplement*, Vernon Law Book Co.: Kansas City. 471.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

Morals, Decency and Chastity” filed under the term “Miscellaneous.”<sup>34</sup> This labeling further illustrated the state’s opinion of masculine desire and the queer community’s existence as a transgression against the mainstream morals in the state.

The 1943 supplementary amendment to the penal codes could potentially be the result of *Munoz v. State*. In this 1926 case the defendant was imprisoned for having oral sex with another man and appealed his prior conviction of sodomy arguing, “however vile and detestable the act may have been it did not come within the definition of ‘sodomy’ as known to the common law . . . .”<sup>35</sup> The state could not deny this argument because within the 1925 statutes the code for sodomy, specifically Article 524, did not contain a provision discussing or connecting oral sex to the states definition of sodomy.<sup>36</sup> Based on this the court reversed Munoz’s sentence as they could not legally convict the defendant under any crime within the Texas Penal Codes. Although, as the 1943 revision of Article 524 illustrates the state did not allow such a fault to exist within the Texas Penal Codes for long. Even during the course of *Munoz v. State* the presiding judge cited another case stating, “in the case last cited and which was decided in 1909, Judge Ramsey said in his opinion, ‘We think that some legislation should be enacted covering these unnatural crimes.’”<sup>37</sup> This comment demonstrates the contempt that was

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<sup>34</sup> State of Texas, 39<sup>th</sup> Legislature, *Penal Code of The State of Texas*.

<sup>35</sup> *Munoz v. State*, 103 Tex. Crim. 439 (1926).

<sup>36</sup> State of Texas, 39<sup>th</sup> Legislature, *Penal Code of The State of Texas*.

<sup>37</sup> *Munoz v. State* (1926).; *Harvey v. State*, 55 Tex. Crim. 199 (1909).

held within the state and the court system towards masculine desire. The legislation in 1943 continued the state's alienation of masculine desire and the queer community thereof. Although the state of Texas might have been attempting to oppose detestable crimes like child abuse and rape as the 1889 case of *Medis v. State*, which concerned the rape of Milton Werner by two men, Charles Medis, and Ed Hill.<sup>38</sup> Although the finer details are not present in the document as the record stated, "the details of the transaction involved in this prosecution are too foul and disgusting to be recorded even in a report of judicial proceedings," the recorded fragments depict an instance of same-sex rape and assault in nineteenth-century Texas.<sup>39</sup> Illustrating the need of such legislation in the state, however, the implementation of said laws left much to be desired as the statutes removed same-sex individuals limited means of communicating affection and forced countless same-sex individuals to act illegally in the eyes of the state. This legislation resulted in masculine desire becoming an intended causality of the state's legislation. As same-sex desire stood, within the view of the state, alongside hardened criminals and their truly detestable crimes.

Although the legal system of the State of Texas was attempting to safeguard the security and values of its citizens through such legislation, the state also disregarded the lives of same-sex citizens by criminalizing their methods of sexual affection. Texas

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<sup>38</sup> *Medis v. State*, 27 Tex. Ct. App. 194 (1889)

<sup>39</sup> *Ibid.*

lawmakers excluded an entire segment of society with their deliberate ambiguity and judged same-sex desire as an anomaly they had to expel. The continual amendments to the penal code involving the legal definition of sodomy, the individuals who argued against the state's ambiguous statute, and the specific targeting of same-sex desire through state legislation uniquely, if unintentionally, recognized the presence of a queer community in the State of Texas. The same-sex community of Texas while continuously opposed by state legislation nonetheless persisted in the state as the preceding sections demonstrates. Although the legislative system of Texas did fail the queer community, masculine desire continued to persist within the state despite the injustice they endured, which is also evidenced by the presence of female impersonators.

Despite the atmosphere the queer community encountered, they continued to defy the limitations imposed upon them simply by existing in a public manner. Female impersonators are one such example of this defiance, as these men and women placed themselves in the opposite gender's attire, adopted their mannerisms, and entertained both sexes in various locales around the state. Although the primary evidence is not definitive on the matter, the characteristics of female impersonators in comparison to both modern transgender individuals and drag queen performers prove to be similar.<sup>40</sup>

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<sup>40</sup> To state that these individuals are not early examples of the transgender community within the State of Texas is illogical. However, it is beyond the scope of this paper to make such a comparison fully supported by the source material gathered. Therefore, no argument shall be made for female impersonators being precursors to modern transgender individuals. Presently only the argument of female impersonators existing as an extension of same-sex community

Though these queer performers were present and remarkably visible, they endured a polarized reception from the heterosexual population of Texas. Furthermore, while the statutes of Texas clandestinely targeted masculine desire, another portion of the Texas Penal Codes directed their attention towards female impersonators more overtly.<sup>41</sup> The most common charge female impersonators encountered was vagrancy. The 1925 penal statutes, Article 607, defined many examples of what constituted vagrancy, and the overarching variable for each definition was targeted towards individuals who did not have a reputable means of employment or income.<sup>42</sup>

Surprisingly, whereas many individuals in Texas detested acts of same-sex attraction, female impersonators enjoyed moderate support from the public within Texas. This is not to say they faced no discrimination, because the public attention queer performers garnered the contrasting opinions of the populace and the government were clearly communicated. Female impersonators faced interrelated discrimination due to their membership within the queer community and their candid

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shall be made, however, attempts will be made to further include other facets of the LGBTQ+ community in future additions.

Also drag queens in the modern day are homosexual, sometimes heterosexual, men that dress in women's attire and acts as females to entertain patrons at night clubs and bars.

<sup>41</sup> While female impersonators are the given term for these men and women that dressed as their opposite gender, as stated in the introduction the word queer will also serve in place of female impersonator. To avoid continual usage of female impersonator and improve the flow of this paper.

<sup>42</sup>State of Texas, 39<sup>th</sup> Legislature, *Penal Code of the State of Texas*, R.C. Baldwin & Sons: Austin, 1925. 128.

expression of themselves. Even though they held uncharacteristic support from the Texas public and the locales that employed them, the state's statutes of vagrancy focused on punishing queer performers.

Analyzing the relationship queer performers held with Texas law enforcement is evident, because arresting officers often cited Article 607 of the 1925 Texas Penal Codes, which stated:

The following persons are and shall be punished as vagrants . . . (1) Persons known as tramps, wandering or strolling about in idleness, who are able to work and have no property to support them. (2) Persons leading an idle, immoral or profligate life, who have no property to support them, and who are able to work and do not work. (3) All persons able to work, have no property to support them, and who have no visible or known means of fair, honest and reputable livelihood. The term 'visible or known means of a fair, honest and reputable livelihood,' as used in this article, shall be construed to mean reasonably continuous employment at some lawful occupation for reasonable compensation, or a fixed and regular income from property or other investments, which income is sufficient for the support and maintenance of such person.<sup>43</sup>

Although there are further descriptions in the article that defined the various illegal activities that constituted vagrancy these are the three primary descriptions that cover the statute. To understand the relationship between vagrancy and queer performers, the wording within the second definition of the article requires examination as it is highly subjective. The language used by the state is again ambiguous as the interpretation of terms such as, "idle, immoral...[and] profligate" are subject to an

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<sup>43</sup>Ibid.



individual's opinion.<sup>44</sup> Although, there are enough well-defined aspects of the code that allow the statute of vagrancy to apply to queer individual's occupation as performers. The phrase "reasonably continuous employment" is an example of such, because the work queer performers had as entertainers could often be irregular.<sup>45</sup> Bookings could last for a whole week, a few nights, or they could be unemployed for a month; there was no certainty of continuous employment. Furthermore, though the third definition of the article states, "fair, honest, and reputable livelihood," as criteria that does not constitute vagrancy, this is still an ambiguous statement. In realizing this discrepancy the state did attempt to clarify its meaning of this phrase, however, in examining this clarification the state added the phrase "lawful occupation" to the description.<sup>46</sup> The addition of this phrase allows queer performers' occupations as entertainers to come under investigation by law enforcement when desired.

The *Galveston Daily News* provided one example of this reporting, "Cracking down on what he termed 'vulgarity and gross abuse of the law,' Chief of Police Conway M. Shannon . . . . 'The police department has received numerous requests that the Granada be closed on . . . the type of floor show presented there was not decent.'"<sup>47</sup> The individuals caught during the raid included the wait staff, the owner, and a handful of

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<sup>44</sup>Ibid.

<sup>45</sup>Ibid.

<sup>46</sup>Ibid.

<sup>47</sup>"Shannon Cracks Down on Two Downtown Night Clubs," *The Galveston Daily News*, May 25, 1947, Texas Newspaper Archive. 1.

queer performers engaged in a performance. The owner and waitstaff faced charges concerning the sale of alcohol, however, the queer performers encountered a charge of vagrancy, though which definition of vagrancy the officers were enforcing can only be speculated. Therefore, when queer individuals encountered charges for vagrancy, the statute was ambiguous enough to allow its application in multiple situations, while also being adequately explicit in the type of individuals and activities the law prohibited.

The disapproval received by queer performers from Texas law enforcement affected individuals across the state, as an article from the *San Antonio Express* relayed the events that befell several female impersonators. The police detained several queer performers for several hours and later released them on "\$200 bonds".<sup>48</sup> As for the cause of the arrests the article states, "the laws of Texas permit actors to impersonate women and district attorneys thumbed law books . . . to see whether any charge could be filed against them, but without result."<sup>49</sup> Based upon the evidence given in the article, the female impersonators faced an infringement upon their rights under the Constitution of the United States. The servants of the State violated the 8<sup>th</sup> amendment of the Bill of Rights as the article states, "after spending several hours in jail . . . they were released Sunday noon on \$200 bonds." As the article stated these individuals

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<sup>48</sup>"Female Impersonators Agree to Leave City," *San Antonio Express*, May 28, 1935, Texas Newspaper Archive. 18

<sup>49</sup> Ibid.

were not charged with any offence by the city.<sup>50</sup> The Bill of Rights 8th amendment states, “Excessive bail shall not be required, nor excessive fines imposed . . . .” thus, in requiring the queer performers to pay two hundred dollars after no charges could be filed, the state violated their constitutional rights.<sup>51</sup> Though the reception given by Texas law enforcement was harsh, the general population expressed an unexpected and often supportive fondness for queer performers that ran in opposition to the state’s exclusionist stance.

The source material provided distinct illustrations of the populace’s fondness for queer performers. Excerpts from the *San Antonio Light*, *Corpus Christi Times*, *Austin Daily Texan*, *Amarillo Daily News*, and *Galveston Daily News* illustrated the population’s affection towards female impersonators. Found in these excerpts are statements such as “and when she pulled off her wig at the end of the act and revealed herself as a ‘boy’ the applause shook the house,” “Daisy Gold’s Play Boy Revue ‘Female Impersonator Supreme’ with Del Le Roy ‘Texas’ Favorite Songster’,” “Then There’s Herbert Clifton – reported one of the best female impersonators,” and “...a rube hand, and a ‘bevy’ of female impersonators, who will seek to steal husbands from their wives in the audience.” Although these excerpts convey the approval of queer performers from the public, their approval was conditional to the queer individuals’ role as an entertainer.

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<sup>50</sup> Ibid.

<sup>51</sup> US Constitution, amend. 8.

Even the clubs that hosted these performers while offering them employment, in turn also exploited queer individuals for profit. Although, they did provide queer performers with a safe space to operate, as an advertisement for the club Elder's in the *Corpus Christi Times* stated, "there's an atmosphere of general hospitality and friendliness to be found here always," illustrating the inclusionary stance many businesses undertook to host queer performers. This stance allowed queer individuals the chance to be accepted both on and off the stage.<sup>52</sup> It is possible that these performances represented queer individuals expressing their desired gender identity or their membership in the queer community, however, visibility came at a cost. As these performances enabled queer individuals to maintain a popular position within parts of society, in doing so they also exposed themselves to less hospitable sections of the public. Though the documentation provides examples of the public's conditional acceptance of queer individuals, they also depict society's disapproval of queer performers.

An article in the *San Antonio Light* by Fay King highlights this disparity the best stating, "Women may momentarily laugh at the antics of female impersonator, but men

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<sup>52</sup>"Surprising End Of Her Masquerade As a Man," *Galveston Daily News*, May 13, 1926, Texas Newspaper Archive. 6.; "Now At Club Plantation," *Corpus Christi Times*, July 8, 1938, Texas Newspaper Archive. 16.; "Billy Sharpe Heads Vaudeville Bill at Hancock This Week," *Austin Daily Texan*, October 2, 1926, Texas Newspaper Archive. 9.; "Creak! Creak! Optimist And Rotarians Practice," *San Antonio Light*, May 23, 1935, Texas Newspaper Archive. 18.; "Why Not Dance Tonight And Every Night Out Here," *Corpus Christi Times*, April 6, 1934, Texas Newspaper Archive. 12.

are disgusted to a man dolled up in women's dress. On the other hand, man may laugh and applaud a male impersonator's stage performance, but a women resent seeing a woman dressed like a man."<sup>53</sup> This article illustrates the polarized reception queer performers received from the general public. Portions of the public enjoyed the entertainment queer performers provided, though this type of support resulted from their entertainment value not their value as a person. Parallel to these supporters were those who opposed or even detested queer performers, and the various performances they gave to the public. The Granada article highlighted this disapproval of queer performers, as police often cited citizen requests when removing or stopping queer performances. The police shut down of the Granada occurred because of public complaints concerning the type of performances shown there.<sup>54</sup> Further evidence of public disapproval towards queer performers appeared in from the *San Antonio Express* stating, "resident of a hotel at 707 Broadway, filled the complaints," that led to the imprisonment of several female performers.<sup>55</sup> This type of sentiment is also expressed by Francis J. Kelly in a column for *The Corpus Christi Times* where he states, ". . . today the radio and television audience really wants 'Will Rogers type humor' instead of smutty jokes and limp-wristed female impersonators. . . ." further illustrating the

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<sup>53</sup> "Men and Women Dislike Seeing Impersonators, Fay King Believes," *The San Antonio Light*, April 03, 1933, Texas Newspaper Archive. 11.

<sup>54</sup> *Galveston Daily News*, "Crack Down", 1.

<sup>55</sup> "Female Impersonators' Trials Are Postponed," *San Antonio Express*, July 06, 1935, Texas Newspaper Archive. 16.

sections of the public that did not support or like female impersonators performing for society.<sup>56</sup>

Therefore, queer performers existed in Texas performing throughout the state and entertaining the public, while continuously confronted by opposition from law enforcement and elements of society. These individuals were visible at a time when both their government and peers sought to force them into obscurity alongside the rest of the queer community in Texas. The visibility queer performers maintained is an accomplishment to be respected, as they endured discrimination when it would have been easier to remain isolated from the public. The sources cannot confirm nor deny the affiliations of queer performers, regarding their membership, to either the modern transgender or homosexual community, though the discrimination they faced is reminiscent of that also endured by modern transgender and drag queen individuals, which provides support for identifying them as part of the queer community. Moreover, they did differ in respect to the institutions that allowed them to perform, as these locations both benefited and suffered from their inclusion of queer performers in their establishments.

Among the strife and varying degrees of approval queer individuals endured, they were employed specifically for their unorthodox entertainment methods.

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<sup>56</sup> Francis J. Kelly, "Gagman Says Audience Wants Clean Humor," *Corpus Christi Times*, June 4, 1952. Texas Newspaper archive. 19.

Although the various institutions that employed queer performers differed in status, they nonetheless allowed queer individuals employment. Furthermore, the status of these institutions played a role regarding the acceptance and experience queer performers had with the public. Therefore, an institution could host a queer performer and experience community approval, as an article from the *San Antonio Light* highlighted “the management made a wise and delightful selection in securing popular and peerless Julian Eltinge for two nights . . . Eltinge’s popularity with theater patrons in this city is beyond question, and his welcome judging by the large advance sale of seats . . . . To miss seeing him would be overlooking the most attractive stage offering of the present season.”<sup>57</sup> Suffice it to say that Mr. Eltinge would not be detained by police on a charge of vagrancy or be forced to leave town, as lesser known queer performers often experienced. The disparity in opinion is palpable, as another club could host an entire cast of queer performers and experience public and civic opposition to their business, as an article from the *San Antonio Light* pointed out, “Four female impersonators, are arrested at the Nite Spot, Houston street cabaret, Thursday . . . given their choice . . . of leaving San Antonio . . . or going to jail to serve out vagrancy fines of \$200 each.”<sup>58</sup> The Nite Spot though a regular employer of queer

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<sup>57</sup> “Stellar Attractions for Week at The Grand,” *San Antonio Light*, October 12, 1913, Texas Newspaper Archive, 38.

<sup>58</sup> “4 Impersonators to Leave or Go to Jail,” *San Antonio Light*, October 6, 1938, Texas Newspaper Archive, 15.

performers hosting shows such as the “Spanish Hot Tamale” and various other queer individuals to the public, was not the quality of institution that hosted Mr. Eltinge.<sup>59</sup> Rather, the Nite Spot fell under the label of a criminal enterprise, because the owner was arrested for murder and illegal gambling in 1938.<sup>60</sup> Therefore, while a female impersonator could be visible to the public, their hosting institutions’ status had an influence on their treatment by society. Should a queer performer reach the top level of fame and perform at the higher-class venues, they could face an entirely different treatment from both society and the state.

The story of “Miss ‘Billy’ Tempest” is one such case, as a female to male, queer performer that the *Galveston Daily News* devoted one full page, which detailed the story of this rising star in the female impersonator community and her fall from grace. While praised and beloved by fans of the theater community, as the article states, “the act was so popular that it soon became apparent that Billy was destined for stardom and the ‘big time’,” although once exposed as inherently female, Miss Tempest’s career and popularity among the public collapsed. Despite her talent, fanbase, and employment at the top stages within the theatrical community, the public no longer accepted Miss Tempest as a female performer. Therefore, once society retracted their support, the

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<sup>59</sup> “Spanish Tamale Draws At Nite Spot,” *San Antonio Light*, August 1, 1937, Texas Newspaper Archive, 45.

<sup>60</sup> “Crowd Flees As Bookie Is Slain,” *San Antonio Light*, June 23, 1938, Texas Newspaper Archive, 1.



female impersonator returned to the same obscurity in which the larger queer community resided. Although Miss Tempest was, as reported in the article, a favorite among the public, experiencing all the benefits celebrity could offer, once society withdrew their support she fell into degradation, forced to enduring the continual discrimination and civic targeting that the queer community braved daily in their constant struggle to persist within a time that society did not fully support them.<sup>61</sup>

Although queer individuals confronted a plethora of obstacles and opinions, they nonetheless continued to stand apart from the crowd in the most courageous demonstration of self-expression possible. The implementation of legal statutes that prohibited employment of Texas citizens in less reputable enterprises, though inherently good-hearted, nonetheless enabled the state and local governing bodies to persecute queer individuals when society allowed it. The persecution of queer individuals resulted in the incarceration and subversion of queer performers rights as citizens of the state, leading to enforced repression and degradation. This repression, while understandable, did not hold the entirety of public support because many within society enjoyed the entertainment queer performers provided. This public support when no longer granted opened both female impersonators and the locations that hosted them to severe enforcement of Texas laws by the local governing body. Female impersonators, while distinctly visible individuals, faced interrelated discrimination

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<sup>61</sup> *Galveston Daily News*, "Masquerade As a Man", 1.

because of their association with the queer community and their status among the public. Nonetheless female impersonators persisted within the state of Texas, performing at numerous locales across the state. Their presence offered a window into the queer community of Texas, illuminating a history often under-discussed, and kept in the dark. While female impersonators often had to withstand a constant barrage of discrimination and misunderstanding, they nonetheless chose to express themselves gifting themselves, a small amount of comfort and a platform in their strident opposition to injustice.

Traveling back to the final moments of the Wagon Wheel Nite Club, the presence of such an institution should no longer be an anomaly within the scope of Texas history. The destruction of the Wagon Wheel represented countless decades of repression, misunderstanding, and outright criminalization of the queer community by the state. The Wagon Wheel, among various other locations in the state, allowed members of the queer community to socialize and exist in a manner that would otherwise be inaccessible to a majority of them. Through such a public forum the queer community became identifiable to intolerant elements of society.<sup>62</sup> Among these elements was the legislative body of the state, which drafted and enacted the various articles and statutes that sought to criminalize homosexuality. In seeking to prohibit homosexuality

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<sup>62</sup> *San Antonio Light*, "Believe Club Blaze Arson".

through the implementation of targeted legislation and revisions of the Texas Penal Codes, the state unintentionally acknowledged the existence of a queer community within the state. The effects of such policies incriminated same-sex individuals, forcing many to alienate themselves from society in order to safeguard their person. Despite these overtures of injustice, several individuals confronted the state's definition of sodomy arguing against the statute's ambiguous nature. This pushback exhibits further evidence of a queer society unofficially recognized by the state. As same-sex individuals argued against the legality of state-imposed discrimination, another segment of the queer community defied public norms through their flagrant visibility.

Female impersonators presented the most conclusive evidence of the latent expression of a queer population in the State of Texas merely through existing in a public space. Female impersonators existed among same-sex individuals, although, in a far more visible manner than thought possible by members of the queer community. Female impersonators performed across the State of Texas encapsulating a portion of the heterosexual populace with their unorthodox theatre, while also disgusting another portion of the public with their perceived lewd and immoral performances. Though much of the public supported and even readily attended female impersonators shows, the state and certain segments of the public sought to end their entertainment definitively. Police conducted overzealous enforcement of criminal statutes that supposedly prohibited the irregular employment of female impersonators, further

offering evidence of the presence of homosexuality and the existence of a queer community within Texas. Female impersonators enjoyed the public's approval, while simultaneously carrying the brunt of society's disapproval of the queer community.

Because of the constant legislative enactments by the State of Texas and the persistent visibility of female impersonators, homosexuality was acknowledged and endured within Texas well into the twentieth century. In examining these sources, the public cannot be ignorant of an entire portion of society. The state should not, then or now, criminalize an individual for their sexual preference or gender identity, and yet even today state-sanctioned discrimination of the queer community is either happening or is close to occurring, placing thousands of individuals at risk of returning to a state of enforced alienation and degradation. Societies must become informed of their local queer community's history to better understand the community at large. The prior existence and endurance of homosexuality is a part of Texas history, and now modern society must learn of and from it.

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