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BENTHAM, JEREMY (1748–1832)

English philosopher and law reformer. Bentham was the founder of the Utilitarian school of social philosophy, which held that legislation should promote the greatest happiness of the greatest number. As a law reformer, he attacked statutes based on what he perceived as ancient prejudices and asked instead that laws justify themselves by their social consequences, that is, the promotion of happiness and diminution of misery. His *Principles of Morals and Legislation* (1789) was eventually extremely influential in England, France, Spain, and Latin America where several new republics adopted constitutions and penal codes drawn up by him or inspired by his writings.

Bentham's utilitarian ethics led him to favor abolition of laws prohibiting homosexual behavior. English law in his day (and until 1861) prescribed hanging for sodomy and during the early nineteenth century was enforced with, on the average, two or three hangings a year. Bentham held that relations between men were a source of sexual pleasure that did not lead to unwanted pregnancies and hence a social good rather than a social evil. He wrote extensive notes favoring law reform about 1774 and a fifty-page manuscript essay in 1785. In 1791, the French National Assembly repealed France's sodomy law but in England the period of reaction that followed the outbreak of the French Revolution made reforms impossible. In 1814 and 1816 Bentham returned to the subject and wrote lengthy critiques of traditional homophobia which he regarded as an irrational prejudice leading to "cruelty and

intolerance." In 1817–18 he wrote over 300 pages of notes on homosexuality and the Bible. Homophobic sentiment was, however, so intense in England, both in the popular press and in learned circles, that Bentham did not dare to publish any of his writings on this subject. They remained in manuscript until 1931 when C. K. Ogden included brief excerpts in an appendix to his edition of Bentham's *Theory of Legislation*. Bentham's manuscript writings on this subject are excerpted and described in detail in Louis Crompton's 1985 monograph on Byron. Bentham's views on homosexuality are sufficiently positive that he might be described as a precursor of the modern gay liberation movement. Bentham not only treats legal, literary, and religious aspects of the subject in his notes, but also finds support for his opinions in ancient history and comparative anthropology.

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Louis Crompton

BERDACHE

Though mostly applied to the Indians of North America, this word was originally a Persian term, *bardag*, that spread to Europe by the sixteenth century (Spanish *bardaxa* or *bardaje*; French *bardache*). It meant a boy or young man who was kept by a man as his male courtesan. This term clearly referred to the passive partner in male/male anal intercourse, while the name applied to the active partner was *bougre* (French) or *bugger* (English). When French explorers came to North America, they referred to individual Native Americans as "berdaches."

While the emphasis of the Europeans was clearly on the homosexual aspects, in their references to sodomy and the more neutral word *berdache*, American Indian cultures focused on the gender role of the androgynous male. Before the