rally forced some hard decisions. Frequently, I felt the adjective gay to be too startlingly anachronistic in this context, though the word I do use—homosexual—would have sounded quite as strange to Byron or his contemporaries. I have consequently used the term gay sparingly, usually restricting it to ideas that could not be expressed otherwise—"gay consciousness," for instance.

But if homosexual and gay are both words that would have puzzled Byron's contemporaries, the expression Greek love—which I have used in the title of this work—would have been intelligible to them and would have carried resonant historical and literary associations. From moral prejudice, scholars in England had made an effort to keep a knowledge of the ancient Greeks' approval of male homosexuality from men and women who could not read the relevant documents in their original language. But to anyone as intimately familiar with the classics as Byron was, the phrase would have brought immediately to mind such poetic or historical traditions as the legends of Ganymede and Hyacinth, the exploits of Aristogiton and Harmodius, and the story of Antinous. Indeed, Byron himself refers to all of these in his writings. He was, if anything, even more familiar with the classical tradition of male love as it was reflected in the Latin of Catullus, Horace, Virgil and Petronius. Byron was to translate or quote homoerotic passages from all these writers, in moods that varied from the heroic to the playful. In his Cambridge circle, "Horatian" became a code word for "bisexual." But Italy in the early nineteenth century did not offer the classical freedom which the Turkish conquest had restored to Greece in sexual, if not in political, matters. There, as the Don Leon poet put it, no "erotic statutes" prevailed, and it was to Greece that Byron as a young man was to make his way, as he was to die there later in that country's struggle for liberty.
Georgian Homophobia

The purpose of this book is to analyze the homosexual side of Byron’s temperament in the light of the attitudes toward such feelings in his day. A dawning awareness of his bisexual nature troubled Byron’s adolescence and was important in inspiring his first trip to Greece and Turkey. After his separation from his wife, rumors of his erotic adventures in the East began to circulate in England and helped create the hostile atmosphere that drove him abroad once again. During his second exile his passion for boys seems to have been in abeyance. But in the last months of his life, in peculiarly tense and trying circumstances, this strain in his nature reasserted itself, like a thread of lost color re-emerging at the edge of the cloth. The evidence—conclusive at some points, obscure and ambiguous at others—that elucidates this aspect of Byron is to be found throughout the poet’s numerous letters, journals, and poems, as well as in the diaries and memoranda of his enemies and friends. These documents will be considered in due course in later chapters. Before we can fully understand them, we must first enlighten ourselves about the views on homosexuality held by the society into which Byron was born.

Much has been written about the fate of such despised or feared groups as Jews, witches, and heretics in Euro-

1. G. Wilson Knight discusses Byron’s bisexuality at length in Lord Byron’s Marriage: The Evidence of Asterisks (New York: Macmillan, 1957); see esp. chaps. 1, 5, 7. Much new evidence has, however, come to light as a result of the researches of Leslie Marchand and Doris Langley Moore. For a good, brief account that considers later findings, see Moore’s “Appendix 2: Byron’s Sexual Ambivalence,” in LBAR, pp. 437–59.
pean history, far less about homosexuals. Indeed, until recent decades a kind of taboo excluded consideration of such matters outside of medical or legal texts. In England, Havelock Ellis's pioneering work, *Sexual Inversion*, which contained some social history, was banned under the obscenity statutes in 1898, a few months after it was published, and more than half a century passed before scholars dared take up the tale again. Even now few educated men and women realize that from the start the medieval and Spanish Inquisition ranked homosexuals with heretics as a class of persons to be sought out and destroyed. Secular legislation, frequently drawing its justification from religious sanctions, also made sexual relations between men and between women capital offenses throughout Europe and its colonies. As a symbolic reminder of the fate of Sodom, burning was the classical punishment. But hanging and drowning, burial alive, and disemboweling—even starvation—were other fates prescribed by law or meted out at the discretion of judges. In Spain, Italy, France, Switzerland, Germany, and Holland, certainly hundreds, and probably thousands, of men and women were put to death by these means. In Scotland, during Byron's boyhood, legal tomes still identified burning as the national remedy, citing Leviticus as a sanction for such executions, which were to be carried out early in the morning, apparently to avoid giving too great publicity to so


heinous a sin. The jurist David Hume defended the law as one that "justly expose[s] the offender to be punished with death as one whose very presence is a pollution to the society of his fellow-creatures." The last known burning in Scotland had taken place more than a century earlier. In England, on the other hand, where the rope had replaced the tinger, the law was still very much alive. In other countries executions for sodomy reached their height during the sixteenth and seventeenth centuries, at the same time as witch hunts and heresy trials. But the death penalty in England seems to have been most rigorously enforced during the early nineteenth century. In the age of Castlereagh and Wellington, while Wordsworth, Coleridge, Byron, Shelley, and Keats lived and wrote, homosexuals suffered regularly upon the gallows or stood at the mercy of ill-wishers in public pillories.

Parliament had made male homosexuality a capital offense in 1533. William Blackstone, whose Commentaries appeared in 1765–1769, emphasized the biblical source of this statute and seemed to regret the desuetude of the tradition of fire. Byron, who boasted that he had read Blackstone as a schoolboy, would have been familiar with his paragraphs on sodomy:

This the voice of nature and of reason, and the express law of God, determine to be capital. Of which we have a signal instance, long before the Jewish dispensation, by the destruction of two cities by fire from heaven: so that this is an universal, not merely a provincial, precept. And our ancient law in

5. Commentaries on the Law of Scotland Respecting Crimes (Edinburgh: Bell & Bradfute, 1844), 1:459. This David Hume was not the philosopher but a Baron of the Exchequer. His Commentaries were first published in 1797 when Byron was nine and at school in Aberdeen. In its entry for "Sodomy," the third edition of the Encyclopaedia Britannica (Edinburgh, 1797) noted: "There is no statute in Scotland against Sodomy: the idea of the crime is therefore founded on the divine law, and practice makes its punishment to be burnt alive."
some degree imitated this punishment, by commanding such miscreants to be burnt to death.  

The language of the criminal indictment was appropriately archaic, sonorous, and theological:

The Jurors of our Sovereign Lord the King upon their oath present that [the name of the accused] . . . wickedly, feloniously, and against the Order of Nature, . . . did and committed with the said [person] that sodomitical, detestable, and abominable Sin called Buggery, (not to be named among Christians), to the great Displeasure of Almighty God, and to the Disgrace of all Mankind, and against the Peace of our said Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.  

Charges of this sort were common during Byron's day. We have few records of any use of the law in Tudor England, and only a few executions are at present known to have taken place before the eighteenth century.  

It was not until that age that the law appears to have been seriously enforced. Then in 1726, according to a contemporary source, "a great Number of these Wretches" were convicted and three put to death.  

There was a lull at mid-century, but when a Captain Robert Jones was pardoned in 1772, a furor broke out. The strength of popular feeling at that date may be inferred from a report in the London Evening Post: "The concourse of people about Newgate this morning, in ex-

8. See B. R. Burg, "Ho Hum, Another Work of the Devil: Buggery and Sodomy in Early Stuart England," Journal of Homosexuality 6 (Fall-Winter 1980–81): 65–78. The flippancy of this title seems oddly out of keeping with the two trials it chiefly deals with, that of Lord Castlehaven and of John Atheron, Bishop of Waterford, both grim affairs that led to executions. Burg does, however, make the legitimate point that executions were rare in Stuart England.
pectation of seeing Jones go to Tyburn, was amazing. There was a universal murmur, when it was learned that a respite had been received. It was thought impossible, and the execrations of the populace were pretty liberally poured forth upon a certain Great Personage." The editor reminded George III that the Bible condemned kings of Judea who tolerated "Sodomites in the land." Thereafter, and throughout Byron's lifetime, that is, from 1788 to 1824, pardons were extremely rare. By 1806 the number of executions had risen to an average of two a year and remained there for three decades, though executions for every other capital offense decreased dramatically.

In this, England contrasted markedly with the Continent. In 1730, a wave of religious hysteria, strikingly akin to that which had affected Salem, Massachusetts, a generation earlier during its witch hunts, swept Holland and led to the hanging, drowning, and burning of a hundred men and boys. But later in the century, as the influence of the Enlightenment spread, executions were rare. In The Spirit of the Laws (1748) Montesquieu deemed homosexuality as effeminating, but by placing it in the same category as heresy and witchcraft, he implied that it was an archaic ecclesiastical offense too severely punished. In Italy, Cesare

10. August 8–11, 1772, p. 4.
11. Ibid.
12. The Report of the Select Committee on Criminal Law, issued by the House of Commons in 1819, gives the following number of hangings carried out: 1806, 6; 1807, 0; 1808, 2; 1809, 2; 1810, 4; 1811, 2; 1812, 1; 1813, 1; 1814, 5; 1815, 1; 1816, 2; 1817, 1; and 1818, 1. ([British Sessional Papers, 1819], 17:312). The Tables Showing the Number of Criminal Offenders Committed for Trial or Bailed . . . in the Year 1816 supplements these figures with hangings up to that year, at which point they appear to have ceased: 1819–1824, 15; 1825–1832, 7; 1833, 1; 1832, 0; 1833, 3; 1834, 4; 1835, 3; and 1836, 0. ([British Sessional Papers, 1837], 404).
13. Crompton, "Gay Genocide," pp. 73–77, 85–91. The tables show only sixty deaths but are incomplete according to recent unpublished research by Leo Boyn.
Beccaria, whose *Essay on Crimes and Punishments* (1764) was to have immense influence on European and American reformers, speculated that in sodomy cases "... often triumph over innocence" and hinted that a society that fostered such behavior through sexually segregated boarding schools had no right to exact penalties. In the famous disquisition "Socratic Love" in his *Philosophical Dictionary* (1764), Voltaire had reiterated the popular fear that homosexuality threatened the existence of the race and decried such behavior as an unseemly anomaly in northern Europe. But in a later essay he unequivocally opposed the death penalty. Such a crime, he wrote, should be "shrouded in the shadows of oblivion, rather than illuminated by flaming brands in the eyes of the crowd." In 1786, Quaker humanitarianism and the new penology combined in the wake of the American Revolution to effect the abolition of the death penalty for sodomy in Pennsylvania; other American states then followed this lead. By the end of the century, Catherine the Great, Joseph II, Frederick the Great, and Leopold of Tuscany had all adopted new liberal laws, which achieved the same result. France in 1791 went still further. A reformed code inspired by the Declaration of the Rights of Man decriminalized same-sex relations entirely. No executions are known to have taken place in Europe thereafter. It was totally out of keeping that England, under the circumstances, should have invoked its parliamentary statute to hang sixty men in the

first three decades of the nineteenth century and have hanged another score under its naval regulations. 39

When we consider that England's gay male minority at this time must have numbered several hundred thousand (if we use modern statistics as a guide), it is obvious that only a tiny proportion were touched by the law in its severest form. Yet the threat of the gallows was always present to darken these men's perception of themselves as outcasts and to justify a multitude of lesser, but still onerous, forms of persecution. As one of Byron's closest friends at Cambridge put it in a letter to the poet about their shared inclinations: "We risk our necks." 20 At the time this letter was written, Byron was on his way back from his first journey to Greece. Charles Skinner Matthews's remark was inspired by a visit he had made with their common friend Scrope Davies to see two convicted men, an army lieutenant and a sixteen-year-old drummer, in Newgate. The man and boy were hanged shortly after before a huge crowd, which included a royal duke, who had himself recently figured in a scandal that had encouraged alarming rumors. 21

It was anomalous that England, in many respects the most liberal country in Europe, should at the end of the eighteenth century have had a criminal code with more than two hundred capital offenses. Europe's enlightened despots had been much quicker to respond to the wave of criminal law reform that swept Europe in the 1780s than the British Parliament. Having failed to act at this time, that body found it impossible to do so in the wave of reaction provoked by the wars with France. But even if war had not intervened, it seems unlikely that England would have abolished the death penalty for homosexual relations. The

20. MS. John Murray collection. This letter is cited at length on pp. 190–92.
hard fact was that both learned and popular opinion in
England was overwhelmingly on Blackstone's side.

This benightedness appalled England's leading law
reformer. Jeremy Bentham, who was born in 1748, began
drawing up arguments for a more humane and rational
criminal code early in his twenties. His efforts were not to
bear fruit in his native land for another fifty years though
his reputation soared in Europe. Indeed, his most impor-
tant writings were first published in French translations.
Madame de Staël thought the era should be called not
the age of Napoleon or the age of Byron but the age of
Bentham. In Spain and Spanish America, where his ideas
were popular with reforming jurists, Bentham was hailed
as “el legislador del mundo.” But if Bentham's compatriots
were slow to follow him in the direction of the utilitarian
reform of law generally, they would have found his views
on homosexuality unimaginably daring.

It is doubtful that many even of his closest friends knew
of his consuming interest in the subject or read the hun-
dreds of pages Bentham wrote on it. Cerebration this ex-
tensive and this radical on the matter of sexual noncon-
formity was unheard of in England. At the beginning of
the eighteenth century an Italian canonist had included
ninety-two paragraphs on male and female homosexuality
in a treatise on criminal law. In contrast, an English judge
in Bentham's day who wrote two pages to justify hanging a
man for sodomy in a doubtful case was twitted by a com-
mentator for showing a “very indelicate profusion of learn-
ing.”

22. Bentham's ideas on law reform had significant influence on the
Napoleonic Code. Napoleon called Bentham's Traité de législation "un
ouvrage de génie" (Radzinowicz, Movement for Reform, p. 359, n. 3); chap.
21 of Radzinowicz's work examines Bentham's influence in detail both in
England and abroad.
23. Ludovico Maria Sinistrari, "Sodomia," in De Delictis et Poenis
(Venice: Albucico, 1700).
p. 245n. The reference was to J. Fortescue Aland's report of the Wiseman
tradition of reticence, which had almost the force of a tribal taboo, by introducing his few lines in the Commentaries with the remark: "I will not act so disagreeable a part, to my readers as well as myself, as to dwell any longer upon a subject, the very mention of which is a disgrace to human nature. It will be more eligible to imitate in this respect the delicacy of our English law, which treats it, in its very indictments, as a crime not fit to be named: 'peccatum illud horribile, inter christianos non nominandum.'" In light of this national bias toward silence, Bentham's voluminous analyses are, to say the least, remarkable. Bentham first jotted down about fifty pages of notes in 1774 when he was twenty-six. In 1785 he completed a somewhat longer formal essay. In 1814 and 1816 he filled almost two hundred pages with another impassioned indictment of British attitudes. Two years later he produced several hundred more pages of notes on homosexuality and the Bible, and in 1824, eight years before his death at the age of eighty-four, he wrote a final short synopsis of his ideas on sodomy law reform. All in all, this adds up to a sizable book on a subject that British jurists usually dismissed in a paragraph or page.

What moved Bentham to these labors, which consumed months, even years, of his life? His style is for the most part cool, logical, and dry, his vocabulary abstract and periphrastic to the point of obscurity. But beneath the pedantic and turgid prose there is a sense of outrage that from time to time bursts forth. Something like fierce indignation steeled the jurist who could write of the treatment of homosexuals in England: "The propensities in question have, in the British Isles, beyond all other countries, been the object of the violence of that thirst which

\[
\text{case, which involved an act of sodomy performed on a twelve-year-old girl.}
\]

nothing less than the heart's blood of the victims marked out for slaughter by the dissocial appetite has hitherto been able to satisfy." The intensity of his countrymen's bigotry appalled Bentham; in a few dramatic lines written in 1816 he tells how he had encountered it face to face in a self-satisfied judge:

By the eyes by which this pen is guided, an instance of this sort was once seen in the person of a Judge. He had just come from the Circuit. For an offense of the sort in question he had just been consigning two wretches to the gallows. Delight and exultation glistered in his countenance; his looks called for applause and congratulations at the hands of the surrounding audience. The recollection he awakened was that of Jeffries [sic], upon his return from his campaign relating the history of his exploits.  

It was not only the hangings that dismayed Bentham. Foreign visitors to England were struck by another form of punishment for homosexual offenses. This was the pillory. Standards of proof were high in sodomy cases: until 1828, courts required evidence both of penetration and emission. But if these were missing, men were convicted of the lesser offense of "assault with the attempt to commit sodomy." This charge might be based on nothing more than a solicitation invited by a plain-clothes man who had gone to some homosexual rendezvous for the purpose of entrapping men. Convicted men were placed in the pillory and exposed to the wrath of the mob, who were allowed to pelt them. Such events attracted thousands, sometimes tens of thousands of spectators. The pelting of the men often took on an organized form under the supervision of the police. There was a tradition that women of the street—fishwives, vendors of produce, and "Cyprians" (as the press euphemistically called prostitutes)—should have

26. Code Penal, April 25, 1814, box 749, folio 119. See the appendix.  
27. August 26(7), 1816, box 749, folio 186. The reference is to Judge Jeffreys at the "Bloody Assizes," which ferociously punished those involved in the Monmouth Rebellion of 1685.
pride of place in these orgies of ill-will, and some of the most abused members of British society revenged themselves for the contempt they received from others by the violence with which they attacked the helpless sodomites. A Prussian officer, visiting England in the 1780s, reported: “Since English women are so beautiful and the enjoyment of them is so general, the revulsion of these Islanders against paederasty passes all bounds. Attempted homosexuality is punished by the pillory and several years of imprisonment, the act itself by the gallows. The pillory, however, is almost as good as death.” Bentham tells us that a man in the pillory might easily have “a jaw broken or an eye beat out.” On occasion, men were killed by the crowd. The French annotators of an edition of Voltaire published in 1785 felt moved to protest in a footnote to his appeal for sodomy law reform: “The law of England, which exposes guilty men to all the insults of the mob, and above all the women who torment them, sometimes to death, is at the same time cruel, indecent, and ridiculous.” Reacting against the theological bias they perceived behind such legislation, the editors remind the reader that Europe owed such laws to “superstition.”

In the same letter that told of his visit to see the condemned men in Newgate, Charles Skinner Matthews reported to Byron on the exposure of the so-called “Vere Street coterie,” the most sensational pillorying in the Regency period. The press routinely reported such brutality with equanimity or approbation. Their accounts employed a stereotyped lexicon of abuse—from “miscreant” (at the mildest) to “monster.” But this bludgeoning style was not limited to newspapers. It was endemic in the learned as well as the popular literature of the age. It is instructive,

29. April 24, 1814, box 714, folio 117.
for instance, to look at the language and rhetoric of so sophisticated a spokesman of the Enlightenment as Edward Gibbon, in the pages he devoted to Justinian’s laws in his Decline and Fall of the Roman Empire in 1776.

At the start, Gibbon pays his respects to the “unspeakability” tradition so strong in England, in a style Dickens was later to purloin for Mr. Pecksniff: “I touch with reluctance, and dispatch with impatience, a more odious vice, of which modesty rejects the name, and nature abominates the idea.” In two long paragraphs Gibbon finds space for at least a dozen opprobrious terms—“odious vice” and “abomination” are succeeded by “infection,” “degeneracy,” “the indelible stain of manhood,” “unmanly lust,” “sin against nature,” “licentiousness,” “impure manners,” “disease,” “corruption,” and “moral pestilence.” Only once does he relent to the extent of calling gay men “lovers of their own sex.” Was it his personal feelings against homosexuals—which were strong—that moved Gibbon to these paroxysms, or did he feel it unsafe to venture on the topic at all without this rhetorical overkill? Despite his avowals, the evidence suggests that Gibbon found the subject fascinating and had read widely in it. Perhaps this was the price he felt he must pay for revealing the scope of his erudition. His compact summary is replete with learning about homosexuality in the classical and early Christian worlds. Within a few lines he reviews biblical laws, seven ancient and four Byzantine historians, five Roman poets and orators, three German jurists, an Italian commentator on Roman law, a French historian, Montesquieu, and some contemporary travel writers. It is amusing to see him begin a note with the comment that “a curious dissertation might be formed”—that is, on Greek pederasty—only to break off as he reminds himself again that the subject is taboo.32

32. Ibid., pp. 504–06.
Gibbon thought Roman law (which fined men for relations with free-born boys) too lenient and regretted that "the practice of vice was not discouraged by the severity of opinion." He deplores the homoerotic inclinations of Catullus and Juvenal and slyly reminds his readers that Ovid in his Art of Love did not quite reject the love of boys but merely declared that he liked them less than girls. Only once, in commenting on the reign of terror instigated by Justinian, does he don the mantle of a humanitarian philosopher:

The same emperor declared himself the implacable enemy of unmanly lust, and the cruelty of his persecution can scarcely be excused by the purity of his motives. In defiance of every principle of justice, he stretched to past as well as future offenses the operations of his edicts, with the previous allowance of a short respite for confession and pardon. A painful death was inflicted by the amputation of the sinful instrument, or the insertion of sharp reeds into the pores and tubes of most exquisite sensibility; and Justinian defended the propriety of the execution, since the criminals would have lost their hands, had they been convicted of sacrilege. In this state of disgrace and agony, two bishops, Isaiah of Rhodes and Alexander of Diospolis, were dragged through the streets of Constantinople, while their brethren were admonished, by the voice of a crier, to observe this awful lesson, and not to pollute the sanctity of their character. Perhaps these prelates were innocent. A sentence of death and infamy was often founded on the slight and suspicious evidence of a child or a servant; the guilt of the green faction, of the rich, and of the enemies of Theodora, was presumed by the judges, and pederasty became the crime of those to whom no crime could be imputed.33

In England, in the sixty years following the publication of Gibbon's history, scores of men were to be hanged, many more pilloried, and dozens of others prominent, like Byron, in politics and letters, ostracized or driven into exile. A British bishop was to succeed Justinian's prelates as an object of infamy, and a powerful foreign minister com-

33. Ibid., pp. 505–06.
mitted suicide under the pressure of blackmail threats. One wonders if the measure of suffering the late eighteenth and early nineteenth centuries exacted did not exceed that of the age of Justinian, and one wonders also what Gibbon would have made of the situation if he could have foreseen it. However, he declined to accept the lead of his fellow intellectuals in France on law reform: "The favorable persuasion of [Montesquieu] that a legislator may confide in the taste and reason of mankind is impeached by the unwelcome discovery of the antiquity and extent of the disease." In a famous aside on Hadrian, Gibbon had remarked: "Of the first fifteen emperors Claudius was the only one whose taste in love was entirely correct." Now he notes the prevalence of homosexuality in Palestine and in Gaul, China, India, and pre-Columbian America (unaccountably omitting Islam and Japan) and ends with a sanctimonious touch: "I believe, and hope, that the Negroes, in their own country, were exempt from this moral pestilence." It is notable that Gibbon (who was perhaps fortunate in being spared the discoveries of nineteenth-century anthropologists about Africa) uses the cross-cultural argument, so often employed to call European prejudices into question, to oppose an argument against punishment. So deeply ingrained are his preconceptions that he can coolly declare the whole world, past and present, out of step without any awareness of the paradox. Nor was his homophobia insincere. When William Beckford, fleeing hostile England, took refuge in Switzerland a few years later, Gibbon opposed receiving him there.

34. Ibid., p. 296.
35. Ibid., 1:758.
36. Ibid., 4:566n.
The young Bentham wrote his notes of 1774 two years before Gibbon published the first volume of his history, fully aware of the chasm that lay between his opinions and those of his fellow countrymen. These miscellaneous fragments cover a striking range of topics and contain in embryonic form much that was to preoccupy Bentham’s thinking about homosexuality during the next fifty years. He takes note of newspaper controversies, the writings of Greek historians, medieval canonists, and French philosophers and discusses such disparate topics as Scripture, animal behavior, the psychology of homophobia, the purported threat to pupils, the effect of homosexuality on population, etc. At every point Bentham goes out of his way to challenge received opinion. Sixty years later, an anonymous poet, writing of Byron’s homosexuality and the need for law reform, referred to love between men as a “vice” which none so brazened e’er presume to own. 38

In his notes, Bentham made himself the spokesman of a silent and invisible minority. First, he rejects the silence taboo. “It seems rather too much,” he remarks with dry irony, “to subscribe to men’s being hanged to save the indecency of enquiring whether they deserve it.” 39 Then, in a passage that might have served as a rebuke to Gibbon, he pleads for a more rational mode of debate, which would scrutinize the purported social evils of forbidden sexual conduct rather than give rein to fervid rhetoric: “If you would prove to the legislator the necessity of his interposition to proscribe a practise, do not exhaust your invention to belabour it with hard names but point out and ascertain with calmness and perspicuity the species and proportion of misery it occasions. It is thus and thus only you can vindicate yourself from the charge of empty and irrational

declamation.” But, most of all, he insists that we should establish that an act really does cause social harm before we criminalize it. “The extreme horror and indignation with which this Vice is regarded by the generality of people in this country will occur obviously enough as a reason for continuing the punishment for it.” But an emotional prejudice is not enough. We must remember “that it is a crime, if a crime it is to be called, that produces no misery in Society.” “A Man’s own feelings, tho’ the best reason in the world for his abhorring the thing, are none at all for his abhorring the Man who does it—how much less then are they for destroying him?” Only once does Bentham imply that others share his views, but it is not clear if he means other English thinkers. If so, it is hard to guess who made up this antihomophobic party:

More than a few who are as far from the misfortune of being infected with that odious taste as those who choose the most extravagant expressions to vent their antipathy against it, and who think that there are other methods of displaying their virtue than pouring forth their fury at free cost against a Vice of which they are secure from the temptation, scruple not to avow their sentiments that a bad taste is a very bad reason for a man’s being thrust into perdition with the vilest, and that to thirst after a man’s blood who is innocent, if innocence consists in the doing of no harm to anyone, is a much worse taste.

Bentham objected to laws that criminalized acts on the grounds of taste alone: “To destroy a man there should certainly be some better reason than mere dislike to his Taste, let that dislike be ever so strong.”

As a philosophical hedonist, Bentham had no a priori aversion to sexual pleasure; as a utilitarian, he was com-

40. Box 744, folio 7.
41. Box 744, folio 5.
42. Ibid.
43. Box 744, folio 6.
44. Box 744, folio 3.
45. Box 744, folio 6.
mitted to the "greatest happiness principle" and was convinced that only deeds manifestly harmful to society should be made crimes. Most of the shibboleths of traditional legal theory—the law of nature, the moral sense, good order, etc., Bentham rejected as mere phantoms, which disguised unanalyzed assumptions or cloaked outmoded prejudices. From Cesare Beccaria he took the idea that social utility was the test to distinguish genuinely pernicious behavior from "imaginary" (i.e., harmless) crimes. Nowhere did utilitarian ethics yield more devastating results than in its application to sexual morality. This was particularly true of the idea of "crimes against nature," which had entered legal tradition through patristic theology. In a comment on the Law of Nations (1672) by the German jurist Samuel Pufendorf, a writer much esteemed in Bentham's day, he took exception to the author's equating all nonprocreative sexual acts with "Brutal Lust" and to his denouncing "all those Pollutions which we justly call unnatural":

It is curious to observe the efforts that writers on this subject make to keep up the semblance of an argument and to find a pretence not to shock popular prejudices, and the dictates of their own passions. "To carry on our enquiries as clearly as may be (says Pufendorf [sic] in his Chapter of Matrimony), this in the first place we take to be most evident, that all those impure pleasures are repugnant to the Laws of Nature, which aim at no other satisfaction but Brutal Lust. For the more warmly the appetite of Love stirs in the Human Breasts, the more is Nature and Reason concerned to provide that the irregularities of its motions do not prejudice comely order, which is the very life of Society, and that it be rather made to contribute to the maintenance of decency and Peace."—From these [premises] there follows one conclusion: "Whence appears the detestable sinfulness of those Pollutions which we so justly call unnatural." In order to support this conclusion, which somehow or other was at any rate to be supported, we may observe how he has conjured up on purpose this Phantom of comely order, which having performed this office is blown away and returned to its primitive nothing—for in fact we hear of it no more throughout the book.—I call it a Phantom for either it is the same with "general Happiness" or it is
nothing. Now to have asserted that it is prejudicial to general
happiness is an assertion that evidently is either false or at
least requires a long course of argument to prove it otherwise.
He was forced to have recourse to this vague expression to
cover the vacuity of the argument from his own observation
and his readers'.

Bentham regarded the consequences of Europe’s sodomy
laws as calamitous—"death to a human creature, confu-
sion, reproach and anguish to an innocent family,” all to
no purpose." What provoked such an excess of punitive-
ness? In trying to fathom the psychology of homophobia,
Bentham recalled an episode from his own life. A female
relative had once shocked him by asking him to kill a toad
simply because she found the animal ugly. It occurs to him
that the feelings of most people toward these “unhappy
wretches” are not unlike the woman’s—a blind, unreason-
ing hatred or antipathy, which they then try to rationalize.
"They may give an answer to their judgments and those of
other men with the notions of this prejudice to population,
& of the supposed warrant from scripture so to serve them,
considerations which upon other occasions perhaps shall
influence them but little: but it is this [i.e., blind hate]
which occupies indeed their hearts."

The problem was how to inaugurate a discussion on a
subject about which emotions ran so high. It was in fact
not until 1957 that the publication of the Wolfenden Report
finally laid the basis for a rational public debate in England.
Two centuries earlier the case seemed hopeless. Over and
over again, a sense of urgency possessed Bentham with
the conviction: “I must speak out.” Humanity aside, the
very soul and logic of his new legal philosophy required
him to repudiate laws penalizing the sexual relations of
consenting adults in private. But when he weighed the
consequences, something like panic seized him:

46. Box 74a, folio 8.
47. Box 74a, folio 6.
48. Box 74a, folio 14.
A hundred times have I shuddered at the view of the perils I was exposing myself to in encountering the opinions that are in possession of men's minds on [this] subject. As often have I resolved to turn aside from a road so full of precipices. I have trembled at the thoughts of the indignation that must be raised against the Apologist of a crime that has been looked upon by many, and those excellent men, as one among the blackest under Heaven. But the dye is now cast, & having thus far adhered with that undeviating fidelity to the principles of general utility I at first adopted, I will not at last abandon them for considerations of personal danger. I will not have to reproach myself with the thought that those principles which my judgment has approved, my fears have compelled me to abandon. 49

His dilemma was this: to have publicly admitted that utilitarianism and the "greatest happiness principle" led logically to the decriminalization of sodomy would have given Bentham's opponents a powerful weapon for discrediting his whole program of reform. 50 We must sympathize with his predicament even if we deplore his need for silence. He had forged a strong instrument for abolishing the worst outrages of the criminal system. Yet if he used it against one of the least defensible of them, it would break in his hands. Under the strain, Bentham became uncharacteristically self-dramatizing, declaring at one point: "Even this dangerous & bitter cup would I not put from me." 51

But a page later he recovered his sense of humor. He recalls reading about the terrifying initiation rite of some Brazilian pirates and remarks apropos of law reform:

Should it ever be desired to subject to a probation as trying to the fortitude of the mind, as this to the patience of the body, those whose ambition leads them to be ranked among the teachers of critical Jurisprudence, let this subject be given him

49. Box 749, folio 4.
50. Though Bentham clearly favored decriminalization, he was apparently willing to accept banishment as a compromise; "Nonconformity," Box 749, folio 4.
51. Box 749, folio 33.
to treat of & let him be honest. The [prejudices of men] are phantoms more dangerous than any that the imagination of monastic fablomongers sent to terrify their legendary Saint. After this, he might bear any thing, no danger nor any sacrifice in the pursuit of the great interest of mankind would be too dear."

He then made a list of other points to be explored. But fear held him back. "Perhaps I have gone too far already. . . . Perhaps I have gone too far in proposing topics for inquiry, for inquiry supposes certainty to be wanting." Bentham's rough notes give a vivid picture of conscience at war with discretion. Discretion won out. After two more pages, he broke off and did not return to the subject for another ten years.

Meanwhile, pilloryings continued, with much brutality and occasional deaths. In 1780, an exceptionally grim episode led a famous member of Parliament to utter a unique protest. On April 19 of that year, a coachman named William Smith and a plasterer named Theodosius Reed had been exposed in the pillory at St. Margaret's Hill in London for attempted sodomy. Though their punishment did not take place until nearly noon, nevertheless, according to one newspaper, "A vast Concourse of People had assembled upon the Occasion, many by Seven o'Clock in the Morning, who had collected dead Dogs, Cats, &c. in great Abundance, which were plentifully thrown at them; but some Person threw a Stone, and hit the Coachman on the Forehead, and he immediately dropped on his Knees, and was to all Appearance dead." Smith did, in fact, die though there was some uncertainty whether the cause of his death was the violence of the crowd or the tightness of the pillory about his neck. Edmund Burke, learning of the case the next day, was moved to expostulate in the House of Commons:

52. Ibid.
53. Ibid.
He said, the matter which had induced him to make these reflections was the perusal of a melancholy circumstance stated in the newspapers of that morning. . . . The relation he alluded to, was that of the unhappy and horrid murder of a poor wretch, condemned to stand in the pillory the preceding day. The account stated that two men (Reed and Smith) had been doomed to this punishment; that one of them being short of stature, and remarkably shortnecked, he could not reach the hole made for the admission of the head, in the awkward and ugly instrument used in this mode of punishment; that the officers of justice, nevertheless, forced his head through the hole, and the poor wretch hung rather than walked as the pillory turned round; that previous to his being put in, he had deprecated the vengeance of the mob, and begged that mercy, which from their exasperation at his crime, and their want of considering the consequences of their cruelty, they seemed very little to bestow. That he soon grew black in the face and the blood forced itself out of his nostrils, his eyes, and his ears. That the mob, nevertheless, attacked him and his fellow criminal with great fury. That the officers seeing his situation, opened the pillory, and the poor wretch fell down dead on the stand of the instrument. The other man, he understood was so maimed and hurt by what had been thrown at him, that he now lay without hope of recovery.\footnote{55. April 11, 1780, Parliamentary History of England (London: Hansard, 1814), vol. 21, 606, 588–89. The attorney-general proposed an investigation to determine if the officers were guilty of neglect of duty and who in the mob might be “most immediately concerned in the murder.”}

After the mandatory deprecation of sodomy as a crime that “could scarcely be mentioned, much less defended or extenuated,” Burke protested that the pillory existed to expose men to contempt and not to kill them by a punishment “as much more severe than execution at Tyburn, as to die in torment, was more dreadful than momentary death.” Burke then seized the occasion to propose that a bill be introduced to abolish the pillory since it was open to such abuse. Burke’s brave and unprecedented raising of the issue prompted others to voice their own misgivings. Another member told how a man he had known at Bury, condemned for the same crime, had swallowed poison
fearing "that the populace would be so exasperated against him, that they would take his life." He was exposed the next day and was "so severely treated by the populace that he died that night in gaol, and whether he died from the poison, or in consequence of his ill treatment from the mob, had never been ascertained." 56

Burke had the satisfaction of seeing the undersheriff for Surrey tried for murder; 57 not surprisingly, the jury acquitted him. Burke himself, though complimented in the House on his humanity, suffered much abuse in the press for his stand. The Morning Post complained: "Every man applauds the spirit of the spectators, and every woman thinks their conduct right. It remained only for the patriotic Mr. Burke to insinuate that the crime these men committed should not be held in the highest detestation, and that it deserved a milder chastisement than ignominious death." 58 Four years later, the Public Advertiser also attacked Burke maliciously for showing sympathy for homosexuals. In both cases Burke sued for libel and won. He was able to obtain a pension for the dead coachman's widow, a circumstance that suggests that not all levels of British officialdom were as passionately homophobic as the press. 59

But prejudice ran high at the popular level and affected most of the intelligentsia. What inspired it? What had led England and Europe alike for so many centuries to condemn homosexuals to death? Undoubtedly, much of this feeling, like anti-Semitism and the fear of witchcraft, was religious in origin. Leviticus had prescribed capital punishment, and its lethal verse (20:13) was cited by innumerable jurists on the Continent and in the British Isles. The Sodom story added a dramatic threat of destruction to terrify the

56. Sir Charles Bunbury, in ibid., col. 391.
58. Quoted in ibid., p. 350.
59. Ibid., p. 230.
superstitious. St. Paul, in his Epistle to the Romans, expressed his detestation of men and women who manifested "vile affections." 60 Early Christian emperors incorporated the death penalty into Roman law, which in the Middle Ages and the Renaissance was revived first in Italy, France, and Spain, and later even in Germany and Scotland. 61

Religious hysteria over sodomy was still very much alive in the eighteenth century. The persecutions of 1730 in Holland were sanctioned by a national proclamation warning that God would destroy Holland as He had destroyed the Cities of the Plain if they did not stamp out this vice. 62 As we have seen, Blackstone felt an appeal to the Sodom legend to be conclusive in his defense of Henry VIII's statute of 1533. It is scarcely surprising that English clergy in the eighteenth century repeatedly whipped up animosity against the nation's gay minority in essays, sermons, and scriptural commentaries. The church historian Joseph Bingham, after taking note of early Christian legislation condemning homosexuals to death, complaisantly declared: "Thus the civil and the ecclesiastical laws combined together to exterminate all sorts of uncleanness; deterring men from such acts of impurity as were a scandal to the Christian profession, by such penalties, temporal and spiritual, as were thought the most proper to be inflicted." 63 The reforming clergyman Jeremy Collier, responding to a

60. Romans 1:26–27.
62. One lengthy proclamation was translated in full in an appendix to the Monthly Chronicle, July 1730, pp. 49–50. The "Placat" is also translated in Crompton, "Gay Genocide," pp. 86–87. English papers gave much attention to the Dutch persecutions and recorded the hostile reception refugees from the persecution received in England. See, e.g., the York Courant for June 9, June 23, July 7, July 28, Sept. 1, and Sept. 8, 1730. The Sept. 8 York Courant refers to the pillorying of a Dutch refugee in London.
current of moral conservatism that swept England early in the eighteenth century, made a passionate plea for the enforcement of the law in his essay on “Whoredom” in 1720: “This Wickedness is Felony, without Benefit of Clergy, by our Statutes. And in ancient Times, these Criminals were burnt by the Common Law. Indeed, such Monsters ought to be the Detestation of Mankind, pursued by Justice, and exterminated the Earth.”

64 The willingness of Christians to kill homosexuals in the name of morality was often cited as proof of the superiority of Christianity over the religions it had superseded. In 1795, the Scottish divine James Macknight, commenting on Romans 1:26–27 in a new translation of Paul’s epistles, wrote: “The Gospel, by its Divine light, hath led the nations to correct their civil laws; so that in every Christian country these enormities are prohibited, and when discovered are punished with the greatest severity. The Gospel, therefore, hath made us far more virtuous than the most enlightened and most polished of the Heathen nations were formerly.”

65 How religious scruples worked in private life can be seen from the journals of Samuel Johnson’s friend, Hester Thrale. Thrale was a cultivated literary woman, witty and warm-hearted—except where homosexuals were concerned. Her love of gossip has preserved a surprising amount of information about how gay men were perceived in a pious, conservative English household. A few months before the outbreak of the French Revolution, she was moved to philosophize: “Nature does get strangely out of fashion sure enough: One hears of Things now, fit for the Pens of Petronius only, or Juvenal to record and satyrize: The Queen of France is at the Head of a Set of Monsters call’d by each other Sapphists, who boast her Example; and

65. A New Literal Translation from the Original Greek of All the Apostolical Epistles (Edinburgh: James Macknight, 1795), 1:160.
deserve to be thrown with the He Demons that haunt each other likewise, into Mount Vesuvius.”” When a preacher at St. Asaph’s ventured the opinion that “the Vices of the Ancients were unknown to Modern Times,” Thrale reacted with patronizing indignation to his naïveté: “poor Dear Man!” “‘Tis now grown common to suspect Impossibilities—(such I think ’em)—whenever two Ladies live too much together; the Queen of France was all along accused, so was Raucoux the famous Actress of the Paris Stage: & ’tis a Joke in London now to say such a one visits Mrs. Damer.”” The actress Sarah Siddons had confided to her that her sister “was in personal Danger once from a female Fiend of this Sort.” “Bath is a Cage of these unclean Birds.”” Male acquaintances with mannerisms were also suspect; in private discourse Thrale and her friends referred to sodomites as “Finger twirlers.”” She noted the effeminacy of the dramatist Richard Cumberland and the “luscious fondness” in his descriptions of his heroes, a quality she also saw in the writings of William Beckford, whom she identified, tout court, as “a Professor of Paederasty.”” Thrale also joked about the sentencing of Captain Jones and criticized Gibbon’s comments on Justinian’s laws as too lenient in their tendency.”

It is especially interesting to see her reaction to homosexuality in a man she loved and appreciated. In January 1794, she reported (prematurely) that George James had been guillotined in Brittany and that Neddy Onslow had been massacred in Paris. Both men were homosexuals.

67. December 9, 1795, in ibid., 2:949. “Raucoux” is an error for “Raucourt,” the famous tragedienne.
68. Ibid.
69. March 29, 1794, in ibid., p. 873n.
70. November 1796, in ibid., p. 969.
71. March-April 1776, in Ibid., 1:248; and December 9, 1795, in ibid., 2:948.
who had fled to France: James, a painter, had been her particular friend. Given her strong opposition to the Revolution, one might expect some sympathy for its victims, but Hester Thrale merely remarks: "See how Vengeance does pursue the Guilty!!"72 About a year later she returned to the subject of James in a passage that mingled personal affection and moral animosity:

Death of two Friends! oh how unlike each other! put everything else out of my Head. Venerable, virtuous, pious, exemplary Mr. Hutton, elegant, sprightly, cheerful, charming Mr. James. They both loved me exceedingly—it was all they had in common—but humanity; they both contributed to sweeten my Existence... who will ever hope to equal the excellence of one, the social Gayety of the other? Had not his atrocious Vice forced him to hide from public Notoriety—James must have been actually the delight of every Circle where Pleasure is sought in the Company of airy good humour, & elegant Hilarity... Poor Fellow! now perished almost for Want in a French Prison, where Debts had driven and Prejudice [i.e., political prejudice] confined him: for those he lived among there did not—I dare say—detest his odious Propensity—as much as those who drove him from Society in England did: probably not at all; and as to Politics, he was Democrat enough I believe, but Heaven pursues such horrid Violation of its Laws with Vengeance first or last.73

Hester Thrale's remarks illustrate how much the English prided themselves on maintaining a stern sexual morality than the French, above all, with respect to homosexuality. By 1794, of course, the Revolution was well into its radical phase, and the subsequent outbreak of war left England isolated from the Continent for a generation. Parliament was moved to follow neither the new liberal Code pénal de la Révolution Française, promulgated in 1791, which decriminalized sodomy, nor the Napoleonic Code of 1810, which preserved this reform and eventually set the standard for most of Europe. But to the English, these changes

73. May 11, 1795, in Ibid., pp. 926–27.
in the law appeared only as another example of the way French immorality went hand in hand with French infidelity, which now replaced French Catholicism as a threat. Wartime fears intensified the demand for social discipline. Arthur Gilbert has explained the unusually harsh treatment of homosexuals in England during the period 1805–1815 as due to the exacerbated tensions and hysteria of war.74 With respect to hangings in the navy, which were indisputably more frequent during the war years, this was no doubt the case. But though the war certainly made things worse, such an explanation fails to take into account the strong animosity toward homosexuals that existed before military hostilities began. Then again, after Waterloo, executions continued at the same average rate (about two a year) for another two decades. During the period 1805–1835, when the annual number of executions for all crimes dropped from about seventy to about thirty, sodomy was the only crime for which the number of hangings remained more or less constant.75

It took Bentham’s distinguished mind to understand, even in his own day, that the homophobia behind this policy was itself a social phenomenon that required explanation. While writers like Swift, Defoe, Collier, Smollett, and Gibbon simply assumed that homosexuality was an abomination from which all men would instinctively recoil in horror, Bentham felt it was hostility to homosexuals that challenged analysis. Such a view put him some two centuries ahead of his contemporaries. When we consider that he was the first social scientist to perceive the problem, his grasp of the issues still seems remarkably broad and suggestive. Though one might say, without exaggeration, that

the question obsessed him for half a century, his fullest treatment of homophobia appears in his notes of 1814–1816 where a score of pages are devoted to it. At this point, it may be appropriate to depart from strict chronology and draw together his ideas on the subject from manuscripts written at widely different dates.

To begin with, Bentham was fully aware of the difference Christianity had made in European morals. On two occasions he enumerates famous Greeks and Romans who might have faced penalties in postclassical times. “What would have become,” he asks rhetorically, “of Aristides, Solon, Themistocles, Harmodius and Aristogiton, Xenophon, Cato, Socrates, Titus—the delight of Mankind, Cicero, Pliny, Trajan, Adrian &c., &c.—these idols of their Country and ornaments of human Nature? They would have perished on your Gibbets.” The fall of classical civilization and the rise of medieval theology had completely changed the moral climate of Europe, a fact he notes with some bitterness. The blame, he wrote, lay with “a cluster of barbarians, pushed by Priests worse than blind as laboured Error is worse than Ignorance.”

In 1814 Bentham set out systematically to analyze in detail what he thought lay behind the new attitudes. The ascetic side of religion, he conjectured, had grown out of the superstitious idea that sacrifice was necessary to appease and bribe an irascible deity. Fear and hope led men at first to sacrifice food to the gods. From this they went on to sacrifice or forego other sources of pleasure (especially sexual pleasure) and then to the sacrifice, as victims, of men and women who partook of pleasures the majority themselves did not favor. This had the double advantage of propitiating God and ridding the world of people who were unpopular because their tastes differed from their neighbors.

76. “Nonconformity,” box 74a, folio 7.
77. “Code Penal,” April 22, 1814, box 74a, folios 106–07.
78. April 22, 1814, box 74a, folio 108.
Moses (to whom Bentham, ignorant of the more advanced biblical scholarship of his day, ascribed the authorship of the Pentateuch) had, he thought, converted the idea of physical impurity into moral impurity and by this illegitimate equation of "filth" with "vice" gave a sanction to the punishment of harmless forms of sexual behavior. Such a proliferation of legal taboos, he suggested presciently, immensely strengthened the hands both of priestly and secular rulers: "The more extensive and, above all, the more indefinite the system of penal law, the more transgressions on the part of the subject many; the more the transgressions, the more fear; the more fear in the breasts of the subject many the more power in the hands of the ruling few. When the people are in a shivering fit, the physician of their souls is absolute." Bentham did, however, make a distinction between the religion of Jesus and what he perceived as the asceticism of Moses and Paul:

On this whole field in which Moses legislates with such diversified minuteness and such impassioned asperity, Jesus is altogether silent. Jesus from whose lips not a syllable favourable to ascetic self-denial is by any of biographers represented as having ever issued . . . Jesus has on the whole field of sexual irregularity preserved an uninterrupted silence. Jesus was one person, Paul was another. The religion of Jesus was one thing, the religion of Paul another, where Jesus had been silent, Paul was vehement.

In the case of the "pleasures of the table," Protestants no longer make the eating of forbidden foods a moral issue; men may exercise this faculty for pleasure within limits short of excesses that injure health. In the case of the "pleasures of the bed," it is different. Both Protestants and Catholics observe the old prohibitions without asking what real harm these outlawed pleasures do.

80. April 20, 1814, box 748, folio 103.
81. "Nonconformity," box 748, folio 104.
82. "Not Paul but Jesus," December 1818, box 161b, folios 251–56.