De licentia Superiorum Ordinis.

Bibli obstat: Henricus Davis, S.J., Censor dapuitatis.

Imprimatur: THOMAS, Archibishop Birminganiensis.

Burmingamiae, die 10a Augusti, 1945.

First published September, 1945

CONTENTS

Chapter

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>5</td>
</tr>
<tr>
<td>I WHAT IS USURY?</td>
<td>7</td>
</tr>
<tr>
<td>II Pope Benedict XIV on Usury</td>
<td>19</td>
</tr>
<tr>
<td>III Interest</td>
<td>28</td>
</tr>
<tr>
<td>IV From the Eighteenth Century to the Nineteenth</td>
<td>33</td>
</tr>
<tr>
<td>V The Twentieth Century</td>
<td>38</td>
</tr>
<tr>
<td>VI The Interest Rate</td>
<td>44</td>
</tr>
<tr>
<td>Conclusion</td>
<td>50</td>
</tr>
<tr>
<td>Subject Index</td>
<td>52</td>
</tr>
<tr>
<td>Index of Proper Names</td>
<td>55</td>
</tr>
</tbody>
</table>

54261
Acknowledgments

I am much indebted to Raymond de Roover, Professor of Economics at Boston College and Member of the Royal Flemish Academy of Letters, for the criticism and comment he has generously given and for his kindness in making available his excellent collection of authors on the subject. I am also grateful for the encouragement afforded by Reverend Edmund O. Bernard, Professor of Theology, and Right Reverend John K. Ryan, Professor of Philosophy, at The Catholic University of America, both of whom were wise and stimulating guides in the early stages of this work.

I am also indebted to the editorial staff of the Harvard University Press and, in particular, to the painstaking work of Mrs. Carl A. Pitha.

J. T. N., Jr.

May 1957
PREFACE

At various times during the past few years, and from various quarters, it has been suggested to me that I should publish the lectures on usury which I have given here. I must confess that I have hitherto shirked the task. The lecturer has several advantages over the author; according to the reactions of his audience, he can be either brief or lengthy in his treatment of the various points which arise, obscurities and misunderstandings can be cleared up by his answers to questions from his hearers, and, not least, he can adapt his method of exposition to the type of audience before him. But the author enjoys none of these benefits, and the more intricate the matter he has to write about, the more he is conscious of his handicap. No one who knows anything about the subject will deny that the theory of usury bristles with complexities, for the economist as well as for the moralist, the historian and the social reformer.

Moreover, the language in which the great Catholic theologians have discussed it is Latin, developed by centuries of use in the Christian era to a high degree of technical excellence as a concise and accurate tool of thought. But it is this very excellence that makes it difficult to transpose into ordinary English for the general reader, to whom such terms as *lucrum*
cessans, usus proprius et principalis, res fungibilis are as unintelligible as they are repulsive.

Though I have now been persuaded that these considerations are outweighed by the desirability of making Catholic moral theology about usury known to a wider circle, the difficulties of exposition remain none the less real. How far I have overcome them, the reader will decide. I have kept Latin words out of my text almost entirely; they are used only to supplement (and justify) the English version of them. The footnotes are chiefly intended for students who wish to pursue the subject further, and the general reader need not bother with them. If, in spite of considerable care to understand the opinions of the authors quoted, I have unwittingly misrepresented them, I can only apologize to them or to their shades.

Campion Hall,
Oxford.

LEWIS WATT, S.J.

USURY IN CATHOLIC THEOLOGY

I.

WHAT IS USURY?

(i)

THE power over the lives and destinies of others conferred by the possession of wealth has long been recognized, and the responsibilities of property-owners have been the subject of many sermons, clerical and lay. It is evident that the form of their responsibilities depends on the form of their wealth, landowners having duties which shareholders, say, have not, and vice-versa. Now that land has ceased to be the predominant type of property in industrialized countries, its place having been taken by securities of various kinds and bank deposits, and a vast system of debt and credit having been built up in consequence, the problem of the social power exercised by finance has assumed a new urgency. In its older manifestations, the problem was discussed in connection with the religious and ethical condemnation of usury; and, since it is not so much the problem itself that has changed in modern times as its extent and the forms in which it presents itself, it is quite natural that many of those who concern themselves with it to-day make use of the concept of usury as an instrument of analysis.
Now the concept of usury is not altogether an easy instrument to handle correctly. Quite apart from the emotional associations which surround it, the hatred of Shylock and sympathy with his miserable victims, it lends itself to subtle distinctions and heated controversies about practical applications even among those who are entirely agreed about its theoretical meaning and are quite cool-headed in their attempts to make it a standard by which to judge actual financial transactions and usages. Of course, it loses its edge as an instrument of thought when employed without any clear meaning at all. No Catholic theologian or social economist would deny that usury is a form of injustice, and therefore evil; but for both theoretical and practical reasons it is important to know exactly what form of injustice is being referred to when it is characterised as usury. At a Social Week held in France in 1923 one speaker applied the term usury to an increase of prices arising out of bribery; or the interposition of useless middlemen, or speculation, or the cornering of a commodity, etc. Another said that a worker who does not fulfil his contract of service is guilty of usury. Both in France and Germany there have been Catholic writers who have described usury as any exploitation of the need, weakness or simplicity of another in order to extort money from him; which covers a great many unpleasant transactions (such as blackmail and the three card trick) not usually considered to be usury. Even to say that usury means any injustice connected with the loan of money, as has indeed been said, is far too vague; it would make a fraudulent debtor a usurer, an accusation which would surprise him as much as it would other people. The temptation to enlist the general popular hatred of the usurer as an ally in the camp

aign against almost any form of social injustice must be resisted, if our thinking is to be accurate and our attack on injustice not to be misguided. Not every form of exploitation, even financial exploitation, of others is usury in the traditional Catholic meaning of the word, and usury may taint transactions which would not normally be considered as forms of exploitation.

It may be said that so long as an author explains what he means by usury and is consistent in applying his definition in subsequent discussion, no harm is done. That might be true if the term were a new one, if there did not cluster around it a host of historical controversies and ecclesiastical decrees. But usury is a term of long standing in theology and canon law. In the code of Canon Law, which was published by Pope Benedict XV in 1917, ecclesiastical penalties are imposed on those found guilty of usury (Canon 2354). No one would contend that these penalties are incurred by those who practice whatever form of injustice anyone chooses to call usury, sinful as all injustice is in itself.

(ii)

A definition of usury, frequently quoted, runs as follows:

This is the true meaning of usury—when gain and fruit is sought, without labour, cost or risk, from the use of something which is not fruitful.

This definition goes back to the beginning of the 16th century, and is found in a Bull of Pope Leo X, later embodied in a decree of a General Council of the Church (the 5th Lateran Council, 1512-1517). But it should be noted that, accurate as it may be, it was merely quoted by the Pope and the Council from the
arguments of one of the parties to a controversy then raging. As they neither accepted nor rejected it, it cannot be rightly called an ecclesiastical definition. (They did, however, establish the principle that credit-institutions are not guilty of usury if they make a charge to borrowers in order to cover costs of administration.)

What may be rightly called an official definition of usury, authorized by the Church, is provided in an encyclical letter of Pope Benedict XIV, published in 1745. This assumes in its wording a knowledge of the teaching of Catholic theologians in the middle ages, and the encyclical confirms that teaching. They pointed out, as a mere matter of observation, that there is a class of things which can be used in the normal way without necessarily using them up, and another class of things which cannot be used in the normal way without using them up; or, to put it another way, in the case of certain things their substance and their (normal) use can be separated, whereas in the case of other things this is physically impossible. For instance, one does not necessarily use up an automobile, or a piece of furniture, by the mere act of using it in the normal way, i.e., for the function which it is intended to perform. No doubt such things will wear out in time, but for the purpose of normal use this is not essential; indeed the user probably finds it a disagreeable and expensive fact. On the other hand, such commodities as food, drink, medicine, tobacco, cannot be used for their normal purpose without being used up. It is not possible both to have one's cake and to eat it. The owner of an automobile may decide to let it out on hire; that is, to sell the use of it for a time while retaining ownership of the car. The owner of a house or piece of land in the occupation of a tenant may sell his property, subject to the tenant's right of use; that is, transfer ownership of the substance, but not the immediate use of it. But it would be ridiculous for a baker to sell his bread in the ordinary way of trade and at the same time to reserve to himself the right to eat the bread; similarly as to the vendors of other commodities the normal use of which is inseparable from consumption of their substance. When they sell the commodity, they necessarily part with the right to use it; this right is included in the sale.  

This distinction is important for the question of just prices. For the first class of things (land, houses, machinery, etc.) there is, ideally, a just price of the use of the thing, i.e., of its hire; another just price of the substance of the thing, minus the right to use it, e.g., of a freehold house occupied by a tenant; and still another just price, combining the two former, of the substance together with the right of use. Such separation of substance and right of use is an everyday matter in business affairs. But for the second class of things (food, medicine, etc.) the just price necessarily corresponds to the value of the substance and the right of use combined. Any grocer would be judged extortionate who charged his customers a sum of money for tea, washing soda, brass polish, etc., and a further sum for the right to use these articles. In fact, such a further charge would be, in the proper sense, usurious. It would be unjust, because the right to use has necessarily been included in the sale of the groceries.

1 It is unnecessary to discuss the case of food, drink, etc., being borrowed for some purpose; e.g., a bottle of champagne, to add to the decor of a scene on the stage. This is irrelevant to modern problems of finance.

2 Such things are called by theologians and in the canon law "fungible", as distinct from "fruitful" things (which can be used without having been used up).
That this is what is meant, in ecclesiastical documents, by the term “usurious” is clear from the encyclical letter of Benedict XIV already mentioned, and equally clear from the Code of Canon Law of 1917 (Can. 1543). Usury is a charge made, on the sale of a “fungible” thing, over and above the just price of that thing, merely for the right to use it; and, as Benedict XIV observes, such a charge is none the less usurious and unjust because in some particular instance it is small, or made to a purchaser who can easily afford it, or because the fungible thing sold is to be made use of by the purchaser for increasing his wealth by trade or investment in land.

(iii)

So far, this discussion may seem somewhat remote from the subject of usury in the sense which interests people to-day, viz., the financial sense, which associates usury specifically with loans of money. But in fact it is an indispensable introduction to an understanding of the position of the theologians and the canon law with regard to charges made for monetary loans. They do not regard the Catholic prohibition of usury as a mere matter of ecclesiastical discipline, like the prohibition of meat on Fridays. Disciplinary prohibitions can be revoked by the authority which imposed them; but not the prohibition of usury. They do not consider it as evil simply because the Church forbids it and imposes penalties on usurers; but because it is forbidden by the moral law antecedently to any prohibition by the Church. From this point of view the sin of usury falls into the same class as murder or robbery; the class of actions which are evil in themselves, and are therefore forbidden by the Church. This being so, reasons have to be given to prove the accuracy of their verdict.

What is the principle which forces one to conclude that usury is wrong in itself? According to medieval theologians, and many to-day, the principle that it is unjust to attach to the sale of a fungible thing a charge for the right to use it, over and above the just price of the thing itself. (This principle they accept for the reasons already given.) Money, they maintain, is a fungible thing; and the just price of a sum of money is exactly the same sum (“same” in amount, not of course in identity). To express more than this as a charge for the right to use money “lent” would be necessarily unjust, since the right to use is necessarily transferred along with the ownership of the money; just as the right to use a loaf of bread is necessarily included in the sale of the loaf. Money is a fungible thing because it cannot be used for its normal purpose, viz., to serve as a means of exchange, without surrendering its ownership to someone else. To attempt to use it in this way while refusing to part with its ownership is self-contradictory. Incidentally, the words “loan” and “lend” are misleading when applied to money, for they imply that the owner retains his property-right in the actual thing lent, transferring only the right to use it, so that after the time agreed between the parties the borrower must return to the lender the identical thing he has borrowed. Normally, the lender of money is not, and cannot be, in this position, for the borrower intends to spend the
money, and must therefore have full ownership of it. The normal "loan" of money for a price is really a sale.

(iv)

This explanation may make it easier to understand the references to the "sterility" of money which so often occur in the controversies about usury. Neither the obvious fact that money which the owner keeps in a safe does not beget offspring, nor the untrue assertion that money cannot be made with money, is signified by the statement that money is sterile. Those who make it are well aware that men can employ money in profit-making ways. What they are asserting is that money is not of itself productive; and that the profit which may be made by using it as a means of exchange is to be attributed not to the money, but to the personal action of him who uses it. In the terminology of St. Thomas Aquinas, money is the "matter," but not the "root," of profitable activities. The opposite of "sterile" is "fruitful," and this term is applied by theologians not only to beings (e.g., land, animals) which produce some kind of "fruit" in the course of nature, but also to anything which can be used in the normal way without being used up, i.e., which is not a fungible thing. Money is sterile because it is of its nature a fungible thing. It is irrelevant to point out that money can be exchanged for fruitful things and may therefore be said to represent them.

4 To avoid unnecessary complications we may ignore the possible case of money being borrowed for some purpose which does not require the borrower to pay with it, so that the identical money (and not merely an equivalent sum) can be returned to the lender. In such a case the lender retains ownership of the money.

5 Quodlibet, III, art. 19. In 2 Sent. dist. 37, qua. 1, art. 6 ad 4; Summa Theol. 2a. 2ae, qua. 78, art. 3, in corp. et ad 1.

(v)

When this becomes a statement that money is "equivalently" fruitful, so that a charge may rightly be made to a borrower for the right to use it, the whole question lapses into confusion. One might just as well say that all fruitful things on the market are sterile, because they are "equivalently" their money-price. Because two or more things can be exchanged for each other on the market, it does not follow that their natural characteristics are the same.

This is a convenient place to remark that in this discussion money is being considered as such, that is, as an instrument for effecting exchanges of goods and services, irrespective of its type or form. It is a commonplace of economic history that at various times and in various localities not only the precious metals but other things too have served as money-material. The financial world to-day is quite familiar with money taking the form of entries in the books of a bank, a form which is not so novel as is sometimes thought. Writing in 1584, Contarini said that a banker could accommodate his friends without payment of money, merely by writing a brief entry of credit; and that he could satisfy his own desires for fine furniture and jewels by merely writing two lines in his books.

When money consists of pieces of metal or other material things, it is evident that the money-material (be it gold, nickel, paper, cattle or what not) will have some value apart from its value as money, and have certain physical qualities apart from its utility as an instrument of exchange, so that it can not only be sold outright, but also (if not a fungible thing—
e.g., salt, tea) lent in the strict sense, the identical thing lent having to be returned to the owner. But in so far as the owner uses it as a means of exchange, as money, he necessarily parts with his ownership of it plus the right to use it; and one who "borrows" it for use as money necessarily acquires the right to transfer it outright to someone else (i.e., its full ownership). Far from being a mere theological subtlety, this distinction between money as money and the material of which it consists, underlies the well-known Gresham's Law ("bad money drives out good") and currency-systems based on a gold or silver standard. So far as money takes the disembodied form of entries in the books of a bank, entitling creditors of the bank to draw cheques upon it, its essential characteristic of being a means of exchange is even more evident than when it consists of gold or silver coins.

If, then, any owner of money "lends" it to another to be used in the normal way (as a means of exchange), he is guilty of usury in the strict ecclesiastical sense if he exacts from the "borrower" a payment solely for the use of the money. So, in the Code of Canon Law, we read:

If a fungible thing be given to someone in such a way that it becomes his and that later he is to return its equivalent in quantity and kind, no profit can be taken merely by reason of this contract.7

Though money is not explicitly mentioned, the second half of this Canon, to be considered later, makes it clear that it is included in the term "a fungible thing". Nor is the word usury used in the Canon. It occurs, however, in the index to the Code, where we are referred to this Canon, the

footnotes to which contain references to previous ecclesiastical decisions about usury. There can be no doubt that this Canon states the Church's attitude to usury in relation to a "loan" of money.

(vi)

Before reproducing the definition of usury contained in the encyclical of Benedict XIV, a term which occurs in it must be explained, viz., mutuum. This Latin word is the legal name for a contract by which a fungible thing is transferred from one person to another on condition that after a time a thing similar in quantity and kind is to be given in exchange. In other words, outright ownership of the thing is handed over, as it necessarily is when a fungible thing is transferred for use in the normal way.

After some introductory remarks, the encyclical (Vix Perennis) continues:

The species of sin which is called usury, and which has its roots in the contract of mutuum, consists in this: solely on the ground of the mutuum, the nature of which is to require that only so much be returned as was received, a person demands that more be returned to him than was received; and so maintains that, solely on the ground of the mutuum, some profit is owed to him over and above the principal.8

This encyclical, which is explicitly mentioned in the footnotes to Canon 1543, embodies, as the Pope is careful to state, the unanimous opinion of a distinguished committee of theologians and canonists appointed by him to consider the whole question of

---

7 Si res fungibilea ita detur ut ejus fiat et potest tanundem in eodem genere substitutur, nihil luceri, ratione ipsius contractus, benepti potest (Canon 1543).

8 Pecati genus illud, quod usura vocatur, quodque in contractu mutui proprium admodum sedet et losem habet, in eo est repostum, quod quidem quoniam tanundem donata est reddi, postulat quantum receptum est, plus si reddi velit quam est receptum, debeatur ultra sortem iuris aliisque, ipsum ratione mutui, ab eis debere contendat. (Vix Perennis: 745.)
The chief passages of the encyclical will be found in Dettlinger's Enchiridion Symbolorum (Freiburg: Herder), and the full text in the places here mentioned, or in P. Tiberghien's L'Encyclique Vis Perfume (Paris: Editions Spes).

9 A discussion of the attitude of the early Protestant Reformers to the traditional social ethics will be found in A. Faswani's Catholicism, Protestantism and Capitalism (Oxford and Ward) and R. H. Tawney's Religion and the Rise of Capitalism (John Murray; reprinted, with 1927 preface, in Pelican Books). Dr. W. R. Robertson's aspects of the Rise of Economic Individualism (Cambridge University Press) falls into error pointed out by Mr. Tawney (in the preface just mentioned) and by Dr. J. Brodbeck in The Economic Morals of the Jesuits (Oxford University Press). Mr. Tawney's historical introduction to Dr. Wilson's A Discourse upon Usury (Bell) is an important contribution to the subject.

10 A discussion of the attitude of the early Protestant Reformers to the traditional social ethics will be found in A. Faswani's Catholicism, Protestantism and Capitalism (Oxford and Ward) and R. H. Tawney's Religion and the Rise of Capitalism (John Murray; reprinted, with 1927 preface, in Pelican Books). Dr. W. R. Robertson's aspects of the Rise of Economic Individualism (Cambridge University Press) falls into error pointed out by Mr. Tawney (in the preface just mentioned) and by Dr. J. Brodbeck in The Economic Morals of the Jesuits (Oxford University Press). Mr. Tawney's historical introduction to Dr. Wilson's A Discourse upon Usury (Bell) is an important contribution to the subject.

Catholics, various complicated and subtle controversies arose about the moral character of certain contracts, especially in France, the Netherlands and Italy. By some theologians they were condemned as tainted with usury, by others they were defended from the charge. Towards the middle of the eighteenth century, the problem became acute and practical in Italy when the City of Verona floated a public loan at four per cent. This was not the first of such public loans, which, after much debate, had been approved by St. Bernard of Sienna and St. Antonino of Florence, whose probity and theological competence were unquestionable. But since then the theory that usury is not morally wrong in itself had filtered into Italy from the Netherlands, and had provoked such strong reactions from theologians there, including the Bishop of Verona, as to cause grave doubts about the morality of the loan. Attempts to solve these doubts were not very happy, some theologians taking a very strict line while others, headed by a personal friend of the Pope, defended a theory, then new in Italy, indistinguishable in practice from that of Calvin. This was the setting in which the encyclical *Vix Perpetuit* appeared.

One must not look to the encyclical for a formal solution of all the controversies about the usurious character of certain contracts, nor even for a verdict on the morality of the Veronese loan. Its scope is expressly limited to a clear statement of the Church’s doctrine about usury, which, as the Pope said, was threatened by theories recently and widely propagated. He explicitly excluded from his decision the moral character of those contracts about which theologians and canonists were divided in their views; and he declined to pass judgement on the

Veronese loan, on the ground that sufficient evidence for a verdict was not before him for submission to the commission he had appointed. He asked the Italian Bishops to warn their flocks in very serious terms against the sin of usury (his definition of usury has already been quoted), and to remind them it assumes various forms. No connotation must be given to the false opinion that the question of usury had become purely nominal.

He agreed that it is possible to find ways of investing money which are not usurious (in business or in rent-charges), and that even in the case of a contract of *mutuum* there may be, under certain circumstances, justification for demanding something over and above the return of the principal (though never solely on the ground of the *mutuum*). So he vigorously denied that business and the public welfare are hampered by the prohibition of usury. On the contrary, no Christian should believe that fruitful commerce can flourish by means of usury or other forms of injustice. Recognizing the difficulty of deciding about the usurious character of certain contracts, decisions "which require no small knowledge of theology and canon law", the Pope urged those who judged themselves competent to give decisions to beware of extremes. Some were so severe as to see usury wherever profit was made with money; others were so lax as to see it nowhere. If, after careful consideration and consultation, there still remained a difference of opinion about the usuriousness of any particular contract, those who held opposite opinions were to refrain from invective and from severe censure on each other’s views. He advised all who wished to put their money into the hands of another with the purpose of profit, but at the same time to avoid all taint of usury, to make
plain in advance what sort of contract they were entering into, what its conditions were, and what profit they expected from the money. If it were a contract of *mutuum*, they should assure themselves that an "extrinsic title" for a charge existed. This course would not only serve to calm their consciences, but also assist the Courts in deciding whether or not a contract brought before them concealed a usurious transaction. Not every contract which appeared free from usury really was so, and by no means always was there justification for anything but an interest-free *mutuum*, more particularly in the case of a loan to the poor.

(ii)

This summary of the encyclical raises several points which must be more fully explained to modern readers, familiar as they were to those to whom it was addressed. What were the contracts, alternative to *mutuum*, to which the Pope was referring? To begin with the legitimate ones which he mentions, there was first of all the contract of partnership. Whether one person, retaining the ownership of his money, put it at the disposal of another to trade with, on condition of receiving a share in any profits made, or two (or more) persons formed a company (*societas* in the strict sense) and put their money into it for trading purposes, sharing *pro rata* in any profits or losses, the contract was not considered to be itself usurious by theologians. In neither case is there an attempt to sell the ownership of money at a price which includes a charge for the right to use it. We have seen that theologians and canonists were not so foolish as to deny that a profit may be made by using money in business. Their contention was that any such profit belonged to the owner of the money; and that under the contract of *mutuum*, in which the ownership of money is transferred to the borrower, it is he who is entitled to this profit.

Under the contract of partnership, any profit goes to the owner or owners of the money invested in the partners' business (subject to any agreed commission to one or other for actively managing the business), so that the moral principle is not infringed. To put it another way, when money is "lent" (by contract of *mutuum*) its ownership passes to the borrower; when it is "invested" (by contract of partnership) its ownership remains with the investor; in both cases any net profit belongs to the owner of the money. Similarly if there is no profit, but a loss of capital; the loss must be borne by the owner of the money, i.e., by the borrower in the case of *mutuum*, by the investor in the case of *societas* (partnership). The last sentence gives the key to the solution of the problem, "Is this particular contract one of *mutuum* or of *societas*, of loan or investment?" a problem which is far from being merely academic, for on the reply to it depends the ownership of any gain made with the money concerned. The criterion by which to judge the nature of the contract is, who undertakes to bear the risk of loss?

It is unnecessary here to describe the historical development of the contract of partnership in its various forms. That has been done in sufficient detail by Ashley (loc. cit.) who concludes:

So long as the partner who contributed only capital shared in the risk, the canonist doctrine regarded him as having a moral right to share in the profit; while the same fact brought with it the juristic con-
clusion that he retained his ownership in the money invested, so that the transaction seemed clearly distinct from a *mutuum* or loan, which was always defined as involving a transference of ownership. It would be a great mistake, then, to suppose that commerce and industry were starved of capital because of the prohibition of usury, and there can be no doubt that Benedict XIV had in mind the contract of partnership when he wrote that there were honest ways of employing one’s money in business and making a profit, without incurring the guilt of usury. One of these ways, in our times, is to invest in the shares of a joint-stock company.

(iii)

It may be remembered that the Pope also recommended the method of investing money in rent-charges, as to which Ashley writes (loc. cit. sec. 66).

It is now generally conceded that it was as far as possible removed from being a mere device to escape the usury law.

These rent-charges on land occur in several forms. A landowner may sell land in exchange for a periodical rent charged on the land; or, when himself the occupier of his own land, he may contract to pay to someone an annual rent charged on the land in exchange for a lump sum paid down to him; or, if his land is in the occupation of a tenant, he may sell to a third party, for a lump sum, the right to the periodical rent paid by the tenant. (The last seems to have been the original form.) What was bought and sold was considered to be the right to a share in the “fruits” of the land, and theologians did not consider the contract to be one of *mutuum* (they called it *census realis*), or the charge to be usurious, though in the thirteenth century there was some controversy about the second type of rent-charge just mentioned. Not only land but “houses and shops from which a revenue could be obtained, as well as all permanent revenue rights, e.g. rights of toll” (Ashley, loc. cit. sec. 66) could be the basis of a rent-charge; and loans floated by cities and States were considered to fall into this category.

A considerable controversy arose as to whether a rent-charge was in reality disguised usury if it was constituted in such a way as to be redeemable by either party, but eventually the opinion of those theologians who held it was not usurious prevailed. Ashley points out that the advantage of the system of rent-charges to landowners was that it enabled them to borrow money for any purpose, including the improvement of their estates, while it provided safe investment for individuals and corporations such as monastic bodies who desired a steady income without the trouble of managing additional property. The provision that the landowner could pay off the capital sum and free his land of the rent-charge prevented the discouragement of agriculture by excessive charges on the land. The theological controversy about the moral legitimacy of a rent-charge constituted with the provision that he who had purchased it could demand repayment of the principal, illustrates the difficulty of applying principles (about usury) on which all the controversialists were agreed.

The same fact can be illustrated from the history of another type of rent-charge, the *census personalis* (personal rent-charge or annuity). It occurred to someone that the principle which justified rent-charges on productive property and distinguished them from usury could be applied to the personal
power of production of an individual, so that in
exchange for a lump sum of money he could under-
take to make periodical payments charged on his
own productive power, and even on his credit. This
confronted the theologians with a new problem, and
here it may be emphasized that they did not
introduce methods of obtaining funds, but simply
passed judgement on those which they found
employed. The borderline between a contract of
mutuum and one setting up a personal rent-charge,
particularly when this was redeemable by either
party, was obviously very fine. Nevertheless, clear
thinking shows a distinction of principle, however
undesirable the personal rent-charge may be, for
various reasons, in practice; the chief reason for
theologians being that it may be a fraudulent cover
for usury. They came therefore to agree, after much
debate, that a personal rent-charge is not in itself
usurious, but that it may well be forbidden by law
on account of its dangers of abuse.

(iv)

These long and sometimes acrimonious con-
troversies between men thoroughly skilled in moral
analysis and agreed upon fundamental moral
principles serve to illustrate the warning given by
Pope Benedict XIV against the notion that it is
quite easy to perceive usury when it occurs. As
a famous theologian wrote in the sixteenth century

The astuteness of merchants, fostered by their lust
for gain, has discovered so many tricks and dodges
that it is hardly possible to see the plain facts, much
less to pronounce judgement on them.¹³

Still another illustration of the same point takes us
back for a moment to the contract of partnership,
which, as we have seen, was never considered by
theologians to be in itself usurious. The reason was,
we may be remembered, that the owner of the money
from the use of which profit was expected did not
part with the ownership, as was proved by the fact
that, just as he claimed a share in the profit, so
he had to bear his share of any loss. Naturally
the risk of losing his money was not agreeable to
the money-owner; and in many instances he, like
the preference shareholder of to-day, would rather
have a flat rate of profit than one fluctuating
with the ups-and-downs of trade. But how could
he secure these advantages under the contract of
partnership, without falling into usury? An
ingenious device was hit upon, which became famous
as the Triple Contract. This comprised three
simultaneous contracts between the owner of money
and the person to whom he entrusted his money
for trading; the contract of partnership, and two
contracts of insurance. By one of the latter, he
insured himself with his partner (or agent) against
loss of his principal, by the other against fluctuations
of profit below a fixed amount. None of these
contracts was in itself usurious. Were they usurious
in combination? Much ink was spilt in debating
this nice point, about which, indeed, theologians are
still divided.¹⁴


¹⁴ For an account of the controversies about this in Germany
in the sixteenth century, see Fr. J. Brodrick, Saint Peter Canisius,
pp. 73 ff. (Sheed and Ward).
III.

Interest

(i)

It has been mentioned above that the encyclical *Vix Pervenit* agreed that profit made by investing money in a partnership or in rent-charges was not, of itself, usurious; though the Pope declined to pass judgement on questions which were still matters of theological controversy between Catholics. On the other hand, he clearly rejected the view that usury was a dead issue, and the Calvinist opinion about it. These points have now been explained, but something remains to be said about his statement that even when the contract was one of *mutuum* there might sometimes be justification for demanding, in repayment, something over and above the principal. This leads us to the subject of interest, a term which has not yet occurred in these pages.\(^{15}\)

In modern English, interest usually means any payment made by a borrower to a lender for money lent, and when this is considered to be excessive in amount it is often styled usury. But its original meaning was much more strictly defined, and the distinction between the nature of interest and of usury was fundamental to the doctrine of Benedict XIV and of the long line of theologians who had discussed usury for several centuries before his encyclical appeared. What usury meant for them has, it is hoped, already been made clear, together with their reason for condemning it. They were, however, confronted with the fact that one who transferred the ownership of money to another by

\(^{15}\) For the early history of interest, see Ashley, loc. cit. sec. 55.
from the debtor for damage suffered owing to the *mutuum* but unforeseen when the contract was made? Is he justified in making a charge for some loss which was not certain, but only probable?

(ii)

In the long run, it came to be fairly settled theological opinion that a creditor could demand compensation from the debtor (i.e., make a charge) for the risk of the latter not repaying his debt; also, for any actual damage to the creditor’s property attributable to his having parted with his money; and, most important of all, for the loss of an opportunity of making a justifiable profit with that money in trade. These were said to give a *title* to compensation, and they were called *extrinsic* titles because, although intimately connected with the monetary transaction (*mutuum*), they arose from circumstances extrinsic to it, which might or might not be present, and not from the bare fact of transferring money-ownership. This distinguished the compensation from usury, and it was given the name of *interest*—“a compensation not for the loan of money, but for the loss suffered by the lender in consequence of the loan” (Ashley, loc. cit.; p. 398) —a term which came to be applied especially to compensation for loss of an opportunity of profit.

As late as the eighteenth century, there were some theologians who held that in every case where such compensation was claimed the creditor had to prove that he had in fact lost this opportunity, or at least that he had lost a likely chance of profit. (The just amount of compensation is a subsidiary question, which for the moment we may ignore, to concentrate on the principle involved.) But the general theological opinion, the beginnings of which can be traced back to the fifteenth century, was that in any region where opportunities for investment in business were frequent, it might be reasonably presumed that whoever lent his money (by *mutuum*) thereby forfeited a chance of employing his money profitably in commerce and industry, an economic fact which would be confirmed either by some law or by common opinion. *Vix Pervenit* did not reject this view, though it advised individual inquiry in each case, for quiet of conscience; advice which, it has been suggested, may reflect the views of certain theologians on the papal commission who held very strict views about usury.

(iii)

The reference to law (civil law) a few lines above needs further elaboration, for reasons which will be clear later. The proposition that civil law can be pleaded as moral justification for one who lends money under contract of *mutuum* to make a charge to the debtor can be understood in one of two ways. It may mean (1) that, if the civil law permits such a charge, it is evidence that prevailing economic conditions justify the presumption that all lenders forgo an opportunity for probably profitable investment, with the consequence that they can claim compensation for this from the debtor: or (2) that, irrespective of economic conditions, it is within the legitimate power of the State to sanction a charge for the loan of money. In the first of these senses, civil legislation has been appealed to as evidence by many theologians, from the fifteenth century onwards. Obviously it does not add a new

---

16 Dr. E. Van Roey (afterwards Cardinal Archbishop of Malines), De Juslo Ancistro, Louvain, 1905.
“extrinsic title” to those generally recognized, and of itself affords no special difficulty for moralists. But taken in the second sense, it raises a considerable problem, inasmuch as it does add a new “extrinsic title”, and, moreover, one which does not appear to be based (as we have seen the others are) on compensation.

Early in the sixteenth century there began in Europe (first of all in the Empire, then in England; later in Holland, Austria and France) the series of civil laws which in one way or another relaxed the ancient prohibition of usury. In the early eighteenth century we find the beginnings of the theory, which met with considerable theological opposition, that it is within the legitimate power of the State to permit a charge for the mere use of money. The most persuasive argument in favour of this which was put forward by the theologians who accepted it was that the State, in order to promote commerce and industry by encouraging the owners of money to lend it, might transfer the ownership of sums of money by way of interest, from the borrower to the creditor. And this in virtue of the State’s alium dominium over the property of its citizens. On the whole, in so far as theologians have relied on provisions of the civil law permitting interest, the usual view they have taken is that the law merely confirms the existence of economic conditions in which opportunities of true investment are easily available to all owners of money, as alternatives to lending. The whole question is omitted from Vix Pervenit, since it was not so pressing at the time the encyclical appeared as it afterwards became, especially after the French revolutionary legislation of 1789 and later, permitting interest and fixing maximum rates.

IV.

FROM THE EIGHTEENTH CENTURY TO THE NINETEENTH

(i)

What we may call the official Catholic position about usury, then, at the middle of the eighteenth century may be summarized as follows. To transfer to another the ownership of a sum of money on condition that a similar amount is returned after a certain time, but increased by a further sum as consideration for the right to use the money, is unjust and usurious. This is the traditional opinion of all theologians who followed the teaching of St. Thomas Aquinas. It is grounded on the conviction that money as such is not productive in itself. On the other hand, if an owner of money, retaining the ownership, commits it to another for trading purposes, he is entitled to an agreed share in any profits resulting from the use of the money by this other person. If, in the course of the enterprise, his money is wholly or partially lost, it is upon him that the loss falls, subject of course to any claim for negligence against his agent or partner. (Many theologians would permit him to insure himself even with this agent or partner against loss.) It was generally agreed that there is no moral objection to purchasing a share in the fruits of a productive asset; i.e., to investing money in a rent-charge. Finally, after considerable controversy, it had become accepted doctrine that, given good reason to believe that economic conditions provide wide-
spread opportunities for the investment of money in business enterprises, an owner of money who, instead of investing it, lends it (i.e., parts with the ownership) to another is not guilty of usury if he demands interest by way of compensation for loss of probable profit. Permission by the civil law to charge interest was regarded as evidence that such economic conditions actually exist.

This position was so fundamentally sound, and at the same time so capable of being adapted to the development of economic conditions, that it might have been accepted not only by moralists but also by economists and jurists with great benefit to public welfare, material as well as moral. But ranged against it was the theory (traceable back to Calvin) that money is in itself productive, so that it can be "lent" in the narrow sense of the English word, which implies that the lender can charge for the use of the thing lent. From this it logically follows that interest is nothing but a price paid for the use of money; after which the next step is to argue that it is supply of and demand for money which must settle how high the rate of interest is to be. Only thirty-one years after *Vix Pervenit* Adam Smith, "the father of political economy", published *The Wealth of Nations*, in which he said, "As something can everywhere be made by the use of money, something ought everywhere to be paid for the use of it". We cannot here give an account of all the controversies which have divided economists about the nature of interest, and the justification for it; but it may be noted that many (especially those who defend the so-called "abstinence theory") implicitly accept the traditional Catholic view that money in itself is not productive but sterile.

When we turn to theological writers of the nineteenth century, we find that the clarity of the doctrine established by Benedict XIV is becoming obscured. In 1823 there was published in France a posthumous work by Cardinal de la Luzerne, which maintained that a charge could be made for the use of money lent to a merchant for the purposes of his trade, though not if the borrower intended to use the money for consumption. This distinction between loans for production and those for consumption was taken up by the French economist Claudio Jannet towards the end of the nineteenth century, and gained some popularity among Catholics. It was suggested that in the middle ages loans were principally made for consumption, hence the prohibition of making a charge for the use of money lent; whereas in modern times they are mainly made for production, so that such a charge is morally permissible. This theory clashes with *Vix Pervenit*, which the Cardinal admitted he failed to understand so far as it dealt with loans for production; it is open to the obvious difficulty that if the ownership of the money lent passes to the merchant (or other producer) any profit made with it belongs to him; and it entirely underestimates the amount of commercial activity in the middle ages. In 1831 Marco Mastrofini published at Rome a book on usury which went even further than that of the Cardinal, and argued that, since money always possesses the power to gain a profit, to make a charge merely for the right to use it is always morally permissible.

It would be tedious to detail the controversies and discussions about usury and interest which went on among Catholic theologians in the first half of the
nineteenth century. But by the middle of the century there was a general consensus of opinion that those who lend money are justified in charging interest, provided that the rate is not excessive. There was also general agreement that an owner of money might, under certain circumstances, have a duty to lend it to the poor free of interest. This does not mean that, after the age-long controversies which have briefly surveyed, there supervened complete agreement and unanimity about interest among theologians. Even while they agreed about the points just mentioned, they differed in their explanations of their conclusion that nowadays there is nothing reprehensible in the general custom of charging interest on money lent. In the nineteenth century, there was no further papal statement of principle, though in reply to inquiries about particular cases severally of the Roman “Congregations” of Cardinals stated that penitents, worried about the fact that they were receiving interest on money lent, were not to be disturbed in conscience so long as they were prepared to abide by any future decision of the Holy See. A number of Bishops brought up the question of interest at the Vatican Council, but before the matter could be considered the Council had to be suspended owing to the outbreak of the Franco-Prussian war in 1870. (The existing Code of Canon Law was not published until 1917.)

In the second half of the nineteenth century, the learned Church historian, Dr. F. X. von Funk, maintained in various publications that the medieval doctrine about the sterility of money, and hence about usury, was a subtle fiction. Money, he held, is productive, and can be hired out at interest, though he frankly admitted that the doctrine of Vix Peruenit is against him. Usury he defined as the exploitation of another’s need for one’s own profit, a definition which has been examined on an earlier page. Other German theologians (including the well-known Frs. A. Lehmkühl and H. Pesch) introduced a distinction between money in itself and money as an instrument of commerce, holding that in itself it is rightly called sterile, but as an instrument of commerce it has “quasi-fertility,” or, as some who accept this prefer to say, is “virtually productive.” In these days common opinion considers it an instrument of commerce, and attaches a value to its use. For this value interest can justly be charged. This theory is further supported by the argument that, given modern economic conditions, money is “quasi-fertile” because it can be easily exchanged for, and is therefore representative of, productive goods; but this argument has already been dealt with above, and we can ignore it.

As for the main argument, the value of the distinction may be doubted, since money serves as an instrument of commerce precisely because it is a means of exchange, and therefore sterile because fungible. Moreover, the insistence on modern economic conditions obscures the fact that in earlier centuries, particularly in the sixteenth and seventeenth, the use of money as an instrument of commerce, though not so widespread as to-day, was common (and the term itself was used) in certain commercial centres such as Antwerp. Indeed, the theory we are examining was suggested, and rejected, in 1605, by the great Belgian theologian...
Lessius, who was in close touch with the Antwerp merchants.  

V.

THE TWENTIETH CENTURY

(i)

Passing from the nineteenth to the twentieth century, attention must first be given to Canon 1543 of the Code of Canon Law (1917). This has two parts, the first, which has been quoted on an earlier page, dealing with usury, the second with interest. The following is offered as a translation of this second half:

but when handing over a fungible thing a stipulation for legal interest is not in itself wrong, unless it is clear that this interest is excessive, or even for a higher return, if there is a just and proportionate title to justify it.  

While this Canon undoubtedly shows the attitude of the Church to usury and interest, it is a law, not a theological treatise. It has, of course, a theological background, and, since Vix Pervenit is mentioned in its footnotes, the Canon must be based on this encyclical, as indeed is shown in its phrases, laconic though these are. One new element appears: the allusion to legal interest, approval of which was contained in another document mentioned in the footnotes to the Canon, viz., an Instruction of the Sacred Congregation de propaganda fide, 1873.

Taking this last point first, it is possible to debate which of the two views about "the title of civil law" (already explained) is favoured by the Canon, but this would be of purely academic interest, especially in this country where the Usury Laws were repealed in 1854. (The Money-Lenders Act 1927 is, of course, of strictly limited scope, and its provisions about interest merely indicate what rate is to be considered by the Courts to be prima-facie excessive.) It would seem that the Canon is intended to give a practical rule for those countries in which the rate of interest may be fixed by free agreement between lender and borrower, but, in default of this agreement, is fixed by law; the practical rule being that it is morally justifiable to accept interest at the legal rate, unless it is obviously excessive, but not to demand a higher rate unless this can be justified on some other ground, i.e., "a just and proportionate title".

The Canon leaves this last phrase unexplained, referring the reader, as we have seen, to Vix Pervenit. In fact, it is probably indicative of the Canon's limited purpose that the whole subject of titles to interest, a subject which has aroused such long-continued controversies, is covered in a phrase of half-a-dozen words appended to a statement about legal interest. To the present writer, it seems evident, taking the Canon and its footnotes together, that by "just and proportionate title" an extrinsic title is meant, and that the nineteenth century theories about the modern "quasi-fruitfulness" or "virtual productivity" of money as an instrument of commerce (or as capital) are ignored in favour
of the old theory that money is always something fungible. Nevertheless (and this illustrates the obscurity which still envelops the matter) some well-known manuals of moral theology, in editions published since the Code was issued, continue to uphold the newer theory. On the other hand, equally eminent moralists, even before the Code, declined (and still decline) to admit that money can ever be anything but fungible (i.e., unproductive in itself), no matter what economic conditions may be.

(ii)

The fact of this difference of opinion between Catholic moralists of the first rank must not be misunderstood. They are unanimous in their view that, under modern economic conditions, and even in the absence of any law sanctioning interest, it is never (subject to a limitation by one theologian, to be explained below) usury to demand interest on money lent, whether for consumption or production. Those who hold that money, as an instrument of commerce, is quasi-fruitful consider that interest is a payment for its use. As for those who deny that money can ever be anything but fungible, their explanations of the moral lawfulness of interest as a general practice fall into two main classes.

Some (with Dr. Van Roey) take as the basis of their argument the medieval doctrine, confirmed by *Vix Perservit*, that a lender of money who incurs some extrinsic loss owing to making the loan is entitled to proportionate compensation. In addition to whatever risk he may run of the principal not being returned to him (a risk which can be actuarially calculated and for which he can claim compensation), the lender of money to-day (e.g., a holder of debenture stock) normally surrenders the opportunity of investing it with a good chance of profit, since opportunities of investment, e.g., in shares of joint-stock companies, house-property or land, are available on a scale unknown until fairly recent times. We have seen that even in the fifteenth century it was admitted by theologians that in trading centres it was not necessary for a lender to prove that owing to the loan he had lost a chance of probably profitable investment; such loss might safely be presumed, given the economic conditions of the place. We have also discussed the attitude of Benedict XIV to this teaching, and seen that he did not reject it. It is but a logical application of this principle to say that, as similar economic conditions extend over an ever widening area, the presumption that a lender forgoes profit by lending widens correspondingly, and the duty to prove an actual loss of investment-opportunity vanishes point. The conclusion drawn is that in the case of any loan to-day the lender may be rightly presumed to have forgone some at least probably profitable opportunity of investment, and may charge interest by way of compensation.

To this principle, Dr. Van Roey (followed by Fr. Macksey, op. cit.) adds a limitation. He will not allow that a lender who has no intention whatever of investing his money in shares, etc., as an alternative to lending it, but who simply hoard it in one way or another if he could not lend it at interest, has any right to appeal to the argument...
just given. Such a lender does not forgo a probable profit, and therefore has no right to claim interest by way of compensation for profit forgone (though, of course, he might have a case for claiming something by way of insurance against losing his principal, or possibly for some other damage sustained or expense incurred by him owing to making the loan). With this limitation, however, Fr. Merkelbach, who otherwise belongs to the same school of thought as Dr. Van Roey, does not agree. He maintains that interest can rightfully be charged even by a lender who would hoard his money if he did not lend it, because if he had wanted to invest it he could have done so.

(iii)

Now let us turn our attention to the explanation of interest given by the other main class of those who reject the idea that money can be quasi-fruitful. Probably the most authoritative exponent of their views is the eminent theologian and canonist, Fr. A. Vermeersch, who elaborated his theory both in his book De Justitia (2nd ed. 1904) and in his Theologia Moralis (1924). He argues that in modern communities where there are plenty of opportunities for probably profitable investment, general opinion attaches a value to money because of the possibility of using it profitably; a value additional to the value of money as a fungible thing; that is, there is a social valuation (aestimatio communis) of this particular characteristic of money in modern economic conditions which did not exist in earlier days. Since social valuation decides the just exchange-value of commodities, he who transfers the ownership of money to another by mutuum can, given the conditions mentioned, justly demand in return not only the principal sum but interest too, as representing this additional value of which he is deprived by the loan; and this whether he had or had not any intention of investing his money as an alternative to lending it. To quote a brief statement by Fr. Vermeersch,

There is much greater facility nowadays for making profitable investments of savings, and a true value, therefore, is always attached to the possession of money, as also to credit itself. A lender, during the whole time that the loan continues, deprives himself of a valuable thing, for the price of which he is compensated by the interest.\[22\]

Fr. Vermeersch’s main reason for not accepting Dr. Van Roey’s theory seems to be that, in his opinion, the official replies from Rome last century are evidence that the Church to-day sanctions interest, in principle, irrespective of the intention of the lender stressed by Dr. Van Roey. As for Fr. Vermeersch’s argument from communis aestimatio, Dr. Van Roey seems to have it in mind when he urges that such social valuation, if it is not to be false and unjust, must have an objective basis in the object to which it is attached (scil. aestimabilitas); and that so far as money belonging to one who has no intention of investing is concerned, and who therefore deprives himself of nothing but the principal when he lends, there is no basis for the social valuation which Fr. Vermeersch postulates to justify interest.\[23\]

22 Quoted from Fr. Vermeersch’s article on Usury in The Catholic Encyclopedia, vol. 16, p. 257, which shows signs of being a translation.

23 Van Roey, op. cit. pp. 59-63: 261-267. Although Dr. Van Roey does not name Fr. Vermeersch on these pages, he specifies other writers approved, in general, by Fr. Vermeersch.
This difference of opinion between distinguished and acute theologians on the question whether interest can be charged by one who, if he did not lend his money (i.e., by *mutuum*), would simply hoard it, must not be allowed to obscure their agreement that (apart from this case) there is no injustice in charging interest under modern economic conditions. Both agree that money is of its nature a fungible thing, not productive or quasi-productive. Both agree that circumstances may sometimes impose a duty (of charity) to lend money to the poor free of interest. Neither would deny that a lender of money is entitled to make a charge for any risk of loss of principal and any expense or damage incurred by him in connection with making the loan. That they are not in complete agreement is a further illustration of the complexity of this subject of usury.

VI.

The Interest Rate

(i)

At the present time, then, Catholic theological opinion is not hostile to what may be called the *institution* of interest. It accepts it as just, given the widespread economic activities of our day. Amongst theologians, the distinction between loans for consumption and those for production has found no general acceptance, nor has the theory that money *as such* can be hired out for profit. Some would say that as an *instrument of commerce* money is, in a developed economy, "quasi-fruitful", so that a charge can be made merely for lending it; but there is at least a strong tendency against this theory, and, instead, to justify the institution of interest on the ground that nowadays a loan of money (by *mutuum*) raises a presumption of loss of probably profitable investment to the lender, for which compensation in the shape of interest may rightly be demanded; and this, even where there is no risk of losing the principal and no damage or expense incurred by the lender owing to the loan (though when these are present they constitute a title to compensation from the borrower), and even when the civil law is silent on the matter.

(ii)

Does it therefore follow that, in the opinion of present-day Catholic theologians, usury is an outdated concept? By no means. If it were, the Code of Canon Law would not have legislated against it. One might also quote the reference to "rapacious usury ... more than once condemned by the Church ... still practised under a different guise" in Leo XIII's encyclical *Rerum Novarum* (1891), par. 2, were it not that some Catholic sociological writers have taken it as applying to all unjust methods of profit-making and not in the traditional ecclesiastical sense, as defined in *Vix Persuasit*. In this sense, as we have seen, usury and the contract of *mutuum* are intimately connected: i.e., when usury is present, it is always rooted in the "loan" of a fungible thing. Of the theologians who maintain that money nowadays is not fungible, but productive or quasi-fruitful, those are therefore consistent with themselves who do not call even excessive interest on money lent "usury", but simply "injustice"; some, however, do refer to excessive interest as

Usury. As for those who refuse to admit that money ever ceases to be a fungible thing, they hold that to charge merely for the use of it is always usury. If, then, the rate of interest charged is excessive, they would consider it usurious, at least so far as regards the excess, since this is in effect a charge for the use of the principal.

As an example of disguised usury in modern times, Fr. Vermeersch (De Justitia, par. 381) mentions the sale of some commodity, the price of which is to be paid by instalments, when the total of the instalments are much in excess of the value of the commodity (nimis superest valorem). Presumably he means to say that the price is usurious if the total instalments exceed the cash price plus the normal rate of interest on payments outstanding (and any justifiable charge for risk of non-payment). Dr. Van Roey, in accordance with his general theory, would have to say that it would be usury for one who had no intention of investing his money to charge interest to a borrower (again, risk apart). Fr. Macksey, who belongs to the same school of thought, having admitted that normally to-day the presumption is that a lender forgoes an opportunity of investing his money, adds that this presumption is not always justified, so that interest may not be claimed under this head; as in the case of bankers who, at least temporarily, cannot find an opportunity of profitable investment for a superabundance of idle deposits in their hands (op. cit. p. 188). He draws attention too to the fact that lenders to-day usually eliminate the risk of loss by obtaining from the borrower some asset by way of security for due payment of principal and interest. Here are two instances in which, in his opinion, usury may occur.

Since all these modern theologians base their theories on the widespread opportunities for probably profitable investment in modern economies, they must be taken to include in their justification of the institution of interest the clause robus sic stantibus, i.e., so far and so long as these economic conditions exist. If there are countries in which they do not exist (a question they do not appear to consider explicitly), their theories would not justify the institution of interest. Each loan would have to be considered on its merits.

In order not to complicate the preceding paragraphs, the term "excessive interest" has been used without further definition. But in practice it is so important that it now demands examination. Obviously, in this context it means interest greater than is just, in view of all the circumstances. What, then, do these authors consider to be the criterion of just interest? Abstracting from statutory regulation of interest, and from any special expense or risk of loss incurred by a lender they reply that the criterion is the just rate of profit from investment. This does not mean that the just rate of interest is exactly the same as the just rate of profit. They point out that the profits of any business are due, at least in part, to the activities of those who are running it; and also that ordinary investment involves financial risks which are not inherent in loans of money. Consequently, the criterion should be so applied as to allow for these facts; and the just rate of interest will be lower than the just rate of profit. How much lower? Evidently by as much as corresponds to the differential advantage of
lending rather than investing. The factual expression of this in terms of cash is a matter for the actuary or financial expert, rather than for the theologian.

However, Catholic theologians have certain remarks to make on the problem which are worth attention. Fr. Mackesy, for instance, observes that in these days the fixing of interest-rates is more or less left to the judgement of those who operate in the capital-market and money-market and on the stock-exchange (bankers, finance houses, brokers, etc.) who are guided by the supply of and demand for money. Since this method is open to abuses, he favours the establishment, under the aegis of the State, of a committee to regulate interest-rates; its members to be people of moral sincerity and financial skill (op. cit., p. 199). The name of the famous theologian Fr. Lehmkühl has already been mentioned as upholding the theory about the quasi-fruitfulness of money in modern economies. It will serve to correct any idea that this theory implies a neglect of the dangers of financial power if his views about excessive interest are noted. After stating categorically that the State can fix the price of money as of certain other things, he says it sometimes has the duty to do so, according to the degree of danger that capitalists may try to effect an unjust division of profit between money and labour. Should there be no legal determination of interest-rates, the just price of money, as of other things, depends on social valuation (communis aequationis), on condition that this valuation has not been unjustly produced. There are, he goes on, two ways in which social valuation may be unjustly produced; first, by those who have money to lend putting pressure on would-be borrowers to pay too high a rate; secondly, by those who want to borrow money for various kinds of speculative business—viz. whether they will ever be able to pay their debts, the more ready they are to promise excessive interest. The result of these influences may be to distort the social valuation, and render it untrustworthy. He holds that if the rate of interest is not 'notably' below the just rate of profit on investment, this is a sign that the rate of interest is unjustly high.

(iv)

In practice, even in the market, there are various rates of interest, according to the type of loan; but this does not invalidate the view just explained, viz., that the standard by which to judge the justice of the rate of interest, abstracting from risk of loss or other expense caused to the lender by the loan, is the just rate of profit; for variations in the structure of interest-rates are normally attributable to variations in precisely these elements—the general credit of the borrower, the length of time for which the lender's money is tied up by the loan, etc. Such variations as these easily fit into the theory of the theologians. There is a greater difficulty in determining what is a just rate of profit; not so much because different enterprises have different rates of profit (for these are levelled out by the prices of shares on the Stock Exchange), as because there is notoriously room for dispute about the division of the product of industry between capital and labour, and about the justice of some of the prices charged to consumers. These are extremely important questions, but they cannot be discussed here. They

\[\text{Ref. for instance, E. Benham, Economics, ch. 17; N.B. Dearle, Economics, ch. 36.}\]
illustrate the truth that just distribution is a wide problem, of which interest and usury are only a part. In practice, it must be tackled piecemeal, and progress towards total justice in economic life must be made step by step. To bring the rate of interest into conformity with the standard just mentioned is a step in the right direction, even if it be true that the normal rate of return to investment is unjustly high.

If, on the other hand, those are right who believe that profits in general are unduly reduced by excessive interest-charges for money lent to industry, the theologians' rule for determining just interest by reference to the rate of net profits would, if applied in practice, be all the more efficacious in bringing down interest-rates in proportion as profits had previously been unduly reduced by such deadweight burdens; the smaller the rate of profit, the lower would be the standard of interest.

CONCLUSION

Some years have passed since Lord Keynes published his General Theory of Employment (1936) which has had an enormous influence on economic thought. In that book he tells us,

I was brought up to believe that the attitude of the Mediaeval Church to the rate of interest was inherently absurd, and that the subtle discussions aimed at distinguishing the return on money-loans from the return to active investment were merely Jesuitical attempts to find a practical escape from a foolish theory (pp. 351-2).

He goes on to say that he has revised his opinion, and now looks upon "the disquisitions of the schoolmen" as aimed at a "formula" which would lead to keeping down the rate of interest to the advantage of what he terms "the marginal efficiency of capital". In other words, the Church's attitude towards usury favoured those who actively used their resources in business and production as against those who merely lent their money to others and were passive receivers of interest. Lord Keynes urges the rehabilitation of the doctrine (repudiated as childish by the classical economists) that the rate of interest constantly tends to rise too high, "so that a wise Government is concerned to curb it by statute and custom, and even by invoking the sanctions of the moral law". To discuss Lord Keynes's analysis of unemployment, which turns on a distinction between the rate of interest and the rate of return to investment, is beside our present purpose; but his vindication, from the economic standpoint, of the teaching of the Church in the middle ages on usury and interest is equally applicable to that of Benedict XIV in the eighteenth century and to the Code of Canon Law in the twentieth, as well as to the standard of just interest prescribed by Catholic theologians. The ethical justification of the Catholic position has been demonstrated in the preceding pages; from which the practical conclusion may be drawn that the attention of social reformers should be directed to discovering effective methods of establishing and enforcing a structure of interest-rates which will be morally justifiable, and consequently economically beneficial to the community.
SUBJECT INDEX

Annuities ........................................ 25-6
Bankers ........................................ 15, 46, 48
Canon Law ......................................... 9, 12, 16-18, 38-40, 45, 51
Classical economists .............................. 51
Communis aestimatio ............................ 42, 43, 48
Consumption loans .............................. 35, 40, 44
Cost to lenders .................................. 10, 42, 44-5, 47
Credit institutions .............................. 10
Debenture stock .................................. 47
Fruitful things .................................. 114, 14
Fungible things ................................. 10-17, 37-8, 40, 42, 44-6
Gresham's Law .................................. 16
Hoarders ......................................... 41-4, 46
Instalment buying .............................. 46
Interest
"abstinence theory" ............................. 34
and usury .................................... 28, 30
as compensation .............................. 29, 30, 40-1, 45
civil law (see Law, civil) ...................... 46-50
excessive ........................................ 46-50
standard of justice ........................... 47-50
titles to ........................................ 22, 30, 32, 34, 38-9
various market-rates ........................... 49
Investment ...................................... 21, 23-4, 27-9, 33, 41, 47, 50, 51

Joint-stock companies ......................... 24
Lateran Council, Fifth ....................... 9, 18
Law,
canon (see Canon Law) .......................... 32-2, 34, 38-9, 45, 48, 51
"Loan", ambiguity of .......................... 13
Lucrum cessans .................................. 5, 6
Money
a fungible thing ............................... 13, 14, 16, 40
material ........................................ 15, 45
"quasi-fruitful" ................................. 37, 39, 40, 42, 44
sterility of ..................................... 14, 37
Money-Lenders Act 1927 ...................... 39
Mutuum .......................................... 17, 21-3, 26, 28-31
Partnership ..................................... 22-4, 27-9
Poor, loans to .................................. 22, 30
Prices, just ..................................... 11, 13, 49
Production loans .............................. 35, 40, 44
Profit
loss of ........................................... 29, 30, 42
presumption of loss of ......................... 31, 34, 41, 45-6
rate of, as standard ........................... 47-50
Public loans ..................................... 20, 25
Rent-charges .................................... 21, 24-6, 28-9
Rerum Novarum (Encyclical) ................. 45
Risk ............................................. 23, 27, 29, 30, 42, 47
"Roman Replies" ............................... 18, 30, 39, 43
Security for loan ............................. 46
Shares ......................................... 27, 49
INDEX OF PROPER NAMES

Aertmys .......................... 40n.
Ashley, W. J. ................. 22n., 23-5, 30
Beck, A. ......................... 19n.
Benedict XIV, Pope ... 10, 12, 17, 19, 24, 26, 28
Benedict XV, Pope ......... 9
Benham, F. .................. 49n.
Brodrick, J. ................. 19n., 26n., 27n.
Bucceroni ................. 40n.
Calvin ......................... 19, 20, 34
Dearle, N. B. ............... 49n.
Dempsey, B. W. .......... 38n.
Fanfani, A. ................. 19n.
 Ferreres .................... 40n.
Funk, von .......... 36-7
Génicot .................... 40n.
Holdsworth, W. S. ........ 15n.
Janjet, C. ................. 35
Keynes, J. M. ............ 50-1
Laynez .................... 26n.
Lehmkuhl .................. 37, 48
Leo X, Pope ............... 49
Lessius ..................... 38
Luther ...................... 19
Luzerne, Cardinal de la 35
Macksey, C. ............... 40n., 41, 46, 48
Mastrofani ............... 35
<table>
<thead>
<tr>
<th>Name</th>
<th>Vol.</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merkelba</td>
<td>40n</td>
<td>42</td>
</tr>
<tr>
<td>Pach</td>
<td></td>
<td>37</td>
</tr>
<tr>
<td>Prümmer</td>
<td></td>
<td>40n</td>
</tr>
<tr>
<td>Robertson, H. M.</td>
<td></td>
<td>19n</td>
</tr>
<tr>
<td>Roey, Van, Cardinal</td>
<td></td>
<td>31n, 36n, 40-3, 46</td>
</tr>
<tr>
<td>Schopper, de</td>
<td></td>
<td>40n</td>
</tr>
<tr>
<td>Smith, Adam</td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>Tanquerey</td>
<td></td>
<td>40n</td>
</tr>
<tr>
<td>Tawney, R. H.</td>
<td></td>
<td>19n</td>
</tr>
<tr>
<td>Thomas Aquinas, St.</td>
<td></td>
<td>14, 33</td>
</tr>
<tr>
<td>Venneersch, A.</td>
<td></td>
<td>36n, 40n, 42-3, 46</td>
</tr>
<tr>
<td>Verona, City of</td>
<td></td>
<td>20</td>
</tr>
<tr>
<td>Wolters</td>
<td></td>
<td>40n</td>
</tr>
</tbody>
</table>