

THE AQUINAS LECTURE, 1944.

AQUINAS AND MODERN
PRACTICES OF
INTEREST TAKING

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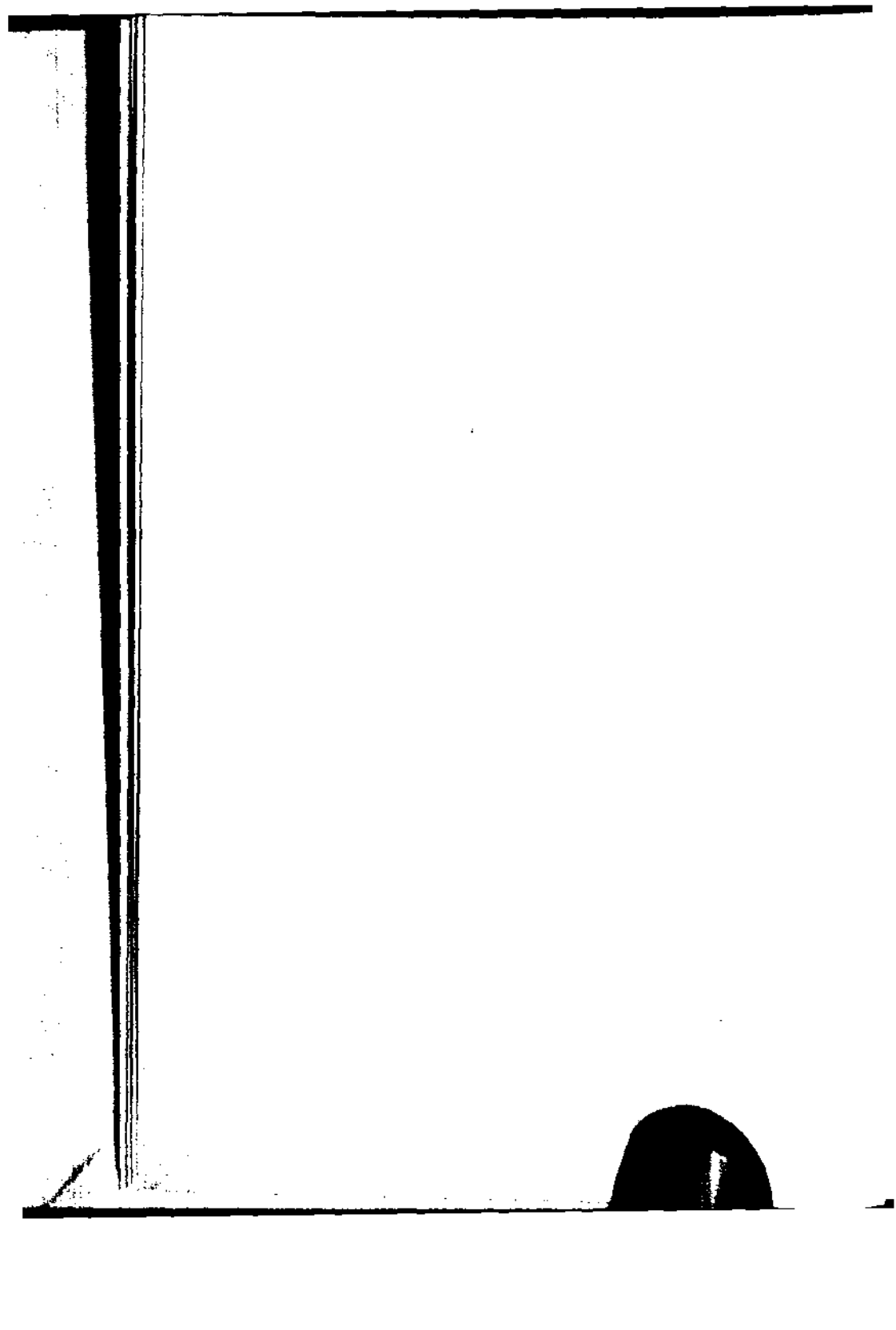
JOHN P. KELLY

ii

With an introduction
by
COLIN CLARK

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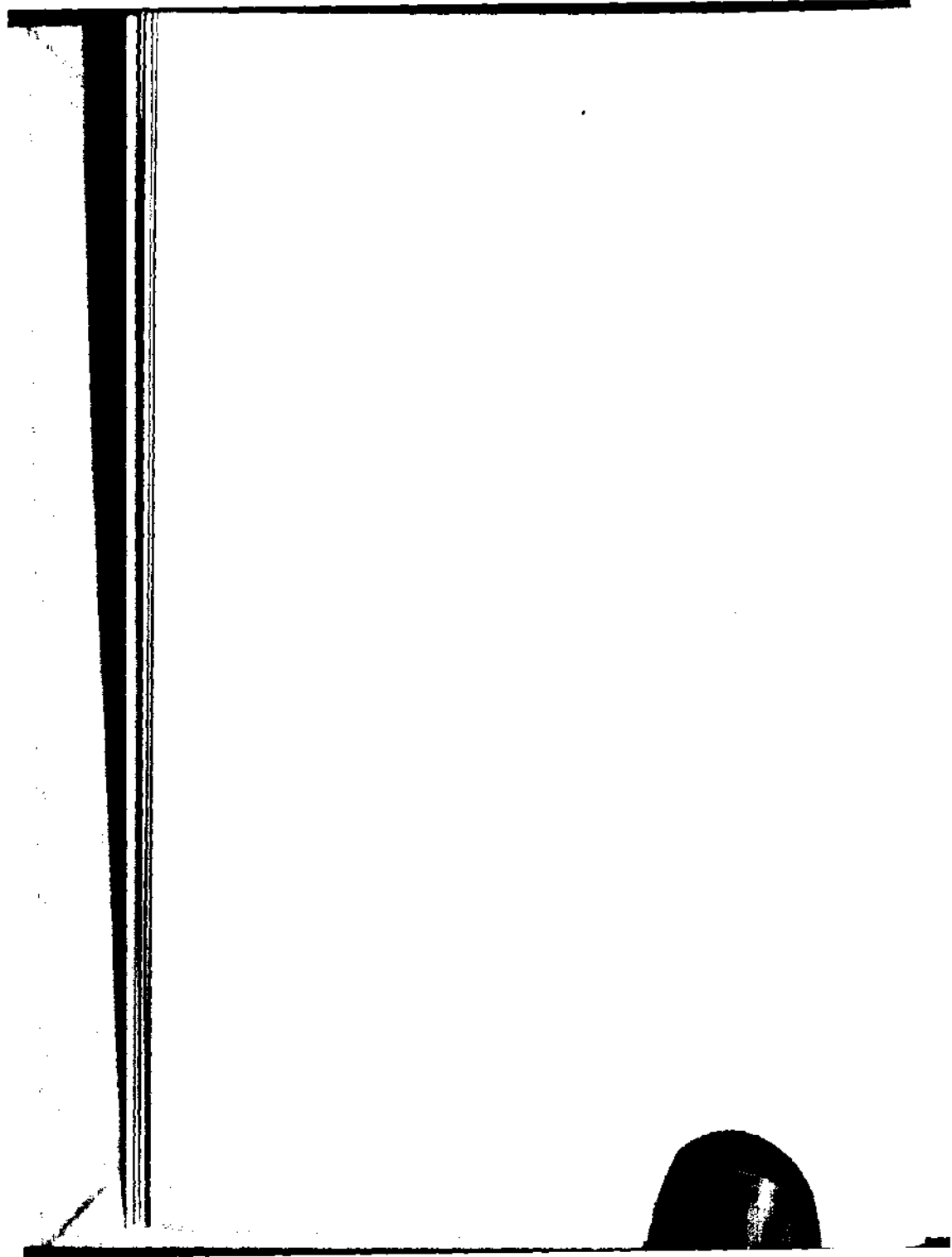


"His Grace, the King, prays you, to take into consideration matters of trade, as also the manufactures of the kingdom, and to restrain the bastard and barren employment of moneys to usury and unlawful exchanges; that they may be, as their natural use is, turned upon commerce and lawful trading."

Cardinal Merton, Cardinal Archbishop of Canterbury, and Lord Chancellor of England, to a parliament of Henry VII.

"In his conception of property, and in the principles which underlie the Just Price and the prohibition of Usury, I am convinced that St. Thomas offers exactly what the modern world needs."

Archbishop William Temple, Archbishop of Canterbury, to the London Aquinas Society on October 19th, 1943.



INTRODUCTION.

The most important contributions to knowledge do not by any means always come from the most famous centres of learning, and places of which the world hears little in this generation often become the intellectual centres of the next. That a pamphlet which may, I believe, bring about a fundamental change in social science has been written and published in Brisbane, should be a source of pride to us, and of hope for further achievements to come. In this pamphlet Mr. Kelly has combined profound learning with that deep and refreshing modesty which learned men, alas, do not always show. I am not qualified to make any addition to, or comment upon, the theology and ethics of this pamphlet. My only contribution (which might reasonably have better been printed at the end of the pamphlet than at the beginning) is to make some comment upon the bearing which this pamphlet must have on economic science and upon economic and financial practice. Personally, I am fully convinced by Mr. Kelly's conclusions and his re-statement of the Aquinian doctrine. It is quite wrong to suppose that St. Thomas Aquinas wrote only for a simple rural community and took no account of the problems and complexities of modern finance. Human errors are much the same in all ages, and, in fact, thirteenth century Italy was a highly sophisticated

commercial community. St. Thomas Aquinas faced in essence exactly the same problems that we have to face, and his conclusions only need translating into modern language. So translated, they show that any interest on loans, bank deposits, government bonds, mortgages, debentures, outstanding accounts, etc., is an offence against morality. It may have been right for a medieval king, who in time of emergency had to borrow gold and silver from merchants whose livelihood was thereby diminished, to pay them some compensation for *lucrum cessans*; but there is no justification now for governments paying interest on borrowings of money created *ad lib* by entries in a bank book. There is no objection to profits or dividends from equities, ordinary shares, partnership agreements, etc., or from preference or participating preference shares and similar arrangements provided the lender takes a share of the risk and receives no return if the venture is unprofitable. Similarly, there is no objection to the receipt of rent or hire for the use of houses, land, motor cars, ships, live-stock, motor cars, etc., or of any other articles, "the use of which does not consist in their consumption".

Few now hold the nineteenth century idea that ethics has no part in the conclusions of economic science or in the regulation of business practice. But up to some twenty years ago, even economists, fully aware of the ethical obligations of their science, would have said that interest was an

integral part of economic life, and that the production and distribution of goods would suffer heavily from any attempt to dispense with interest or even seriously to control it. This point of view would have been upheld on the grounds:

1. That the rate of interest was the necessary factor in attaining equilibrium between the supply and demand of savings, as was price in the case of a commodity; and
2. that the rate of interest played an essential role in attracting capital from its less to its more socially valuable employments.

Now, however, it would be generally agreed that the first reason is completely invalid, and that the second is a half truth. Concerning the second, it is true that it is socially desirable (under certain but not under all circumstances) for capital to be attracted from less to more remunerative employments, but the factor of this attraction should be (and, in fact, generally is) profit rather than interest. As Mr. Kelly shows, these are entirely different things. The former is continually at risk, whereas interest, by its nature, is a claim that continues whether in fact a profit is made or not.

The doctrine that interest adjusts the supply and demand of savings has been completely discredited. The principal agent of this change has been Mr. J. M. Keynes (now Baron Keynes). Implicitly in *Treatise on*

Money, published in 1930, and explicitly in *The General Theory of Employment, Interest and Money*, published in 1936, Lord Keynes established the theory that, while the rate of interest might affect the demand for savings, it was entirely without influence upon their supply. The supply of savings depended predominantly upon changes in the national income and a change in interest rates might have the opposite effect from that expected, or none at all.

Since 1936 further investigation at Oxford, by Professor Tinbergen in Holland, and others, have shown that the rate of interest does not appear to have any effect upon the demand for capital. The rate of interest, instead of being, as was recently thought, the equilibrating factor between the demand and supply of savings, is now seen to be without influence upon either their demand or their supply.

The refinements of modern economic science have brought us back to realise the profound wisdom of Cardinal Morton's address to the Parliament of Henry VII., so aptly quoted by Mr. Kelly on his title page, to the effect that by restraining "the bastard and barren employment of moneys to usury and unlawful exchanges" monies may be, "as their natural use is, turned upon commerce and lawful trading." We should never have suffered the frightful calamity of mass unemployment all through the last decade of peace if money had been properly devoted to its natural use. Unemployment

on a minor scale is due to other causes and is difficult to get rid of, but the large-scale unemployment which disfigured every so-called "economically advanced" country was predominantly due to the fact that people sought to receive interest on wealth while keeping it idle, instead of either consuming it, or devoting it to real risk-taking investment.

At the heart of the great structure of present day usury lie what are called "national debts." In Australia, Britain, Canada and France, before the war started, the annual payment of interest on the public debt required some 6 or 7 per cent. of the national income, or some 20 per cent of the entire earnings of enterprise and of individual business. The existence of a large block of interest-bearing bonds causes owners of capital to expect a fairly high remuneration before they take any risk at all, and the rate of interest on the national debt sets a scale for interest on debentures and mortgages. Nearly one-third of all tax revenues had to be set aside to meet these payments, causing taxation to be much higher than it need be. As the war ends every belligerent country is finding itself in a similar position in spite of the reduction in the real burden of old debts, through the general rise in wages and prices. Interest, sinking fund and exchange on public debts in Australia will probably amount to over £100 million per annum, or about 9 per cent. of the national income. As total peace-time

taxable capacity is only about 20 per cent. of the national income, and as earnings from publicly owned railways are likely to diminish rather than increase, this will pose an almost insoluble budgetary problem. I think that I am on safe ground in predicting that during the next few years the budgetary problem posed by huge national debt interest payments will provoke, in every country in the world, a close study of the ethics of usury.

There is no escape from the conclusion that government loans must be interest free. Existing contractual obligations could be respected, but as each loan falls due it should be paid off in cash created for that purpose by the Commonwealth Bank. For the Commonwealth Bank to create money for purposes of government expenditure, except during a period of depression and unemployment, would have a highly inflationary effect upon wages and prices. But to create such funds for the purpose of replacing past interest-bearing debt would cause little, if any, upward pressure upon wages and the cost of living, particularly if carried out gradually by re-paying each loan as it fell due. It would, of course, encourage people to purchase (with beneficial effects upon the economy as a whole) land, real property, shares, etc., and would raise their prices, but there would be little effect upon the cost of living.

It is of course, clear that there would be no further government borrowing. If

government loans carried no interest, most people would prefer to put their money into some other venture. This would mean that the cost of all future public works would have to be met out of current taxation, or from accumulated funds, with the exception of depression periods, in which it is permissible and, indeed, desirable for the Central Bank to create funds for government expenditure, until the depression has been relieved. But the saving of the interest burden on the budget would greatly outweigh the current cost of new public works, and the net effect would be that taxation would be considerably reduced.

If banks cease either to receive or to pay interest, it is clear that they will have to meet necessary expenses by imposing charges (probably so much per cheque transaction) upon their depositors who at present receive quite a valuable service free. In America, where interest rates are very low, many banks have reached this stage already.

The man who frankly calls himself a money-lender is generally recognised as an evil and checked by legislation. But some alternative provision is necessary for poor people who have little security to offer. In many European countries pawnshops are run as non-profit-making municipal enterprises. In Australia we have borrowed the title "Mont de Piete" but not the spirit thereof. Better still, if it could be organised, would be

a Co-operative Credit Association organised by trade unions or trade associations.

Though there is nothing wrong in hire purchase if the words mean exactly what they say, i.e., a series of payments to cover both hire and purchase, flagrant usury is incorporated in most present-day contracts for hire purchase, motor car sales, etc. Perhaps the most evil form is found in businesses selling cash orders which the present Prime Minister (Mr. Chifley) described a few years ago as "an economic excrescence". May the action follow the word.

COLIN CLARK.

AQUINAS AND MODERN PRACTICES OF INTEREST TAKING.

I.

"I was brought up to believe," writes Professor J. M. Keynes, "that the attitude of the Medieval 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. But I now read these discussions as an honest, intellectual effort to keep separate what the classical theory has inextricably confused together, namely, the rate of interest and the marginal efficiency of capital. For it now seems clear that the disquisitions of the schoolmen were directed towards the elucidation of a formula which should allow the schedule of the marginal efficiency of capital to be high, whilst using rule and custom and the moral law to keep down the rate of interest."⁽¹⁾

There is little excuse, of course, for the Professor's belief that the Jesuits were medieval, but at the outset of an examination of usury which involves a scrutiny of the

medieval attitude to demanding interest on money loans, this statement by one of the most eminent of living economists should serve at least to assure us that the discussion may not be without some practical value. It, too, should serve to remind us that we who are heirs to that state of mind and outlook which did so much to promote justice amongst the dealings of men in another age, have some obligation to endeavour to apply the permanent principles of justice to the chaotic economic conditions of our own time.

In our day, a vague distinction exists in popular thought between interest and usury, the latter differing from the former only in degree, there being nothing, in this view essentially different between the two exactions. Interest in our popular thought only becomes usury when the demand for the payment thereof exceeds that which either by law, custom or public opinion is regarded as a fair increment to a lender over and above the return of the original amount of the loan.

It would not be profitable within the compass of this talk, to attempt to trace how this modern distinction has gained popular currency.⁽²⁾ It is as well, however, to note

that the term usury still is popularly a term of opprobrium and that the popular conscience is still, vaguely, but, nevertheless, appreciably aware of the injustice which is inherent in the term. For the most part, however, modern man is entirely ignorant of the fact that usury with all its injustice was at one time held to include any exaction at all, irrespective of quantum, which was bargained for by the lender in connection with a loan of money over and above the return of the original amount loaned. Startling as it may appear to our modern ears, there have existed in the past, societies in which the temper was that a lender was guilty of injustice, if, when lending money to another he stipulated for the return of the money loaned, and at the same time with no further consideration demanded the payment of an additional sum by way of interest. One example of this will suffice for our purposes:

"In the month of January 1377, Ralph Cornwaille, of Broad Street, made a complaint to the Mayor and aldermen of the City of London. At the preceding Michaelmas he had been anxious to get a loan for a period of three months and went to two brokers, one of whom was a Lombard, to procure it for him, at the

same time promising them a commission for their trouble in the matter. The brokers found that Walter Southous was willing to lend the money on receiving security for the repayment of the full amount on a given day from Ralph Cornwaille, as well as similar security from Ralph's friend, John Tettesbury. When the necessary documents, however, were complete, the brokers only advanced £10 to Ralph: at the time of repayment he tendered the £10 which was all he had, but Walter Southous refused to receive it, persisted in his demand for £2 more, and sued Ralph before the Sheriff to 'his great wrong and damage'. . . . The wrong that rankled in the mind of Ralph was not that the interest was extortionate, but that he was called to pay interest at all—to return anything more than he received—and his view of the case was fully endorsed by the city authorities before whom the matter was reopened. . . . Ralph was declared free from all obligations in connection with the debt, and Walter Southous was condemned to be imprisoned till he made over double the £2 which he had tried to get by usury as a forfeit to the City of London. He had, with the cognisance of the brokers, disregarded the ordinance of the City of London against usury—ordinances which the public opinion of the day completely endorsed—and there could only be one result according to the law and feeling of the

time when such conduct was brought home to him." (3)

Whence came the reason for this attitude which seems so foreign to all our concepts of legitimate dealing? To examine the reasons for this attitude, and to attempt to apply those principles to our modern conditions are the purposes of this paper.

II.

Before proceeding, a possible source of misunderstanding should be removed. Usury, involving as it does questions of justice and of sin, is peculiarly within the province of the moral theologian, who has to examine objectively the implications of every contract before coming to any ethical conclusion. The attitude of modern theologians to the question of interest taking may be, on the whole, characterised as "broad", but in stating this I mean no criticism.⁽⁴⁾ Rather would I emphasise that the modern world is not of the Church's making: it has ordered its economic affairs with little reference to moral scruples, and in such a world it is exceedingly difficult to assess the moral implications of loan contracts.⁽⁵⁾ The difficulty will become more apparent as we proceed. In circumstances such as these, the moral theologian bids the faithful not to be disturbed in conscience, so long as they are in good faith and are prepared to submit to a decision on these matters when given, and, in effect, the Church in its present discipline, Canon 1543 of the Code of Canon Law of 1917, takes the same attitude when it declares that to take

interest on the loan of money at the prevailing rates approved by the civil law is not unlawful *per se*, provided that it is certain that such rates are not excessive. To assert, however, that the Church thereby places its blessing on all modern loan contracts is an assertion that is very difficult to follow, for the very Canon that contains this statement, commences with a re-statement of the traditional attitude of the Church:

"If a fungible thing is given to someone in such a way that it becomes his and that later something of the same kind and amount is to be returned, no profit can be taken on the ground of the contract itself."⁽⁶⁾

No clearer exposition of this traditional attitude is to be found than that of the reasoning of St. Thomas Aquinas. Nothing that has been written before or since on the question of interest-taking on money loans approaches the clarity of the Angelic Doctor's exposition of this question, an exposition which enshrines profound economic and ethical truth.⁽⁷⁾ Indeed, it is somewhat pathetic to note the ease with which many commentators since have endeavoured to escape from the inexorable logic of Thomas, and the recklessness with

which a rash few would endeavour to dispose of it.⁽⁸⁾

Now, it is significant that the traditional attitude of the Church found its most practical and highest expression during an age when the Church definitely influenced the social order, and it is significant, too, that when society shed itself of this influence, theologians were forced not to abandon the traditional attitude, but to work out the moral implications of contracts which were part and parcel of an order not of their making.

With the close of the eleventh century, the Medieval Church had reached a place of supreme importance in the civilisation of the day. The Canon Law of the Church did not confine itself to purely ecclesiastical matters, but sought to effect a reform of the law as a whole on lines approved by the Church. The Christian world acknowledged a twin legal system corresponding to the twin sovereignty of Emperor and Pope. The law embodied in this code was in substance Roman law modified in accordance with Christian principles. Such a modification occurred in the case of usury.

The Roman law recognised the legitimacy of taking interest on loans of money, but

the Medieval Church lost no time in its legislation in declaring its attitude to usury. A decree of the 2nd Lateran Council in 1139 legislated against usury. The Lateran Council in 1179 was equally emphatic. The Popes, Alexander III. and Innocent III., were unequivocal in the matter. The second Council of Lyons in 1274 continued the legislation, and the Council of Vienne ordered sentence of excommunication against such civil authorities as by law or judicial decision ordered the payment of usury. Commenting on this Council, Ashley, the well known economist, wrote:

"It was not till the Council of Vienne in 1311 that the Western Church took the final step of absolutely refusing to recognise all secular legislation in favour of usury."⁽⁹⁾

Obviously, the most important thing to ascertain is the precise meaning which the medieval canonists ascribed to the term "usury". Here it is necessary to become technical for the loose use of words has led to many unfortunate misunderstandings.

To grasp fully the implications of the medieval attitude as expounded by St. Thomas Aquinas, it is necessary to appreciate clearly certain terms used in and certain

distinctions made by Roman law. The Romans made distinctions between the various things which are capable of being made the subject of private dominion, and of these, two are of the utmost importance for our purpose.

Fungible things (*res fungibiles*) are things which, generally speaking, occur in ordinary dealings, not separately but only in certain quantities. Such things are, for example, money, wine, grain, eggs, apples, cigars, etc., as opposed to, say, horses, books, plots of land. A person who owes *res fungibiles* is bound as a rule to return not individually determined things but things determined only by reference to a class, that is to say, he is bound to supply a definite quantity of things of a definite quality, the separate things being reckoned, as between themselves, as equal. It is of the nature of fungible things that other things can "function" for them: "*tantundem ejusdem generis est idem*".⁽¹⁰⁾

Consumable things (*res quae minuuntur vel consumuntur*) are things which are extinguished and are intended to be extinguished by use, e.g., food. It is difficult to conceive of any article which is not at once a fungible thing and a consumable

thing, but it is important to note that the Romans regarded fungibility and consumability as two entirely different characteristics of those things which are capable of private dominion, and it is important not to confuse these two notions. (11)

The Roman contract of "*mutuum*" or loan, had always as its subject matter fungible things, and the contract arose where one person transferred a certain quantity of *res fungibiles* to another, this other (the transferee) becoming the owner of the thing, subject to the obligation of returning the same amount of the same quality as he had received. Now, these contracts of loan only bound the borrower to pay the exact amount of the fungible goods that he received, neither more or less; they did not bind him, more particularly to the payment of interest. If it were desired to make the debtor in a *mutuum* liable for the payment of interest as well as capital, a second contract was required, a contract for the payment of interest. Roman law recognised the justice of such a contract provided that in the case of money, certain set forms of words were used.

Aquinas and the medieval canonists would not approve of this second form of contract, except under certain very definite conditions. Let us follow the reasoning of St. Thomas on the matter: it is crystal clear:

“To take usury for money lent is unjust in itself, because this is to sell what does not exist, and this evidently leads to inequality which is contrary to justice.

“In order to make this evident, we must observe that there are certain things, the use of which consists in their consumption: thus we consume wine when we use it for drink, and we consume wheat when we use it for food. Therefore, in such like things, the use of the thing must not be reckoned apart from the thing itself, and whoever is granted the use of the thing is granted the use of the thing itself: and for this reason to lend things of this kind is to transfer the ownership. Accordingly, if a man wanted to sell wine separately from the use of wine, he would be selling what does not exist, wherefore he would evidently commit a sin of injustice. In like manner, he commits a sin of injustice who lends wine or wheat, and asks for double payment, namely, one the return of the thing in equal measure, the other, the price of the thing which is called usury.

“On the other hand, there are things the use of which does not consist in their

consumption. Thus to use a house is to dwell in it, not to destroy it. Wherefore in such things, both may be granted: for instance, one may hand over to another the ownership of his house, whilst reserving to himself, the use of it for a time, or vice versa, he may grant the use of the house whilst retaining the ownership. For this reason a man may lawfully make a charge for the use of his house. . . .

"Now, according to Aristotle, money was invented chiefly for the purpose of exchange, and consequently the proper and principal use of money is its consumption or alienation, whereby it is sunk in exchange. Hence it is by its very nature unlawful to take payment for the use of money lent, which payment is known as usury; and just as man is bound to restore other ill-gotten goods, so he is bound to restore the money which he has taken in usury."⁽¹²⁾

And again:

"He who lends money transfers the ownership of the money to the borrower. Hence the borrower holds the money at his own risk and is bound to pay it all back, wherefore the lender must not exact more. On the other hand, he that entrusts his money to a merchant or craftsman so as to form a kind of society (that is a partnership) does not transfer the ownership of his money to them, for it remains his, so that at his own risk the merchant

speculates with it, or the craftsman uses it for his own craft, and consequently he may lawfully demand as something belonging to him, part of the profits derived from his money."⁽¹³⁾

It is as well to pause here to avoid misunderstanding. The giving of a *mutuum* as defined in the Institutes of Justinian occurs in the loan of those things which are made up by weight, number, or measure, such as wine, oil, grain, money and which we give in weighing out, counting or measuring in such a way that they become the property of the receiver. St. Thomas does not use the term consumable or fungible, but it is clear that he adopts the above definition of *mutuum*, and that he proceeds entirely on the basis that when a fungible is loaned for its use, under such circumstances that its use involves its destruction, it is precisely because of this that the fungible becomes the property of the borrower. Hence the importance of the notion of consumptibility.⁽¹⁴⁾ If a fungible be loaned under such circumstances that its use does not involve its consumption or destruction then the resulting contract is not a *mutuum*. Thus if I lend my coins for the purposes of display only, the contract is

not a *mutuum*, and the borrower does not acquire absolute dominion over the subject matter of the loan.

In medieval thought, money was regarded as a fungible, and in its normal function consumed in its use, because its use necessarily entailed its being lost to the owner, even though technically it was not destroyed.

It is important, too, to note that there is no mention in the thought of St. Thomas of the fact that money is "sterile", that is, incapable of reproducing itself. It is true that consumable goods made up of weight, number, or measure are of themselves sterile, but this is only incidental. The sterility of money represents the popular objection to usury, immortalised in Shakespeare's words put into the mouth of Antonio: "a breed of barren metal". Aristotle's thought on this subject is the basis of all subsequent reasoning, but it has been pointed out that the Greek philosopher's thought thereon has been much misunderstood. Aristotle condemns the breeding of money, not because it is impossible to breed money out of money, but because it is an unnatural use of money. St. Thomas does not condemn the breeding of money under

certain circumstances, but points out that the breeding comes from the labour of the individual and not from the money. This theory of money rested on an economic fact, namely, that labour and not capital was the source of social wealth, which shows, as Father Brodrick points out, that Marx was not as original as some people think.⁽¹⁵⁾

It is obvious from this reasoning that the sterility or otherwise of the money loaned in the hands of the borrower has no relevance to the question of usury, a fact that we must keep before us if we are to avoid the errors of such writers as Hilaire Belloc and Dr. R. A. L. Smith.

Thus when Belloc writes in his essay on *Usury*,⁽¹⁶⁾ that usury means any interest, however low demanded for an unproductive loan, he is adopting a definition that has no part in the Christian tradition. Likewise, J. L. Benvenisti, in his powerful book, *The Iniquitous Contract*, falls into the same error when he describes usury as "the unjust rent, the rent that is exacted for the use of a productive instrument when that instrument will do no more than provide subsistence".⁽¹⁷⁾ A recent perpetuation of this error is to be found in the work of Dr. R. A. L. Smith, *The Church and the Social*

Order, wherein the author writes that "the Catholic Church has always opposed usury and usurious trading on the ground that interest on an unproductive loan is per se unlawful".⁽¹⁸⁾

It is beyond doubt that the thought of Aquinas did not consider the productivity or otherwise of the loan in the hands of the borrower as a justification for the demanding of interest on money loans, and it is clear also that the present discipline of the Church as contained in Canon 1543, above referred to, does not allow the same. Indeed, it is precisely such a proposition that is condemned in the Encyclical of Benedict XIV., of 1745, *Vir Peruenit*.⁽¹⁹⁾

III.

Thomas and the canonists did not teach that compensation for the advancement of money was necessarily unlawful.

"There might be just titles to such compensation," writes Father Brodrick S.J.,⁽²⁰⁾ "extrinsic to the contract of the loan but arising on the occasion of it. Thus if a man asked me in the long past, to lend him £100, and I was really and truly and without pretence going to spend that sum on the sowing of a crop of wheat, which I could be sure would yield me a return of at least 5%, or on repairing a building which, if left longer, must involve me in 5% extra expense, then I could quite easily require the borrower to pay me back, not a hundred but a hundred and five pounds. These two titles arising here on the occasion of a loan were called technically *lucrum cessans* and *damnum emergens*, and after a brief period of discussion and hesitation, nearly everybody from Pope to peasant recognised their validity."

Two further titles which were developed later than St. Thomas were *poena conventionalis*, a fine agreed upon in the contract to be imposed for delay in the return of the sum lent, and *periculum sortis* being a compensation for the danger of the loss of

capital which could be very real, and for which some reasonable compensation was regarded as just. It is to be noted that these titles had their origin in the notion of compensation and not that of profit, and however necessary they become matters for consideration in relation to individual loan contracts, they can never be advanced as a justification of a general loan system based on motives of profit.

It was easy enough, as Father Brodrick goes on to point out, to determine whether these titles had a place in the loan contracts of medieval Europe, but when the capitalistic spirit seized society, the old simple tests became difficult to apply. Money took on yearly, more and more the lineaments of productive capital, although not for centuries was it to develop into the monster of fecundity which it is to-day. Thus, whilst the merchants in their eagerness to get rich quickly endeavoured to make the ancient titles cover every sort of new and shady transaction, the theologians on their side became more and more perplexed over the increasingly complicated problems of commercial injustice. The following quotation from the Jesuit Laynez, written in

1554, makes evident the difficulties of the theologians:

"As it is supremely necessary to avoid cheating one's neighbour in business or acting towards him unjustly, so it is extremely difficult to detect when such deception or injustice has place in commercial transactions. On the one hand, neither scripture nor the ancient fathers and philosophers deal with the matter in detail, and on the other the astuteness of the 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 on them. This is the reason why modern writers, whether theologians or jurists are so confused and at variance with one another.

"Finally, the matter being a question of morals only admits of a probability, because its nature is such that the least change of circumstances renders it necessary to revise one's judgment of the whole affair. Consequently, to decide such variable questions one would need to be an Argus with a hundred eyes. As St. Basil says very well, To understand justice is in truth, the part of a great intellect, and of a very perfect mind."⁽²¹⁾

Now it is open, of course, for anyone to say, as such writers as Dr. Robertson⁽²²⁾ and the Marxist Huberman⁽²³⁾ do say, that the

recognition of extrinsic titles was an elaborate cover for the allowing of usury under different names. Any fair minded person, however, who reads the controversies of the period among the theologians must come to the conclusion that the economic and social upheavals of the age created an entirely new set of circumstances, and that the application of the old principles to these new circumstances did give rise to a complicated set of questions of justice. After all, the theologian is concerned with sin, and however much the theologians of the day may have regretted the new spirit in society, it was, nevertheless, their duty to submit the new commercial relationships to unbiased scrutiny. That they did this any fair minded historian of the period must record, and however reluctantly they came to recognise the existence of extrinsic titles, it is clear that many of the circumstances did occasion the existence of such, with the inevitable moral results.

The difficulties experienced by the theologians in dealing with the new set of circumstances can be appreciated from such books as Brodrick's *The Economic Morals of the Jesuits* and *Saint Peter Canisius*,⁽²⁴⁾ two models of scholarship.

There can be no doubt that the Church resisted with all her strength the growth of the capitalistic spirit, a growth which received so much impetus from the reformed religions which themselves were but a product of the new spirit. From the fifteenth century onwards the spirit grew. The degree of resistance put up by the Church can be appreciated from the fact that as late as the 18th century the anonymous author of *The Theory of Interest* writes that "among the capitalists of the kingdom probably about a third do not dare to traffic with their capital, some for fear of being branded as usurers, others not to wound or burden their conscience".⁽²⁵⁾ Then, too, we have the evidence of the controversies which led to the Encyclical *Vix Pervenit* in 1745 occasioned by a 4% loan floated by the City of Verona.⁽²⁶⁾

"In spite of this," writes Fanfani,⁽²⁷⁾ "the forces of capitalism end by triumphing and new ideas transform society. From this moment—between the end of the eighteenth century and the beginning of the nineteenth—the influence of Catholic ethics greatly diminishes, but this does not mean approval of the new situation. It might be said, on the contrary, that the Church has done her utmost to dis-

criminate between those novelties that were the healthy product of the age and those that derived from the human mind emancipated from religious check. . . . After a period of stasis, the struggle has begun again, signifying that the truth of the liberal and capitalistic doctrine is not to be recognised."

In a book written in 1873 entitled *Usury*⁽²⁸⁾ by one Tyler, we find expressed in the height of the capitalistic period a typical sneer at the attitude of the canonists to interest taking:

"In the Middle Ages, during the corrupt period of monkish superstition and fearful tyranny, when commerce was at its lowest ebb on the Continent of Europe and in England itself, and what little there was of it, was monopolised by the Jews and the Lombards, so enormous was the interest demanded for the use of money that the business of the broker or the money lender was considered detestable but when men's minds began to be more enlarged, when true religion and real liberty revived, commerce grew again into credit, and again introduced with itself, its inescapable companion, the taking of loans upon interest."

Again, we read in Lecky's *The Rise and Influence of Rationalism in Europe*, written in 1865:

"As it is quite certain that commercial and industrial enterprise cannot be carried on upon a large scale without borrowing, and as it is equally certain that these loans can be effected only by paying for them in the shape of interest, it is no exaggeration to say that the Church had cursed the material development of civilisation. As long as her doctrine of usury was believed and acted on, the arm of industry was paralysed, the expansion of commerce was arrested, and all the countless blessings that have flowed from them withheld."⁽²⁹⁾

The confidence of these sneers has abated, and scholars now look with a new curiosity to the age of the canonists to examine the conditions of a society that so rigidly set its face against interest taking on money loans.

The turning of the tide can be seen in the writings of such eminent economists as Cunningham, Ashley and Marshall, none of them favourable to the Church, but all fair-minded enough to perceive that the restraints of the canonists were designed to promote the interests of justice, and not to bar material progress.

Thus Marshall in his *Principles of Economics*⁽³⁰⁾ writes that we "are perhaps apt to lay too much stress on the condemnation by the Church of usury and

trade". Dr. Cunningham writes in his *Growth of English Industry and Commerce during the Early and Middle Ages*:⁽³¹⁾

"It is commonly supposed that narrow minded ecclesiastics laid down an arbitrary and unjustifiable rule against taking interest, and that they thus hampered the growth of trade. The rule was not arbitrary, but commended itself to ordinary common sense, and it did not hamper trade. . . . The medieval man could, if he were engaged on a long job where money was needed, borrow for the purpose on terms which remunerated the lender with a share of the profits, without being guilty of usury as understood by St. Thomas Aquinas."

"Speaking of the middle of the 15th century," says Professor Ashley⁽³²⁾ "we may fairly say that these methods satisfied business needs, and that there was no strong demand on the part of those engaged in trade for the repeal of the usury prohibition. It is altogether misleading and unfair, then, to speak of the prohibition as putting obstacles in the way of the employment of capital. So far as wealth was intended to serve as capital it found ways open for its employment—ways that were adequate for the time, and against which the canonists had not a word to say."

I am not suggesting that anything so written by these economists would indicate that they had ceased to worship at the shrine of interest, but their opinions are recorded as evidence of a turning of the tide, and as fair-minded comment on the age of the canonists.

IV.

The criticism usually levelled against St. Thomas in this matter is that whilst he perceived with great clarity, the function of money as a medium of exchange, he did not clearly perceive its relation to production loans. In other words that he did not foresee the modern fecundity of money. On the contrary, I would state that St. Thomas, with the clarity of his extraordinary intellect, perceived the precise dangers involved in allowing money to assume the stature of productive capital, and that it was to avoid these dangers that he supported the whole canonist structure of restricting interest on money loans. Once you allow money to become, in addition to a medium of exchange, a type of productive capital, you are placing in the hands of men, a method whereby they can increase their wealth without necessarily increasing the wealth of the community, and a means whereby they can batten upon the courage, enterprise and industry of their fellowmen.

Aquinas began and ended with this basic injunction, "You have no right to profit unless you make the profit yourself or share the risk of the man who is making it for

you". If you have a sum of money in your possession, you cannot make it become fruitful, unless you part with the possession of it. If you apply it together with your labour to a project, it may well become fruitful. If you part with the possession of it and buy a piece of land, for example, the result may prove fruitful. Unless, however, you part with the possession of the money, and risk its loss and immobilise it, you cannot make it fruitful, unless, of course, and here is the whole point, you find someone who is willing to take the money from you, to part with the possession of it at his risk not yours, and to agree to pay you for the privilege, a regular increment, together with the return of the money in due course.

Apart, therefore, from money loans there are involved in the making of money from money, two factors: risk and immobilisation. We must risk our money by parting with it and purchasing therewith some fruitful object, a process of course which deprives us of the immediate use of our money as money and which involves risk.⁽³³⁾

A person who lends money to another so that the borrower may put it to some profitable purpose is not really an investor. The borrower is the real investor. If the

lender becomes a partner with the borrower then the position is different, and the enterprise is relieved of that fixed and rigid payment which otherwise it must under all circumstances pay. From the point of view of the borrower in individual cases he may well prefer to make payments of interest, and pay the lender out as soon as possible, but viewed over a number of transactions it is obvious that interest payments become a huge and increasing charge on profits. Moreover, interest is clearly payable by the borrower whether his enterprise is successful or not.

The fact that the enterprise may be unsuccessful and the borrower still be required to pay interest has led many writers, as we have seen to define usury as the exacting of interest on an unproductive loan.⁽³⁴⁾ This fallacy has developed this way. What the canonist wanted was a direct investment of money, and this could best be effected, if the owner did not desire to deal with the money himself, by the owner of the money becoming a sharer in the risk of the enterprise with the person to whom he entrusted his money. The resultant contract was never a *mutuum*. If, however, the owner lent his money to another person who,

in fact, did the investing for him, and at the same time bargained with that person to receive from him a fixed interest during the period of the loan and to have the capital returned in due course, the owner avoided that element of risk which made his return depend on the success or failure of the capital investment. Under such circumstances, there was a *mutuum*, and in the absence of extrinsic titles the contract was usurious. Here we reach the fallacious deductions of those who define usury as the taking of interest on an unproductive loan, for from these two quite distinct propositions they deduce a general conclusion that a lender always commits an injustice when he insists on his profit under such circumstances as would bring him no profit if he had directly invested his money or agreed to share the risks with the person to whom he handed his money, in other words, if he insists on his profit when the lender invests his money unsuccessfully. This confused reasoning has an air of plausibility about it, but it is obviously defective as a rational basis for considering the justice or injustice of interest bearing contracts, and the failure to understand its defects on the part of so many writers has led to quite unjustifiable

attacks on the theologians. Confusion has been intensified by the fact that one school defines an unproductive loan as a loan of money for a purpose that is not of its nature productive, and another school defines it as a loan put to a purpose of potential productivity which in the result proves to be unsuccessful.

Nevertheless, it is clear that interest is economically mischievous when it becomes a drag on capital independent of productivity. The medieval theory, of course, was designed to ensure that this could never become the case by prohibiting any contract which might give rise to such a result, for apart from the question of extrinsic titles it was impossible to have a contract just according to medieval standards where the borrower had failed and was still required to pay interest, because if such a position did, in fact, arise, it is clear that the lender must have failed in the first instance to agree to share the risks: in other words, he must have loaned a fungible, contracted for its equivalent in return, and insisted on a charge for its use, when, as St. Thomas points out, a fungible has no use apart from its destruction in such a contract. This, however, must never be forgotten: exactly

the same reasoning applies in those cases where the borrower successfully employs the proceeds of his loan, for if the lender were to insist on interest by this very fact alone he would commit usury.

St. Thomas never objected to true profit, but he disputed the identification of the lending of money with the investment of capital. In effect, he condemned the theory that savings should be rewarded by interest without investment.

“The classical argument that interest is necessary to evoke saving presents a different aspect when you appreciate that saving does not necessarily mean investment. The saving of money does actually diminish investment, and interest is a deterrent to investment. If we could ensure, as the Canonists tried to do, that savings should be rewarded only when it became investment in capital goods, we would avoid many evils of the modern financial structure.”⁽³⁵⁾

The whole Christian doctrine of property with its responsibilities of ownership which the modern world has forgotten is wrapped up in this question of money and the taking of interest thereon. If I am in possession of money, I am in possession of something that is vital to the society in which I live. I.

as a Christian, therefore, have very definite responsibilities with respect to the ownership of that money. Christian morality knows of no theory of an unqualified and unconditional ownership of property of any description. Property must be used according to its true end and purpose and in the case of money that true end and purpose is as a means of exchange. Therefore, the wrongful withholding of that money from circulation for the purpose of making a profit by waiting is a misuse of property. Even the attempt of the holder of money to retain it as a storehouse of value is a misuse of its purpose because its function is one of exchange. If the holder wants a storehouse of value he should obtain it in tangible goods.

V.

To sum up: the proper use of money according to St. Thomas Aquinas is its consumption or alienation whereby it is sunk in exchange, from which he deduces that a loan of money involves a transfer of the ownership of money.

It follows inescapably from this reasoning that if an attempt is made to sell the use of money, that is, to charge for the use of money as you would charge for the use of a house, you are proceeding on the assumption that the money will in all circumstances remain useful to the borrower, that its use will not involve its destruction and that it will remain in the permanent possession of the borrower as a constant source of usefulness.

Now, money is not capital: it merely represents a title to capital. Whilst it remains in your possession as money its only immediate effect is to give you a comfortable feeling that something is standing between you and need. If you desire to make use of that money, that is to receive real enjoyment for it you must part with the possession of it, that is, destroy it, and above all, and this is of supreme importance, if you should

desire to add to your wealth you have to part with the possession of it, destroy it and submit to the possibility for a period of losing your money. Likewise, if you choose to increase your wealth by trade. All this is legitimate.

How much easier, however, is the process of increasing your wealth if you can find a man who is capable and industrious, who will borrow your money, assume all the risk, agree to pay you back whether he succeeds or fails, and, further, agrees whether he succeeds or fails to pay you a fixed sum for the use of your money. If you can find such a man, you are relieved of responsibility and risk, or, more accurately, your risk is minimised to the greatest possible extent. How much more secure you can make yourself if your borrower executes documents and collaterals over property worth considerably more than the advance.

Now, it is this attitude to money that St. Thomas wholeheartedly condemns. Money is a means of exchange and a title to productive capital, not productive capital itself.

In a society in which usury is in theory and in fact banned, money obviously would remain a means of exchange, and the holder

of such would have to become a genuine investor, that is, put it to productive use either by immobilisation and risking it himself, or by risking it in partnership with another, agreeing thereby to share losses as well as profits. In such a society, if the moral sense of the community were so low as to require compulsion to induce men to put money to its proper use, then compulsion could be used, or, at least, provisions introduced of a penal nature which would make the holding of money an essentially unprofitable business. There would thus be abolished that over all capital charge, fixed and rigid which to-day is such a stranglehold on enterprise.

It is no answer to Thomas to assert that the simple mode of economic life of the Middle Ages rendered the Angelic Doctor's strictures against interest taking more easily observable. Unquestionably the modern financial structure is enormously complicated, but the loan dealings which are so characteristic of our time were not unknown in the Middle Ages, and it was with full knowledge of these transactions that Thomas wrote. The failure of the moral theologians to stem the tide of capitalism has been ascribed with a fair amount of reason to the

fact that medieval society was not organised on a basis which could give practical effect to the moral injunctions.⁽³⁶⁾

The arguments now advanced in favour of interest are these: the existence of interest is an inducement to investment, because for all practical purposes, the lender may be regarded as an investor. In other words, interest must be regarded as an inevitable capital cost to be outlaid by society in general in order that the holders of money may be induced to apply this money to the increase of the wealth of the community. These arguments, of course, proceed on the assumption that every advance is by its nature an investment, whereas, in fact, in very many instances an advance is made merely to finance losses. That this over-all charge has become a terrific burden on society can be adequately demonstrated by examination of our financial structure.

The whole of our banking system to-day depends upon the profits made out of interest taking. The palatial insurance houses erected by insurance companies are in the main modern temples erected to the profit efficacy of interest taking—insurance companies regard as bad business, direct investments. The great wool companies of

this country which virtually control the industry rarely own sheep. Their great profits are made by methods which aim at minimising risk to a point at which it almost disappears. If you doubt this look at one of their security documents.

It is quite useless to set up the nationalisation of banking as a panacea for our social ills, if the proposal means merely that the Government is to set itself up as a supreme interest gatherer. Such a proposal would merely widen the gap between ownership and control of productive resources.

VI.

The devastating effect of the over-all charge of interest will find its maximum expression in the years that lie immediately ahead of us. To-day, for example, citizens in pursuance of a national duty are being asked to invest in War Loans to an unprecedented extent. For every £100 invested by citizens in a War Loan on the long term method of investment, over £50 has to be paid by the Commonwealth to the investor before the capital is returnable, that is to say that for every million pounds raised in this fashion for the financing of war, a rental of one-half million pounds is payable by the community, in addition to the obligation to return the original loan. When you reflect that each loan is guaranteed by the State which under modern conditions ensures the highest freedom from risk available to any lender, you realise how far we have travelled on the slippery path of usury.⁽³⁷⁾

Yet the public conscience is not shocked by this, and regards the substantial contributions of citizens to a War Loan as a major act of patriotism. I am not suggesting for one moment that people should refrain

from War Loan investment, given the existing set up it is a national duty, but what should be emphasised is that governments which have not hesitated to conscript human life and to wrest human beings from their civil occupations, should not hesitate to conscript capital. It is a normal and a natural thing under modern conditions for a nation to conscript life, but the conscience is shocked at any suggestion that money should be conscripted, and, by conscripted I mean that money should be wrested from its civil pursuits, put to the business of war, and returned to its normal occupation and to its owners in due course, but without the payment of any amount by way of interest.

When the inevitable waste associated with war is considered, and when we add to this the fearful burden of interest payable on money raised to prosecute war, it can be appreciated that the future holds out very special difficulties, and it can hardly be gainsaid that the future burdens could have been considerably lightened if our governments had had the courage to raise money by way of capital levy repayable without interest. In the end those who would have resisted such a proposal most vociferously would have found that their

opportunities for security would have been considerably increased.

This, of course, is only one aspect of the question. Governments are hardly to blame when public opinion is so obviously in accord with this method of procedure. The currency of the phrase, "my bit of money is earning interest for me", makes it quite clear that the idea of money reproducing itself without risk and immobilisation raises no moral issues in the public mind.

The possibility of a holder of money making profit without investing his money in productive capital creates an irresponsible ownership vested with great powers. It gives to the man who accumulates money and farms it out at interest an extraordinary grip on his fellowmen. The progressive increase of interest enables him to obtain control by indirect means over the productive capacity of his fellow citizens. It is this drain on the productive capacity of labour, this over-all charge on industry by way of interest payments which has created a grave mischief, has led to an inequitable distribution of wealth with consequent aggregation of power and domination in the hands of a few, and has in the main divorced the ordinary man from property, the

possession of which in wide distribution by all is the only true safeguard for personal freedom. It is this type of powerful irresponsible ownership which is driving the people to the madness of communism. In the post-war years this menace must be grappled with or nothing will save the propertyless masses from communism, for within its arms they will seek economic security at the price of their freedom and their dignity as human beings. One moral principle, therefore, that should be infused into the new order is the principle that there should be no profit without risk, for if that principle is rigidly enforced, there must follow a more equitable distribution of the real wealth which is property. For it is when men assume a stature far above their ordinary influence with the false power given to them by the illegitimate fruits of money that the gap between the haves and the have-nots becomes a real social evil.

VII.

My first acquaintance with the great social encyclical of Leo XIII. was given to me under such circumstances that I was led to believe that the Pope when condemning "rapacious" usury specifically qualified his description to make it clear that when he emphasised that the condition of the working class was aggravated by "rapacious usury" which, although more than once condemned by the Church, is nevertheless with like injustice still practised by covetous and grasping men", he was referring to those gentlemen who ply their trade under the sign of the three brass balls. Whilst, admittedly, these gentlemen frequently cause great individual hardship, I was always at a loss to appreciate why the Pope should be so sweeping in his denunciation of them and make them responsible for the condition of the working class. Further, the critics of the encyclical always held the theory that the Pope specifically qualified his description of usury by calling it "rapacious" to make it clear that he was denouncing not the interest taking condemned by the canonists, but the usury which alone in popular thought

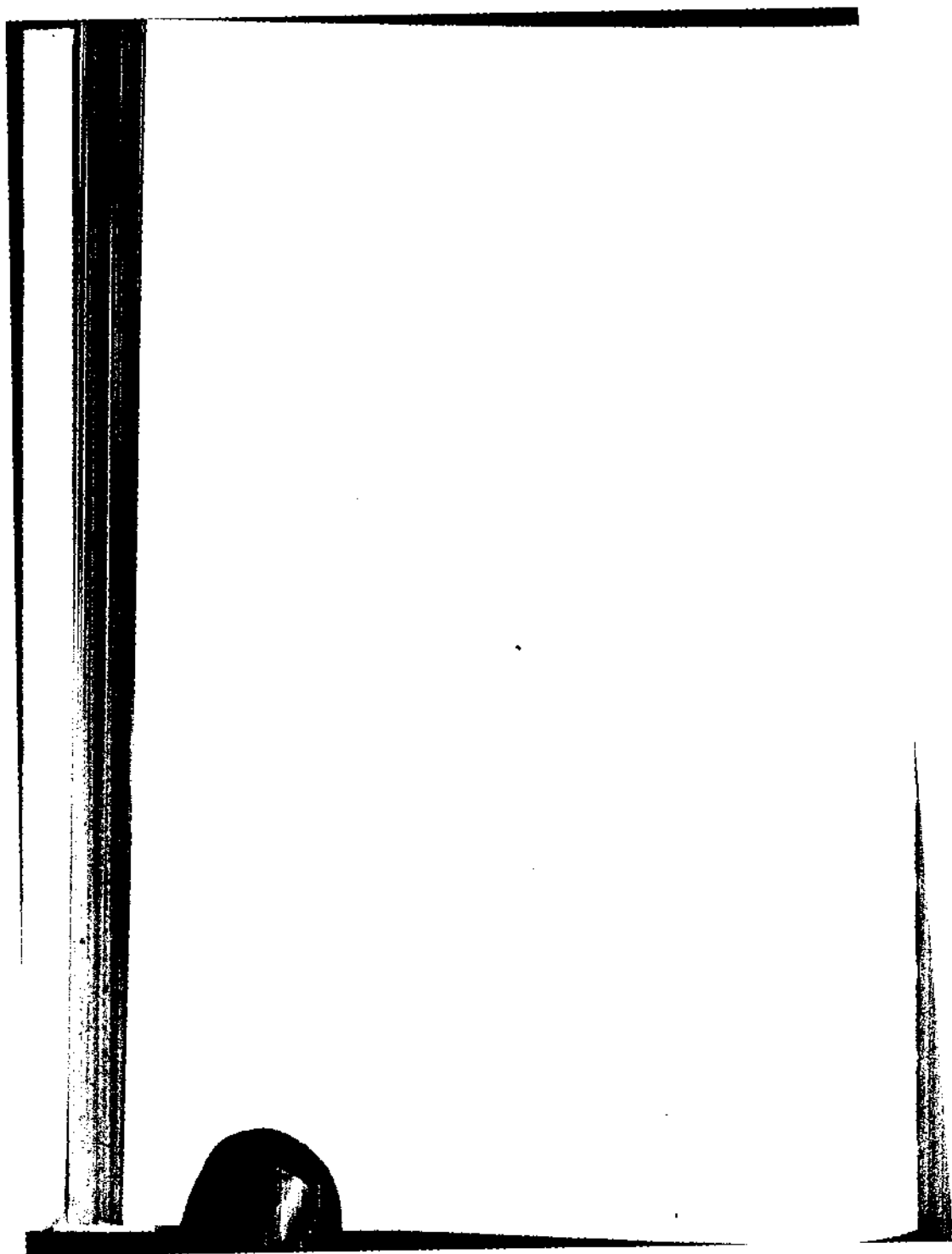
merited opprobrium. When, however, I turned to the original latin and found that the term used by Leo was the equivalent of *usura vorax*, the very language of the medieval decretals, I realised that the Pope was thundering in the tradition of Innocent, Alexander and Benedict not merely against the money-lenders, as we know them, but against the whole practice of profit making without risk.

I began this talk with a question from Baron Keynes. I propose to end it with another from the same passage previously quoted. I do not suggest, of course, that Keynes advocates the complete abolition of interest, although he does advocate its almost complete abolition under certain conditions. I quote him here again, merely to seek the aid of a great and a clear intellect in emphasising that we cannot afford to ignore the medieval attitude to interest if we are to deal intelligently with the economic evils of our age.

"For centuries, indeed for several milleniums, enlightened opinion held for certain and obvious, a doctrine which the classical school (of economists) has repudiated as childish, but which deserves rehabilitation and honour. I mean the doctrine that the rate of interest is not

self-adjusting at a level best suited to the social advantage but constantly tends to rise too high, so that a wise government is concerned to curb it by statute and custom and even by evoking the sanctions of the moral law."⁽³⁸⁾

To this I would add the hope that the wisdom of those who will guide our destinies in the near future will not be completely unmindful of the clarity of the reasoning and the sureness of purpose enunciated in that minute aspect of Thomism which we have considered together on this Christian evening.



POSTSCRIPT.

After the foregoing text had gone to press, I had the opportunity of reading *Interest and Usury* by Bernard W. Dempsey, S.J. (*American Council on Public Affairs, Washington, D.C., 1943*). As this scholarly and extremely well documented work is the most important attempt that has been made in the language to compare modern interest theory and scholastic thought on usury, and as the author obviously was inspired towards this end by "the recrudescence of usury analysis on a scientific basis" (page 216) which appeared in the *Economic Journal* in 1931, and which first set my thoughts towards the problems there raised, it will not be irrelevant to comment briefly on this new contribution to the subject.

The work consists of two parts, the first, devoted to an analysis of modern interest theory which the author takes as adequately represented in the theories of Schumpeter, Fisher, Wicksell and Keynes, and second to an exposition of the economic findings of three Jesuit theologians, Luis Molina, Leonard Lessius and John de Lugo, who are selected because of their learning, because they scientifically analysed for the purposes

of their normal judgments, the economic practices of Spain, the Low Countries and Italy and because "all three wrote, if not strictly in form, at least very definitely in practical content, a commentary on Thomas Aquinas" (page 116).

As the theologians chosen to represent the "medieval" period belong to the late sixteenth and early seventeenth centuries (they died respectively in the years 1600, 1623 and 1660) it is not surprising to find that their moral judgments, of necessity, were affected by the fact that the economy which faced them had committed itself irretrievably to the principle that money is capital. That the author is uneasy concerning the choice of his representative scholastics is evident from the disproportionate space devoted to an apologia for his choice and from his final decision to describe them as "late medieval usury analysts". The result, of course, is that Father Dempsey expounds the views of theologians who were dealing with a rapidly developing capitalistic economy which was not of their making, and which by its very nature made the presence of extrinsic titles, in most instances, inevitable. The chief value of his painstaking and exhaustive analysis of these theologians

is to demonstrate how futile are those critics who describe interest titles as "the notorious subterfuges" by which the medieval canonist sought to "evade" the prohibition of usury, and how such modern economists as Ashley, Marshall and even Keynes have written glibly of the period with little more than a second hand knowledge of their subject.

The book, however, is of considerably less value when it seeks to demonstrate that the views of the chosen "medieval" representatives are a development of the thought of Aquinas. Rejection of and not development of Thomist thought is involved in the assertion that "the important characteristics of a *mutuum* are two: (1) that the ownership of the thing loaned passes with the loan, and (2) that the payment is to be made, not by returning the identical article but one of the same kind", and that usury may occur in those cases where the subject of a *mutuum* is a fungible and not a consumptible (page 143). The author quoting from his theologians goes on to give the case of a goldsmith or silversmith who needs a certain amount of metal to finish a particular piece on which he is working as affording an instance of a

mutuum wherein the subject matter is a fungible but not a consumption good. "A neighbouring workman with a little excess supply might let him take a few ounces for a few days at no charge, though the object of the loan could not be called a consumption good." Surely the answer to this contention is that the metal in this instance is borrowed under circumstances which make it both a fungible and a consumptible, for its use to the borrower consists solely in its consumption. It is of the essence of the thought of Thomas that if a fungible be loaned under such circumstances that its use does not involve its destruction or consumption, then the resultant contract is not a *mutuum*, or if you prefer is not a contract of the type in which usury may arise.

"The principal use of a silver vessel is not its consumption, and so one may lawfully sell its use while retaining one's ownership of it. On the other hand the principal use of silver money is sinking it in exchange, so that it is not lawful to sell its use and at the same time expect the restitution of the amount lent. It must be observed, however, that the secondary use of silver vessels may be an exchange, and such use may not be lawfully sold. In like manner, there may be some

secondary use of silver money; for instance, a man might lend coins for show, or to be used as security." (*Summa Theologica*, Q.78, Art. 1, II., IIae.)

It is clear, therefore, that if a *mutuum* is to be correctly defined for the purposes of expounding Thomist thought, there must be added to the two characteristics above insisted upon, a third characteristic: *that the thing loaned must be loaned under such circumstances that its use involves its consumption.* Without this condition, it is very difficult to appreciate the real reason for the injustice involved in usury. To make the transfer of ownership the decisive characteristic is to set up a very inadequate foundation for a theory of interest, and is certainly to undermine the whole thought of Aquinas.

I am not suggesting, of course, that the transfer of ownership is not an important consideration, in its place, for St. Thomas.

"Any advantage or gain which comes to the borrower from the money I lend him, beyond the actual amount of the loan, comes from the borrower's own industry in employing the money wisely. But it is not lawful for me to charge a person a price for his own industry, just as I should not be put to any loss by his

lack of skill." III. *Sent. d. xxxvii., art. vi., ad 4.*

This distinction is the basis of the Aquinas distinction between a *mutuum* and a partnership (*societas*). For the reason that a partnership does not involve a complete transfer of ownership, a contract for the sharing of the profits of the joint venture is not usurious. Father Dempsey, however, suggests that the scholastics' justification of compensation for the assumption of risk in such a contract was but a special case of emergent loss, "since for the duration of the loan (*sic*) at least, even though the final outcome be profitable, goods subject to a risk are of less value than goods so subject" (page 217). This is a confused thinking. Aquinas never regarded the assumption of risk as a justification for the payment of interest on a loan contract. He regarded the taking of risk involved in a parting with money whilst the ownership thereof is retained as in a partnership, as sufficient justification for a contract for the share of any profit returned, provided profit in fact resulted. To assert, however, that the risk involved in any loan was *per se*, a title to interest in the thought of Thomas is to confuse the whole notion of risk as

enounced by him. "No profit without risk" means simply that the risk involved must be a parting with money on the basis that if the venture is unsuccessful, the owner of the money must share the losses with the recipient.

So much for the implications of the Thomist insistence on the aspect of the transfer of ownership involved in a *mutuum*. More important are the implications of the insistence on the condition that the subject matter of the loan must be loaned under circumstances that its use involves its destruction. These implications give the key to the whole medieval conception of money, that is, that money in its principal purpose has no use apart from its consumption. The essential logic of this position must be faced and disposed of in plain terms, if a critic wishes to dispose of Aquinas as having no answer to the problems of our time.

Here again it is well to warn against the error of distinguishing between consumption loans and production loans. "Loans may be divided into two broad classes according to their purpose. The borrowed money may be used to purchase finished goods which are thus permanently

withdrawn from the market and are destroyed in consumption. Or the money may be spent to buy unfinished goods, with the express purpose of later returning the goods to market for sale in the hope of gain on the transaction. The goods may or may not have been transformed in the meantime. Evidently there are important differences in the matter of the interest payment on these two types of loan" (page 3). This distinction has its place in modern interest theory, but it has no place in the thought of the medievalists, although it seems to be clear that the distinction has grown out of a misunderstanding of their typical thought. Father Dempsey rightly points out in his Introduction that the scholastic explanation of interest centered on the status of the lender. Later, however, in dealing with the question of consumptibility in relation to a *mutuum*, he would appear to be insisting on making the distinction (page 142 *et seq.*). Obviously, however, the purchase of an article with borrowed money, whether that article is for productive or consumptive purposes involves the consumption of the money, hence it is unlawful to charge for its use.

One has merely to read Father Dempsey's exhaustive analysis of modern theories of interest to realise the artificiality of certain aspects of modern economic theory. Unfortunately, the whole of this work is couched in the jargon of the professional economist theorist, a jargon which limits the public for the work and which clearly has reached the limit of artificiality when, as Father Dempsey points out, so many of the expositors of modern economic theory use terms which for each other have lost a common meaning.

Father Dempsey concludes that "institutional usury" is rife in the modern world, and that many economic practices if not *per se* usurious operate usuriously in that some leaders have gained from loans without emergent loss. He expresses what appears to be his main conclusion in these terms:

"The circumstances in which the Scholastic would allow that a source of legitimate interest exists are those in which, when the demand and supply of savings are equal, when all savings are invested, and when there is no investment which does not correspond to a subtraction from previous income, that is, to funds which have previously been cost and which, therefore, have found their place in the pricing system. In such cases, the

rate of return over cost, the rate of natural interest, and the average emergent loss in the community express ideas with a great deal in common." (Page 206).

In simple terms, this would appear to mean that the Scholastic would be hard put to it, to justify the charging of interest on the issue of created credit.

NOTES

1. **The General Theory of Employment Interest and Money** by John Maynard Keynes,—Macmillan, London 1936, at page 351.
2. A discussion of the development of the use of the term "interest" may be found in **The Ethics of Interest** by Rev. Lewis Watt S.J., The Catholic Social Guild, Oxford, at page 10; also, in **The Church and Usury** by Rev. Patrick Cleary,—Gill, Dublin 1914 at pages 91 et seq. This book is very useful in its historical aspects but any real value is vitiated by its complete misunderstanding of the thought of St. Thomas Aquinas.
3. **The Growth of English Industry and Commerce** by W. Cunningham, Cambridge, 1910, 5th. edition Vol. I at p.360.
4. In seeking to enunciate Catholic social principles we should make a clear distinction between what the Church tolerates and what the Church wants. "The distinction which seems self evident is made surprisingly seldom. The Church has her negative standards to fall below which is to fall into sin. These standards are necessarily minimum standards, for Moral Theology is conditioned by charity. But she has her positive standards which are very different Our outlook on society has been too much in terms of the confessional, and too little in terms of the City of God. A man could avoid the sin of being theologically drunk every night of his life and give a very poor impression to his neighbour of the virtue of temperance." **The Sun of Justice** by

Harold Robbins—Cranton, London 1938 at page 22. Cf. also "The moral theologians were very far from thinking that their minimum requirements constituted an adequate rule of life for any Christian. They were not writing for the world at large, but for confessors, and solely with a view to the confessional. They knew and insisted that in his quality of physician and guide the confessor must not allow his penitents 'to install themselves deliberately on the frontier between the permitted and the forbidden,' but they knew too, that in his quality of judge he had a strict obligation to be aware of the exact import of the laws of God which nothing could authorise him to make more severe than God intended." **The Economic Morals of the Jesuits** by J. Brodrick S.J.—Oxford University Press, London 1934 at page 24.

5. Various theories have been put forward by moral theologians to justify modern practices of interest taking. Convenient summaries of these may be found in **The Ethics of Interest** (supra) at pp. 12 et seq. and of the pre-Code controversies in **The Church and Usury** (supra) pp. 164 et seq. That the matter is far from settled is evident from the controversies referred to in **The Economic Evil of Loan Interest** by Edward J. Coyne S.J. in **Studies** March 1932. See also **The Framework of a Christian State** by Rev. E. Cahill S.J.—Gill, Dublin 1932, pages 48 et seq.; **The Science of Ethics** by Rt. Rev. Mgr. M. Cronin—Gill, Dublin 1939 Vol. II. pp. 328 et seq.; **Usury and Profit Earning** by the Rev. Dom J. B. McLaughlin O.S.B., **The Clergy Review**, London Sept. 1936; **Commentarium Textus Codicis Iuris**

Canonici, Fr. A. Blat O.P., Lib III, Rome 1923 pp. 570 et seq.; **Epitome Iuris Canonici**, A. Vermeersch, J. Creusen S.I. Tomus II, 469 Rome 1922; **Institutiones Theologiae Moralis**, Genicot, 9th ed. Vol. I p. 538 et seq, Brussels, 1921; **Catholics and Usury** by J. L. L. Benvenisti, **Dublin Review**, July 1936; **Usury and the Theologians** by Rev. A. A. Beck, **Dublin Review**, July 1938; **Mr. Belloc on Usury** by Edward J. Coyne S.J., **Studies** June 1932; **The Clergy Review**, January 1936 to June 1936.

6. Canon 1543 reads as follows:

If a fungible thing is given to someone in such a way that it becomes his and that later something of the same kind and amount is to be returned, no profit can be taken on the ground of the contract itself, but in lending a fungible thing, it is not in itself illicit to contract for the payment of interest allowed by law, unless it is clear that this is excessive, or even for higher interest, if a just and adequate title be present.

7. "In his conception of property and in the principles which underlie the Just Price and the Prohibition of Usury, I am convinced that St. Thomas offers exactly what the modern world needs." Address to the London Aquinas Society on October 19th 1943 by William Temple, Archbishop of Canterbury.

8. An extraordinary instance of this is to be found in **The Church and Usury** by Patrick Cleary (supra) at pp. 78 et seq. We find, for example, in this author's examination of the thought of St. Thomas (the book is a thesis presented to the Theological Faculty of St. Patrick's College, Maynooth) the

statement that "St. Thomas recognises quite well that gold and silver vessels are for use and not consumption and hence are fungibles" and that money is a consumptible and not a fungible. Yet this author has the confidence to assert that St. Thomas shirks certain difficulties and extricates himself only by an *argumentum ad hominem*.

9. **Economic History**, Book II page 382.
10. **Institutes of Justinian** by Rudolph Sohm, Oxford, 1907 at page 305.
11. The necessity for this distinction is logically insisted upon by Rev. A. A. Beck in **The Dublin Review**, July 1936. Father Lewis Watt S.J. in his pamphlet **The Ethics of Interest** (supra) fails to make this distinction when he defines a fungible thing as "one which perishes in the act of serving its natural purpose, one the natural use of which is to be used up" at page 2.
12. *II. IIae* Q.78 Art.1.
13. *ibid.* Art.2.
14. The following quotation from Father Lewis Watt S.J., **The Ethics of Interest** (supra) at page 2 admirably emphasises the importance of this notion: "A motor car, for instance, is not necessarily destroyed by using it. It is true that an unskilful or unlucky driver may destroy it, but that is not essential to the use of the car. The majority of cars run away and live to run another day. It is true, too, that in the course of time even fair wear and tear will destroy the car, will wear it out; but this is not essential to the use of the car. An

everlasting imperishable car would render just as good service as a perishable one, other things being equal, whereas an imperishable cigarette or an indestructible loaf of bread would not serve their purpose of nourishing or soothing the user of them. No one can both have his cake and eat it at the same time, but one may have a car and use it, have a house and live in it, own a field and farm it."

15. **Saint Peter Canisius** by J. Brodrick S.J. London, Sheed & Ward 1935, page 593.
16. **Essays of a Catholic** by Hilaire Belloc—London, Sheed and Ward. Belloc's essay has been pamphleteered by its publishers with the result that it has had considerable influence. Thus we find the Jesuit paper **The Australian Messenger**, 1 July 1932, adopting Belloc's definition of Usury in answer to a query on this subject. That Belloc's definition is wholly untenable cannot be doubted after reading **Mr. Belloc on Usury** by Edward Coyne S.J., **Studies**, June 1932.
17. A fair critique of this book may be found in **The Dublin Review**, July 1938, **Usury and the Theologians** by Rev. Andrew Beck.
18. **The Church and the Social Order** by Dr. R. A. L. Smith, London 1943 at page 131.
19. This Encyclical (a) forbids the lender of a fungible thing to exact from the borrower, on the mere ground of the loan, any payment over and above the thing lent; (b) denies the validity of the following excuses: that the charge made for the loan is moderate or even insignificant: that the

borrower is a wealthy man; that the borrower is going to use the loan to increase his fortune; (c) admits the existence of extrinsic titles, although it denies that these are always present; (d) declares that sometimes charity requires that a loan be made gratuitously; (e) declares that there are other contracts distinct from that of mutuum in which stipulations for annual payments or for profits are not illicit. This Encyclical was addressed only to the bishops of Italy but in 1836 the Holy Office incidentally declared that it applied to the whole Church, but such a declaration according to Father Vermeersch could not give the document an infallible character which it did not otherwise possess. See Catholic Encyclopedia, Title **Usury**.

20. **The Economic Morals of the Jesuits** by J. Brodrick S.J., London, Oxford University Press, 1934 at page 123.
21. Grisar, **Jacobi Lainez disputationes Tridentiae**, Vol II, quoted in **The Economic Morals of the Jesuits** (supra) page 124.
22. **Aspects of the Rise of Economic Individualism** by Dr. H. M. Robertson—Cambridge University Press at page 135.
23. "What happened when the Church doctrine, designed to fit an economy, collided with an historical force represented by the rising merchant class? It was the doctrine that gave way. Not all at once, of course, . . . Slowly, bit by bit, by new rulings which said as before 'Usury is a sin—but under the circumstances . . .' and other rulings which said 'While it is a sin to exact usury, nevertheless in

- special cases". *Man's Worldly Goods* by Leo Huberman—London, Victor Gollancz, 1937 at page 42.
24. *The Economic Morals of the Jesuits and St. Peter Canisius* (supra).
25. *La Theorie de l'Interest de l'Argent*, quoted in Fanfani (infra).
26. See *The Church and Usury* (supra) pp. 160 et seq.
27. *Catholicism, Protestantism and Capitalism* by Amintore Fanfani—London, Sheed & Ward at page 145.
28. *A Treatise on Usury* by Ransom H. Tyler—New York, 1873.
29. *The Rise and Influence of Rationalism in Europe* by W. E. Lecky, 1865.
30. *Principles of Economics* by Alfred Marshall, 8th edition, Macmillan, London, 1925, page 737n. This, of course, is a grudging admission. There are amusing passages in this work which attempt to explain away the doctrines of the canonists.
31. *Growth of English Industry and Commerce* (supra) at page 258.
32. *Introduction to Economic History and Theory* by Sir William Ashley, Book II chap. vi p. 438.
33. *The Iniquitous Contract* by J. L. Benvenisti—Burns Oates & Washbourne Ltd., London, 1937 at page 11.
34. This theory seems to have been first advanced by the Jansenist, Nicholas Broedersen, in his book *De usuris licitis et illicitis* in the year 1743.

35. **Interest and Usury in a New Light** by Henry Somerville—**Economic Journal**, December, 1931. It is interesting to record that as a contribution to a controversy which followed upon the publication of Mr. Somerville's article Professor Keynes wrote (**Economic Journal**, March 1932). "On the main issue I agree with Somerville Personally, I have come to the conclusion that too high a rate of interest is 'the villain of the piece' ". See also an interesting article in **Thought**, June 1937, by Henry Somerville—**The Economic Indictment of Loan Interest**.
36. "The underlying cause of the failure of the Medieval Church to suppress usury, was that it did not realise that usury presents not only a problem of morals, but a problem of organisation" **Tradition and Modernism in Politics** by A. J. Penty—London Sheed and Ward, 1937 at pages 99 et seq., where the theory is advanced that the problem of usury was essentially a rural one in the Middle Ages, the control of the guilds in the towns, being an effective curb to it.
37. "In New Zealand some £77,000 remains outstanding on the debt contracted for the Maori War, and in the meantime some £270,000 has been paid in interest on that debt." **Alternative to Death** by the Earl of Portsmouth, Faber and Faber, London, 1943.
38. **The General Theory of Employment Interest and Money** by John Maynard Keynes (supra) at page 351.

