Is Usury Still a Sin?

• **Thomas Storck** •

"The Church has not changed her teaching on usury and one can make a reasonable argument for the validity of the intrinsic injustice of usury itself."

1. Introduction

In order to know whether usury is still a sin we must first understand what it is. Although today usury commonly means charging excessive interest on loans, or perhaps merely on loans intended for consumptive purposes,[1] the classical doctrine of the Church on usury and the debates among some of her outstanding theologians were concerned with another question. For usury as it was understood for centuries meant the charging of *any* interest on a loan simply by virtue of the loan contract, that is, without any other justifying cause except that money is being loaned. The most recent relatively complete papal discussion of usury occurred in Pope Benedict XIV's encyclical of 1745, *Vix pervenit*. The pope stated:

[1]This is the understanding of usury that Hilaire Belloc adopted in his 1931 essay "On Usury" in *Essays of a Catholic* (Rockford, Ill: TAN, [1931] 1992), 15–28. Actually the idea of limiting the usury prohibition to productive loans had been proposed at least as early as the seventeenth century. See Patrick Cleary, *The Church and Usury* (Palmdale, Calif.: Christian Book Club of America, [1914] 2000), 157.

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> The nature of the sin called usury has its proper place and origin in a loan contract . . . [which] demands, by its very nature, that one return to another only as much as he has received. The sin rests on the fact that sometimes the creditor desires more than he has given . . . , but any gain which exceeds the amount he gave is illicit and usurious.
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> One cannot condone the sin of usury by arguing that the gain is not great or excessive, but rather moderate or small; neither can it be condoned by arguing that the borrower is rich; nor even by arguing that the money borrowed is not left idle, but is spent usefully . . . .

Although, as we will see, in this same encyclical Benedict expressly allows for the possibility that there can be legitimate titles to interest which do not fall under the head of usury, the central question is simply whether interest is ever justified merely by virtue of a loan contract, and we should keep this point in mind as we proceed.

Usury is a question that arises at the intersection of theology, philosophy, economics, and law, and has implications for each. Considering the weight of the Church's consistent and centuries-long condemnation of usury, obviously there arises a theological question of development of dogma, as well as of the validity of venerable arguments in scholastic moral theology and moral philosophy, in canon law, and in the teachings of economic theory. I will treat the subject mainly, however, from the standpoint of moral philosophy and theology, which, along with canon law, is where historically most of the controversy was conducted.

2. Historical background and development

Since the usury question has an unusually long and rich history, I think that it is necessary to sketch this background, without which both the importance of the controversy and the weight of the intellectual argumentation on behalf of the Church's traditional position might not be clear. In addition, an historical approach will help to show how gradually the essential features of the condemnation of usury were worked out.

The negative judgment upon usury in the early Church occurs against a backdrop of wide condemnation by Greek and Roman writers as well as in the Old Testament. The list of classical pagan authors who disapproved of it is impressive and includes

Plato,[2] Aristotle,[3] Aristophanes,[4] and Seneca.[5] In addition to a general condemnation of usury by some of the best minds of the classical world, Roman law provided the legal concept from which canon law would later draw its fundamental analysis of the usury question. This was the Roman law contract of *mutuum*, and one can hardly overestimate its importance for understanding the usury question in the medieval period and thereafter.

> The subject-matter of the *mutuum* must consist of things that can be measured, weighed, or numbered, such as wine, corn, or money; that is, things which being consumed can be restored *in genere* . . . . From the nature of this contract the obligation is imposed upon the borrower to restore to the lender, not the identical thing loaned, but its equivalent—that is, another thing of the same kind, quality, and value . . . .
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> With regard to the responsibility for loss, since from the peculiar character of the contract the right of consumption passes to the borrower, the latter is looked upon as the practical owner of the thing loaned, and he therefore holds it entirely at his own risk . . . .[6]

The two characteristics of the *mutuum* contract that were to figure so greatly in subsequent discussions about usury were the fact that in such a loan the actual good loaned was not returned but consumed in some manner by the borrower, and therefore the borrower was considered as the owner of the borrowed goods for all practical

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[2]*Laws*, bk. V, 742.

[3]*Politics*, bk. I, 10, 11. Since Aristotle's opinion on usury was the one most cited of all pagan authors during the Middle Ages, I reproduce it here: "The most hated sort [of wealth-getting], and with the greatest reason, is usury, which makes a gain out of money itself, and not from the natural object of it. For money was intended to be used in exchange, but not to increase at interest. And this term interest, which means the birth of money from money, is applied to the breeding of money because the offspring resembles the parent. Wherefore of all modes of getting wealth this is the most unnatural" (1258b, Oxford translation). Too much stress should not be put on his statement about "the breeding of money" taken in isolation, for the question of whether money can be fruitful is in large part a semantic question.

[4]*Clouds*, 1283ff.

[5]*De Beneficiis*, bk. VII, 10.

[6]William C. Morey, *Outlines of Roman Law*, 2nd ed.(New York: G. P. Putman's, 1914), 355–56.

purposes. This is in contrast to the loan or rent of something that will be physically returned, such as a house or a car.

The Old Testament also contains numerous strictures against usury.[7] Although those in the Pentateuch limit the prohibition only to fellow Israelites, the later passages, for example Psalm 15 and Ezekiel, are phrased as if they are meant to apply universally. I think that the way to regard both the pagan and Jewish usury prohibitions is to see them as part of a general framework of disapproval of usury, without stressing too much the reasons given in any particular text or even, as in the Pentateuch, the question of whether usury was prohibited only to fellow Jews.[8] Usury was suspect, it had a bad odor, the upright did not exact it. This somewhat vague condemnation of usury was the inheritance of the Church and explains the fact that some of the early canons seem to condemn usury only when taken by clerics, although there are also decisive prohibitions of it as intrinsically unjust.[9]

The Church first manifests her opposition to usury during the patristic period.[10] Numerous writers condemn usury, including Apollonius, Clement of Alexandria, Tertullian, Cyprian, Basil,

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[7]Exodus 22:25, Leviticus 25:36–37, Deuteronomy 23:19–20, Nehemiah 5:7–10, Psalm 15:5, Proverbs 28:8, Jeremiah 15:10, Ezekiel 18:8, 13, 17, and 22:12.

[8]"The modern Rabbis give an extremely interesting explanation of the Torah permission. There was, they say, at that time no law amongst the Gentiles which prohibited the practice of usury; and it was only equitable that the Jews should be entitled to exact usury of a people who might exact it of them. In this way, by a system of compensation the Jews were secured against impoverishment by the payment of usury, since what was paid in usury by some, was recovered by other members of the race" (Cleary, *The Church and Usury*, 7).

[9]That an atmosphere of disapproval of usury existed throughout the Jewish and Christian spheres of intellectual influence is clear also from the denunciations of usury in the Koran. See 2:275–6, 3:130, 4:161, 30:39.

[10]On the pre-scholastic period, see John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge: Harvard University, 1957), 12–17, and Cleary, *The Church and Usury*, 37–62. Noonan's work is exhaustive in its historical details, but he clearly holds a bias in favor of the ultimate vacuity of the usury prohibition as such, and this bias often shows in the manner in which he presents the opinions of theologians and canonists. Most seriously, he states (57) that St. Thomas limits the usury discussion only to money, whereas in fact in both the *Summa theologiae* II–II, q. 78 and the *De Malo*, q. 13, Thomas spends most of his time talking about wheat and wine. Noonan quotes from the latter work, but omits the section on food and drink.

Gregory of Nyssa, Ambrose, Augustine, Jerome, and John Chrysostom. In addition, the Apostolic Canons, dating in their final form to around 380, in their 44th canon prohibit the taking of usury by the clergy, as do the Council of Arles in 314 (12th canon) and the First Council of Nicaea in 325 (17th canon), while the Council of Elvira, 305 or 306, the First Council of Carthage in 345 (12th canon) and the Council of Aix in 789 (36th canon) prohibit it to the laity also.[11]

Many of the patristic utterances against usury are in the form of denunciations of exploitation of the poor and thus do not state whether usury is an offense against justice or simply charity, or even whether it is simply prohibited by the positive law of the Church.[12] But among the patristic strictures on usury two deserve special mention. The first is the letter of Leo the Great, *Ut nobis gratulationem*, addressed to the bishops of Campania, Picene, and Tuscany in October 443.[13] This contained a section dealing with usury, known from its opening words, *Nec hoc quoque*. John Noonan calls it "the single most important document of the early Church on usury."[14] It is important because it proceeds from the supreme ecclesiastical authority, because it clearly includes the laity in its prohibition and because it singles out usury as intrinsically unjust, not simply one of a number of uncharitable practices which exploit the poor.

The second item is a remarkable statement known as *Ejiciens*, once attributed to St. John Chrysostom, but now thought to be from the fifth century. It was later incorporated by Gratian in the Church's canon law and anticipates the classical form of the argument against usury given by St. Thomas, and presents the clearest rationale for the usury prohibition of any of the early documents. It is worth quoting at length.

> Of all merchants, the most cursed is the usurer, for he sells a good given by God, not acquired as a merchant acquires his goods from men; and after the usury he reseeks his own good, taking both his own good and the good of the other. A merchant,

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[11]Arthur Vermeersch, "Usury," *The Catholic Encyclopedia* (New York: Robert Appleton, 1912), vol. 15, 235. The authenticity of the condemnation by Elvira of lay usury is doubtful.

[12]Cf. Cleary, *The Church and Usury*, 48–56.

[13]Denzinger, 280–81.

[14]Noonan, *The Scholastic Analysis of Usury*, 15.

> however, does not reseek the good he has sold. One will object: Is not he who rents a field to receive the fruits or a house to get an income similar to him who lends his money at usury? Certainly not. First, because money is only meant to be used in purchasing. Secondly, because one having a field by farming receives fruit from it; one having a house has the use of inhabiting it. Therefore, he who rents a field or house is seen to give what is his own use and to receive money, and in a certain manner it seems as if he exchanged gain for gain. But from money which is stored up you take no use. Thirdly, a field or a house deteriorates in use. Money, however, when it is lent, is neither diminished nor deteriorated.[15]

Ejiciens makes the crucial distinction between goods which must be returned to their original owner after being used, and goods such as money, which are returned only in amount and kind, the subject of a contract of *mutuum*. The first type of good normally deteriorates in use and the owner can rightly charge something for the use and, of course, expect the original thing back also. But with a good which, as the saying goes, is consumed in its use, it is hard to see how one can charge for wear and tear.[16]

The reasoning of *Ejiciens* is not altogether clear in every respect, and there are more than hints of some of the popular grounds for opposing usury which were ultimately rejected because they did not stand up to examination, such as the idea that time could not be sold and that money was purely a measure. Nevertheless, we have here a very early and solid grasp of the Thomistic argument, at least in germ.

Before we proceed to the scholastic period with its rich and complex discussions of usury, we would do well to sum up where we stand. Usury is clearly condemned by the Old Testament, several notable classical pagan authors, and the early Church. But many of these sources seem to condemn usury as a sin against charity, not necessarily against justice, in the sense at least that they include it in general denunications of acts that exploit the poor. There is usually no clear reason given in these statements for saying that usury is wrong, and most of them tend toward the rhetorical rather than

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[15]As quoted in Noonan, *The Scholastic Analysis of Usury*, 38–39.

[16]In *De Malo*, q. 13, ad 4, Thomas rejects the "wear and tear" argument. But despite this, it seems to me to fit well with Thomas' understanding of the question, as we will see.

being rational examinations of what usury is and why it is wrong. But no one could read this mass of material and come away without understanding that usury offends against Christian morals, whatever the ultimate basis of its depravity might be.

Next we turn our attention to the elaborate development of theories about usury that began tentatively in the early middle ages and lasted till around the middle of the eighteenth century. The scholastic analysis of usury by no means ended with the end of the medieval period, for the same kind of reasoning and arguments, even if sometimes with different results, were employed for several centuries afterwards. In discussing this period I will proceed as follows: after some preliminary remarks I will set forth the scholastic usury teachings that have the most force, chiefly official pronouncements by the Church and the opinions of St. Thomas Aquinas. Then I will discuss the kinds of contracts that became increasingly common as means either to avoid or evade the usury prohibition, noting in particular any official reactions to them. This will bring us to the end of the period in which scholastic reasoning could be said to be taken for granted in the world of Catholic theology and philosophy, a period that, for our purposes, conveniently coincides roughly with Benedict XIV's encyclical, *Vix pervenit*. We should keep in mind that throughout this period hardly any Catholic attempted to justify the taking of usury as such; on that there was no controversy to speak of. The controversy and the complex arguments that characterize this period concern not whether it was licit to take interest simply by virtue of a contract of *mutuum*, but why this is so, and especially whether various other contracts do or do not constitute usury and whether and when extrinsic titles can be invoked by which one may justly receive interest on a loan.

During the Carolingian period both ecclesiastical and civil authorities had promulgated numerous decrees against usury, including excommunication for laymen guilty of usury.[17] Scholastic analysis proper may be said to begin with St. Anselm of Canterbury, "the first medieval author to suggest the similarity of usury and robbery . . . one of the earliest indications that usury is to be considered a sin against justice."[18] In the high middle ages the discussion of usury became more focused and clear. At the same time

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[17]Noonan, *The Scholastic Analysis of Usury*, 16.

[18]Ibid., 17.

writers sometimes took as the basis for their reprobation of usury a ground that was subsequently to be disavowed or at least to fail to find much support in other authors, for example, the selling of time, which was held to occur in usury; the Aristotelian doctrine that money was not fruitful or that money was purely a measure; and the idea that a loan had to be gratuitous (cf. Lk 6:35) and thus the lender could not hope for or receive any recompense beyond a return of the principal. But the bases that were to provide the best means of understanding the sinfulness of usury were also frequently mentioned, and in the case of St. Thomas, constituted his principal argument against it. These bases are chiefly the consumptible nature of money, and hence the fact that in loaning money the same thing is not returned but something of the same kind and value, and thus ownership in a sense passes to the borrower. The important point about the development of scholastic doctrine on usury is that almost all writers sought to ground the Church's prohibition in the natural law itself, however variously they explained it.[19]

St. Thomas' most mature discussion of usury is in the *Summa theologiae* II-II, q. 78.[20] I will quote extensively from the Respondeo from article 1, which contains his theory in a nutshell.

> I answer that to receive usury for money loaned [mutuata] is in itself unjust, because that is sold which does not exist, by which clearly an inequality is constituted which is contrary to justice. For the evidence of which it must be known that there are certain things the use of which is the consumption of those things; as we consume wine by using it for drinking or we consume wheat by using it for food. Whence in such things the use of a thing ought not to be computed separately from the thing itself; but to whomever is granted the use from that fact itself is granted [possession of] the thing; and on account of this in such things through the loan [mutuum] ownership is transferred. If anyone therefore wishes to sell separately the wine, and again wishes to sell the use of the wine, he would sell the same thing twice, or he would sell that which does not exist; whence clearly he would sin by injustice. And by a similar reason he commits injustice who loans [mutuat] wine or wheat seeking to be given two recompenses; one indeed the restitution of an equal

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[19]For a somewhat different interpretation of the natural law basis of the usury prohibition, see Christopher A. Franks, "The Usury Prohibition and Natural Law, a Reappraisal," *The Thomist* 72, no. 4 (October 2008): 625–60.

[20]See also the *De Malo*, q. 13, a. 4.

> amount of the thing, the other, on the other hand, the price of the use which is called usury.

Below I will consider this argument in more detail and attempt to show how it provides a solid intellectual justification for the proposition that in a loan of *mutuum* nothing may be asked except the principal, unless some other title to interest is also present.

In addition to numerous papal condemnations and those by local councils, it is worth mentioning the several condemnations of usury by ecumenical councils during this period, including Lateran II in 1139,[21] Lateran III in 1179, Lyons II in 1274, Vienne in 1311–12,[22] and Lateran V in 1512–17. I will mention this latter again in connection with the question of the *montes pietatis*.

Although as I said, in view of the repeated condemnations of usury by the Church, it was extremely rare for anyone directly to defend the practice during the scholastic period, the needs of business, or it may be the greed of men, sought ways to ensure a safe and guaranteed return and yet avoid the sin of usury or at least the severe canonical penalties to which usurers were subject. One such method was the *contractus trinus* or triple contract.[23]

Briefly, a *contractus trinus* was a three-fold contract existing between two business partners. The first contract was the simple contract of partnership by which one partner undertook to provide the funds and the other to do the trading. The second contract was a contract of insurance by which the active partner insured the principal of the inactive partner, and the third contract, similarly a contract of insurance by which the inactive partner was guaranteed a profit, smaller than the enterprise was likely to make, but guaranteed, whereas the profit of the partnership itself was always in some doubt due to uncertain business conditions, the possibility of loss, etc. The silent partner paid for the two contracts of insurance by forgoing the difference between the profit he might have made as a

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[21]Canon 13 forbids Christian burial to usurers (Denzinger, 716).

[22]Denzinger, 906. "The Council of Vienne presents a variety of difficulties. With the exception of some fragments, the acts of the Council have perished . . . . Joannes Andreas . . . tells us that Pope Clement V made very considerable modifications in the constitutions . . . hence it is difficult to decide what decrees were passed in the Council" (Cleary, *The Church and Usury*, 74–75).

[23]On the *contractus trinus*, see Noonan, *The Scholastic Analysis of Usury*, 202–29, and Cleary, *The Church and Usury*, 126–32.

full partner and what he would receive as guaranteed profit, say the difference between an expected 8% and a guaranteed 4%. Thus even if the enterprise miscarried the active partner would be required to restore the principal plus a guaranteed profit to the inactive partner. Although a bull of Sixtus V in 1586 could be interpreted as condemning the *contractus trinus*, it was largely without effect. Theologians argued that it did not ground its condemnation of the triple contract in natural law, but was merely positive legislation on the part of the pope, and in addition that its apparent ambiguity left doubt as to exactly what contracts were included in its strictures. During the sixteenth century it became widely used even without definitive approval by the Church.

The other popular contract used to avoid usury was the *census* or rent-charge.[24] The *census* was a curious sort of contract, at least to modern ears. In its original form someone would buy the right to receive the income, or even the actual produce, from some definite thing, such as a farm. Later, with the personal *census*, this was extended to be merely the right to a return from the work of a certain person, or a *census* could be established based upon the tax revenue of a city or even upon the income from another and prior *census*. In addition, the *census* contracts had many variations, for example, some provided that the *census* could be terminated at the call of the buyer or of the seller or of either party. Pope Martin V in 1425 approved the more conservative types of the *census*, but the more exotic and speculative kinds never received official approval, although they were defended by some theologians.

Both the *contractus trinus* and the *census* assumed many forms according to the needs or wishes of merchants. Even more remarkable, however, was the growth of the notion of implicit contracts.[25] Merchants, and even the notaries who drew up contracts, often did not take the trouble to put them in the form required by theological authority, e.g., to specify clearly and distinctly the three parts of a *contractus trinus*, so that a contract document that was phrased ambiguously might appear on its face to be a contract of *mutuum*,

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[24]On the *census*, see Noonan, *The Scholastic Analysis of Usury*, 230–48, and Cleary, *The Church and Usury*, 121–26.

[25]On implicit contracts, see Noonan, *The Scholastic Analysis of Usury*, 269–80, and Cleary, *The Church and Usury*, 153–55.

with the guaranteed return simply an instance of usury.[26] This too found its theological defenders who developed the theory, which became generally accepted, that if a contract, no matter how its wording ran, could be analyzed into some acceptable type, then it was licit, and that merchants needed to have only an implicit intention of entering into some kind of licit contract, even if they could not state what that was. "Not only were the effects of the triple contract and *census* those of a loan, but even their form did not need to be explicitly different from a loan, if the form could be analytically reduced to a licit contract."[27]

Although among Catholics usury as such still found almost no defenders in the sixteenth and seventeenth centuries, theological opinion working hand in hand with the inventiveness of merchants and lawyers had succeeded in furnishing several substitutes that allowed for both safety of the principal and a guaranteed return. But before discussing the dramatic, if confusing, turn of affairs after 1745, we must look at the titles to legitimate interest on loans that had been developing since the middle ages, and that ultimately became of more significance than either the *contractus trinus* or the *census*, because they could be applied to a loan contract directly and without any necessity for using a particular form of words in drawing up the contract. These were the titles to legitimate interest that were considered extrinsic to the *mutuum* contract itself, that is, they might or might not exist depending on extrinsic circumstances, even if some of these circumstances were nearly always present. These were chiefly *lucrum cessans* and *damnum emergens*.

Lucrum cessans and *damnun emergens* are in a sense two sides of the same coin. The first refers to the profit that someone might have made with his money had he not instead made a loan of *mutuum*, and the second is damage or loss that a lender suffered or might suffer because he did not have access to his money for the duration of a loan. Admitted in principle, at least in isolated cases, early in the debate, they become generally accepted later. One point to note, however, is that here the question of one's intention in making a loan, a point that loomed large at certain times in the usury debates

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[26]Duke William V of Bavaria in 1581 had tried to stop this movement toward easy acceptance of loosely-worded contracts by drawing up several model contracts for use by his subjects. See Cleary, *The Church and Usury*, 154–55.

[27]Noonan, *The Scholastic Analysis of Usury*, 279.

and that we have not looked at, must be mentioned. If a merchant accustomed to trading used a sum of money for a loan of *mutuum* instead of in a business venture, then clearly he could claim *lucrum cessans*, since he was always engaged in profitable activities with his money. But what of someone who simply wanted a safe means of earning a return? It is true that theoretically he could engage in trade and therefore would qualify for *lucrum cessans*, but in many cases there was no real likelihood that he would do so, either through inexperience or fear of loss, for example. I raise this point here in connection with the extrinsic titles, and we will look at it again when we discuss the moral questions of lending in today's economy.

One last subject that must be mentioned in our historical review are the *montes pietatis*.[28] These were institutions, sponsored usually by municipal governments or the Church, which made loans at low rates of interest to provide an alternative to usurers. They had some similarities to pawn shops in that they required that a pledge be left to cover the possibility of the loan not being repaid. As a rule they charged interest to cover their expenses, including salaries of their employees. Was this interest usury, and therefore despite the good intentions of their founders were the *montes* illicit? Previously it had been generally held that a loan of *mutuum* could be made only by a merchant who diverted funds to a loan, and probably out of charity toward the borrower. To justify the *montes* seemed to open the way for justification of lending itself as a business, for if the *montes* could charge for their employees' salaries, why could not a private pawnbroker do the same? Because of considerations such as this, they had many opponents, but the popes gave their approbation to numerous individual *montes* throughout Italy, and definitive approval came in 1515 with their acceptance by the Fifth Lateran Council, despite opposition by the famous Thomistic commentator, Cardinal Cajetan.[29] We will see that this approval of interest charges for expenses figures in our discussion below of licit and illicit interest.

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[28]On the *montes*, see Cleary, *The Church and Usury*, 106–13, Noonan, *The Scholastic Analysis of Usury*, 294–310, and Umberto Benigni, "Montes Pietatis," in *The Catholic Encyclopedia*, vol. 10, 534–36.

[29]For the text of the decree, see Denzinger, 1442–44.

Questions concerning what was and was not usury continued to be debated, sometimes bitterly, by theologians throughout Catholic Europe down to the middle of the eighteenth century. At this point (1745) there appeared the papal encyclical, *Vix pervenit*, already mentioned. *Vix pervenit* was the most extended discussion of usury ever to come forth from a pope, and it reaffirmed the essentials of the traditional teaching, while at the same time giving express allowance for extrinsic titles. Although originally addressed only to the bishops of Italy, and thus not a teaching binding on the entire Church, "it was extended to the universal Church by a decree of the Holy Office of July 28, 1835."[30] Since it is the controlling authority for our discussion, I will quote it again and more fully.

> The nature of the sin called usury has its proper place and origin in a loan contract [in contractu mutui]. This financial contract between consenting parties demands, by its very nature, that one return to another only as much as he has received. The sin rests on the fact that sometimes the creditor desires more than he has given. Therefore he contends some gain is owed him beyond that which he loaned, but any gain which exceeds the amount he gave is illicit and usurious.
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> One cannot condone the sin of usury by arguing that the gain is not great or excessive, but rather moderate or small; neither can it be condoned by arguing that the borrower is rich; nor even by arguing that the money borrowed is not left idle, but is spent usefully, either to increase one's fortune . . . or to engage in business transactions. The law governing loans consists necessarily in the equality of what is given and returned; once the equality has been established, whoever demands more than that violates the terms of the loan . . . .
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> By these remarks, however, We do not deny that at times together with the loan contract certain other titles—which are not at all intrinsic to the contract—may run parallel with it. From these other titles, entirely just and legitimate reasons arise to demand something over and above the amount due on the contract.[31]

Shortly after the appearance of *Vix pervenit* occurred the series of events, chiefly responses from various Roman congregations, which seem to some to constitute the Church's repudiation

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[30]Noonan, *The Scholastic Analysis of Usury*, 357.

[31]Denzinger, 2546–50.

of its hitherto constant teaching.[32] The decisions emanated from either the Holy Office, the Sacred Penitentiary, or the Sacred Congregation of Propaganda, beginning in 1822,[33] some of them with explicit approval by the reigning pope. They were addressed to confessors and their general tenor was the same: persons demanding interest on loans within the limits allowed by civil law should be left undisturbed and not denied absolution. Sometimes the proviso was added that penitents should be prepared to submit to any future decision of the Holy See. At the same time Rome never retracted the doctrine of *Vix pervenit* and even reaffirmed and applied it to the entire Church, as we saw above.[34]

After this period of acquiescence in the practice of taking interest on loans without any clear extrinsic title we come to more recent times, where the first thing to mention is the condemnation of usury in 1891 by Leo XIII in the encyclical *Rerum novarum*.

> Rapacious usury has increased the evil [of unrestrained competition, etc.] which, more than once condemned by the Church, is nevertheless, under a different form but in the same way, practiced by avaricious and grasping men.[35]

Although Leo does not explain what he means by "under a different form," I think it is clear that what he terms usury is simply what the Church always meant by it, especially since he states that it has been "more than once condemned." Thus we can see this as a simple reaffirmation of the traditional doctrine as stated previously in *Vix pervenit*.

Then the 1917 Code of Canon Law (canon 1543) reads,

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[32]On developments in the early nineteenth century, see Noonan, *The Scholastic Analysis of Usury*, 377–82, and Cleary, *The Church and Usury*, 168–77.

[33]Some of these are reproduced in Denzinger, 2743 and 3105–09.

[34]In addition, in a letter to an Irish priest in 1823, Rome specifically reaffirmed the doctrine of the encyclical. Cleary, *The Church and Usury*, 169–72.

[35]This is numbered as section 2 of the Paulist transation as published in *Seven Great Encyclicals* and elsewhere. The Latin text runs, "Malum auxit usura vorax, quae non semel Ecclesiae judicio damnata, tamen ab hominibus avidis et quaestuosis per aliam speciem exercetur eadem." The characterization of usury as *vorax* was traditional and goes back at least to the Roman poet Lucan, *Pharsalia*, bk. I, 181.

> If a fungible thing is given to someone in such a way that it becomes his and later is to be returned only in the same kind, no gain can be received by reason of the contract itself; but in the payment of a fungible thing, it is not in itself illicit to contract for the gain allowed by law, unless it is clear that this is excessive, or even for a greater gain, if a just and adequate title be present.[36]

Here again we see a restatement of the doctrine of *Vix pervenit*, followed, it is true, by words that seem to deny much significance to the doctrine. Finally in the very recent encyclical of Benedict XVI, *Caritas in veritate* (2009), in section 65, after noting the necessity of reorienting the financial sector toward the common good, the pope twice mentions protecting and helping to defend "the more vulnerable" or the "weakest members of society" from usury.[37] But let us now conclude our historical treatment and enter upon a discussion of whether and how the usury doctrine still binds consciences today.

3. Was there a change in the Church's teaching?

Without question the vast majority of those who are at all aware of the usury question would say that there was at least some change or evolution in the Church's teaching, however they might want to explain it. For certainly it appears that usury is no longer a sin that Christians need to worry about. But there is something curious about saying the Church's teaching has changed. When did

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[36]The footnotes to canon 1543 refer to the decrees of Lateran V, to the encyclical *Vix pervenit*, and to decisions of Roman congregations on usury in 1821 and 1878. Of course, the 1917 Code, since it has been abrogated by the 1983 Code, is now simply a witness to official understanding of doctrine at the time.

[37]Like Pope Leo, Benedict does not say what he means by the term "usury." But there is reason to think that he had in mind the historical rather than the modern notion. In the same section of the encyclical, the English version when speaking of "the experience of micro-finance," goes on to make mention of "the birth of pawnbroking." This might seem a strange thing to bring up until one looks at the Latin text of the encyclical, as well as the versions in the Romance languages (all available on the Vatican website). Instead of "the birth of pawnbroking," the Latin text has "de Montibus Pietatis constitutis," while the French has "la création des Monts de Piété," the Italian, "alla nascita dei Monti di Pietà," and the Spanish, "el origin de los Montes de Piedad." Clearly Pope Benedict was thinking of medieval conditions and institutions in this section.

this occur? When did usury in the sense which we mean by it here cease to be a sin? If we look in the first half of the nineteenth century as the best place to locate such a change, we find no statement by the Church during that time that says anything about repudiating the teaching of *Vix pervenit*, but rather the contrary, as we saw. Then in *Rerum novarum* we have a matter-of-fact reminder of the evil of usury, in the 1917 Code a bald-faced assertion of the medieval doctrine in its full rigor, followed by qualifications whose meaning and significance we will look at below, and most recently another denunciation of usury in *Caritas in veritate*. Even John Noonan, in an article written expressly for the purpose of proving that there had been changes, or developments as he called them, in moral doctrine, admits: "Formally it can be argued that the old usury rule, narrowly construed, still stands: namely, that no profit on a loan may be taken without a just title to that profit."[38] It is true that he continues, "in terms of emphasis, of perspective, of practice, the old usury rule has disappeared." What this means and what, if anything, can or should be done about this we will take up subsequently. But I do not think that there is any special difficulty in saying that Pope Benedict XIV's teaching from 1745 still retains its force today. One can certainly find a nearly universal practical neglect of the question of usury, but one looks in vain to find that the Church ever retracted, abrogated, or substantially altered her teaching on usury. Something of course did occur, and that we will try to understand and explain, but no one should have any hesitation about proclaiming the doctrine of *Vix pervenit* as the doctrine of the Catholic Church.

We have seen that beginning in the sixteenth century interest began to be routinely justified on loans by one or more of the extrinsic titles, and that about the same time the *contractus trinus* and the *census* allowed a lender pretty much the same security that he might seek in a simple loan at interest. Moreover, by the late sixteenth century these contracts did not even have to be correctly drawn up in order to avoid the stigma of usury, for an implicit good intention was widely accepted as sufficient. There is no doubt that theologians, well before the nineteenth century, while formally upholding the condemnation of usury, allowed for much that their

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[38]"Development in Moral Doctrine," *Theological Studies* 54, no. 4 (December 1993): 663.

medieval predecessors would have looked askance at.[39] Although in some instances these developments were sanctioned by Rome, by no means all of them were. The real change, not in doctrine, but in the application of that doctrine to economic life, came during these centuries and not in the 1820s or 1830s. Let us try to understand what took place.

When one reads the subtle analyses of usury by the theologians of the Baroque era, one cannot help but be impressed by their painstaking efforts. Nevertheless, the increasing complexity of commercial life made it difficult to say with any assurance what was and what was not usury. Even in the fifteenth century, Fra Santi (Pandolfo) Rucellai, who had been a banker before entering the Dominican order and who, at Savonarola's request, wrote a treatise on the morality of exchange banking, was unable to give a definite opinion on certain points.[40] And things did not improve as time went on and as contracts and commercial practices grew more exotic. By the beginning of the nineteenth century, or so it appears to me, the Roman authorities basically threw up their hands and decided it was better to allow penitents to take moderate rates of interest on loans than to continue to analyze contracts and reach decisions on matters more and more opaque, especially because in many or most cases probably some kind of just title to interest did exist. In general moralists and moral theology textbooks began to retreat from an engagement with the facts of economic life. Fr. John Cronin notes this as follows:

> Our moral theology texts were, in general, hopelessly out of date in applying moral principles to economic life. Apparently few moralists knew enough about economic facts to work out a realistic and complete solution. Hence moral teaching generally confined itself to obvious justice and injustice and clearly defined motives.[41]

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[39]Aquinas, for example, had denied *lucrum cessans* because of the merely speculative quality of the lost gain. See *Summa theologiae* II-II, q. 78, a. 2, ad 1.

[40]Noonan, *The Scholastic Analysis of Usury*, 317.

[41]John F. Cronin, *Catholic Social Principles: the Social Teaching of the Catholic Church Applied to American Economic Life* (Milwaukee: Bruce, 1950), 44–45. Apparently this was nothing new, though, since Domingo de Soto (d. 1560) complained that few theologians of his day understood the details of the banking system. Cited in Noonan, *The Scholastic Analysis of Usury*, 336.

In other words, it was easier to say of those involved in transactions the usurious nature of which was doubtful, that they ought not to be disturbed, than either to try to apply the principles of the usury doctrine to the complex facts of the situation or still less to make the gigantic efforts required to orient the economy away from financial speculation and emphasis on individual enrichment toward an economy based on production for use and a recognition of the claims of society as a whole.

This change in the Church's approach to usury did not pass unnoticed. Various authors explained it in various ways, commonly arguing, however, that in modern times the nature of economic activity or the function of money differed essentially from what obtained in the middle ages.[42] In our last section we will try to understand what really happened when we try to understand what the Church's teaching on usury should mean for Christians today.

4. Argumentation in support of scholastic doctrine

Before proceeding to look at the significance for us today of the Church's prohibition of usury, I want to argue anew for the correctness of the teaching of *Vix pervenit*, based on St. Thomas' argumentation, which looks to the consumptible nature of money as the key point. I do this so that we might approach the question of the meaning of the usury rule with a positive appraisal of the scholastic doctrine and regard it as something that must be understood rather than disregarded as a relic of the past.

We might remember that as far back as *Ejiciens* thinkers had distinguished between something loaned that "deteriorates in use" and something that, "when it is lent, is neither diminished nor

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[42]Francis X. Funk in the middle of the nineteenth century suggested such an explanation based on the changed use of money. Cf. Noonan, *The Scholastic Analysis of Usury*, 385–87. Heinrich Pesch proposed that the "expansion of production and commerce" and the fact that "everyone who has the necessary funds at his disposal could actively participate in commercial life" justified routine interest taking. *Lehrbuch der Nationalökonomie/Teaching Guide to Economics*, translated by Rupert J. Ederer (Lewiston: Edwin Mellen, c. 2003), vol. 5, book 2, 197–99. John A. Ryan stated, "The money in a loan [today] is economically equivalent to, convertible into, concrete capital" (*Distributive Justice*, 3rd ed. [New York: Macmillan, 1942], 124).

deteriorated."[43] Money is certainly the most common representative of the latter class, but is not the only one. As we saw, St. Thomas based his argument on the more general class of consumptible things. And I think that if we look at more humble consumptibles, such as food or drink, we might be able to look at the question afresh and understand the Church's doctrine better. Let us consider the following analogy.

Suppose we have a small businessman who owns a catering service, catering food and drink, and let us suppose further that all the supplies that accompany the food and drink are disposable, such as plastic forks, paper napkins, etc., so that there is nothing he provides to his customers that he must reuse. Now what may he licitly charge his customers for? For the replacement cost of the food and drink and the other disposable supplies, certainly. In addition, he may charge each customer for a share of the overhead for his shop, including rent, utilities, etc., his delivery van, for wages for any employees, for any legitimate interest payments he must make, and for a "return for his labor of organization and direction, and for the risk that he underwent."[44] But as regards the food and other consumptibles that he provides, it is hard to see how he can charge a customer for more than the amount purchased. If he furnishes 100 bottles of wine, the caterer may charge what it will cost him to replace a similar kind and amount of wine. Anything he charges a customer in addition must come from one of the other titles I mentioned above, such as costs incident to the running of his business and wages for his employees and for himself.

This last is what is generally called *profit*, a term that is often used loosely and inexactly. As we see here, Ryan reduces it to the proprietor's labor, plus his entrepreneurial abilities and risks. It is not an open-ended invitation to charge as much as the market will bear, but rather there must exist some title of justification such as Ryan enumerates here. Looked at in this way the limiting of the reimbursement for the consumptibles sold seems obvious. Of course the caterer cannot charge for 110 bottles of wine if he delivers only 100. His profit, in reality his salary and compensation for risk, etc., comes

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[43]I noted above that St. Thomas rejected the "wear and tear" argument; however, this argument seems to me the best reason why it is licit to charge for the use of something such as a house, whose ownership is separable from its use.

[44]Ryan, *Distributive Justice*, 176.

otherwise and is not gained at the expense of expecting more in return than what he supplied.

We can now easily apply this analogy to loans of *mutuum*. Supposing someone is in the business of making loans, then similar expenses could justly be taken from customers. The *montes pietatis* acted in similar fashion. Of course the *montes* were not profit-making in the sense that they intended to earn more than their expenses, including salaries. But according to Ryan's analysis of business, no business is profit-making in the sense that it can justly seek as wide profits as it can obtain. The owner can seek a fair "return for his labor of organization and direction, and for the risk that he underwent." Although one cannot calculate such returns with mathematical exactness, neither can one maintain that they have no theoretical limit.[45] And even if one were to argue that there should be no limit on such a return for labor, skill and risk, still that is not the same as saying that usury for the lending activity itself may be taken, for we have seen that here the entrepreneur can require only the same amount as the consumptible good that he has provided, "the equality of what is given and returned," as Benedict XIV taught.

Of course in the case of our caterer he receives immediate or nearly immediate payment for his expenditure on food and other consumptibles. A loan, however, is generally paid back after a period of time, or gradually during such a period. Is not the lender entitled to some compensation on account of this delay? No, for "the mere time differential by itself does not cause a difference in value. There must be added the possibility of earning a profit in the intervening time period."[46] In other words, one must have a title such as *lucrum cessans* or *damnum emergens* to justify receiving interest, for the mere fact of delay by itself does not equate to the right to contract for more than the principal.[47]

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[45]"The great majority of businessmen in competitive industries do not receive incomes in excess of their reasonable needs. Their profits do not notably exceed the salaries that they could command as hired managers, and generally are not more than sufficient to reimburse them for the cost of education and business training, and to enable them to live in reasonable conformity with the standard of living to which they have become accustomed" (Ryan, *Distributive Justice*, 190).

[46]Pesch, *Lehrbuch der Nationalökonomie/Teaching Guide to Economics*, vol. 5, bk. 2, 200.

[47]Another way of looking at this example that yields the same conclusion is to regard a *mutuum* of money as a *sale*. As in the case of the caterer who provides 100

I have argued both that the Church has not changed her teaching on usury and that one can make a reasonable argument for the validity of the intrinsic injustice of usury itself. On both these points, it seems to me, assent to the scholastic teaching is not where the real difficulty is. That lies elsewhere, in the question, what does it mean? Or better, does it have any meaning except as an empty and antiquated formalism? Assuming that we accept at least some of the extrinsic titles and other practices that grew up during the Renaissance, would adherence to the usury prohibition today make any real difference in our economic and legal practices?

5. Application of usury theory to contemporary economies

If what I have said is correct—if, based both on arguments from reason as well as on a failure to find that the Church ever retracted her papal and conciliar teaching on usury, it is the case that the "law governing loans consists necessarily in the equality of what is given and returned"—then there are two chief questions that concern us in this last section. In the first place, returning to my title, Is Usury Still a Sin?, we have to ask what effect the intrinsic evil of usury should have on the moral conduct of the Christian. Is there anything that Christians should do or avoid in their financial or economic behavior as a result of the sinfulness of usury? Secondly, what meaning does usury have in an economy hopelessly enmeshed in all kinds of interest-bearing transactions as a matter of course and without a thought as to any justifying title? Given that for centuries theologians have found it easy to justify most forms of interest, are we committing the Church to a ridiculous anachronism, a relic of the past? Are we hankering after a silly formalism in order to justify something that it is easier and more honest simply to call interest on a loan?

In regard to our first question, in light of the various Roman decisions of the nineteenth century and of the 1917 Code, no one

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bottles of wine and receives as part of his total payment the price of the 100 bottles, no more and no less, if we look at money loaned as a sale of money we see that the price of $100 is obviously $100. Any other just charges come from the same titles as the caterer had, such as overhead expenses, wages, etc. For the product provided, money, one can charge only what it is worth, which is always its face value.

can be condemned for taking the legal or customary rate of interest on a loan, provided that it is not excessive. The reason for this, I argued above, is that the complexity of modern finance renders it safer simply to allow moderate interest than to engage in probably fruitless endeavors to determine the presence or absence of extrinsic titles. The Church presumes these titles to exist generally and makes the judgment that even if in some cases they do not, it is better for the sake of consciences to ignore that fact. The remedy always exists, moreover, for restitution to be made via almsgiving in case a penitent is troubled or there seems a well-founded and probable case of real usury.

Of course, it should go without saying that the interest rates of loansharks and others on so-called payday or similar loans, which can reach even 500% per annum, have clearly no justification in any extrinsic title, and no Catholic can lawfully have anything to do with such loans.[48] Such usury is a serious offense against justice and ought to be strictly prohibited by the civil law. Unfortunately, since 1978 in the United States judicial decisions and the gradual repeal of state laws regulating usury have allowed such gross injustices to flourish.[49]

The ecclesiastical decisions of the 1820s and 1830s were addressed to confessors and did not purport to change the usury doctrine as expressed in *Vix pervenit*. So even though no one can be criticized for taking moderate interest, I think that in some cases one can detect the presence of usury in modern interest. For example, while it is certainly correct to point out that today there is usually opportunity for productive investment, and that therefore those who put money out at *mutuum* but would otherwise invest it in some manner are entitled to claim *lucrum cessans*, this reasoning does not always hold. In certain cases of depression or recession, "the profit

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[48]"Even higher rates of interest are not unheard of, as one Indiana payday lender offered a loan of $100 with interest of $20 per day—an APR of 7,300%" (John Skees, "The Resurrection of Historic Usury Principles for Consumption Loans in a Federal Banking System," *Catholic University Law Review* 55, no. 4 [Summer 2006]: 1132). As late as the mid-1970s most state usury laws set a limit of 10%, and the model Uniform Consumer Credit Code proposed a maximum of 18% (Lawrence P. Galie, "Indexing the Principal: the Usury Laws Hang Tough," *University of Pittsburgh Law Review* 37, no. 4 [Summer 1976]: 764).

[49]The 1978 Supreme Court decision, Marquette National Bank v. First of Omaha Service Corp., 439 U.S. 299, made inevitable the eventual demise of state laws regulating interest rates.

expectations of businessmen are likely to be so low that they would not employ men and machines on new investment projects even if you let them borrow temporarily at a zero interest rate."[50] In such cases "some savings will follow the sterile path of debt-financed consumption, with eventual repayment at the expense of current consumption."[51] In other words, in such situations a lack of consumer demand makes spending on productive investment unprofitable, so it is likely that someone putting money out at *mutuum* is not truly forgoing investment profit, because no profit is to be had for the time being. Thus when there is excess savings with no outlet for profitable use, it is hardly in accord with the common good to reward those who choose to loan by giving them a rate of interest based on a merely hypothetical opportunity cost.

We must remember that since the extrinsic titles were never given official approval except as compensation for lost opportunities for investment earnings "they can never be advanced as a justification of a general loan system based on motives of profit."[52] Thus it seems hard to justify *lucrum cessans* for those who have no real intention of making investments, simply because such opportunities are readily available to all. What of ordinary savers who desire to put their money into insured savings accounts at banks and who because of inexperience or fear of loss have no desire to invest in business ventures, even to buy shares of stock or mutual funds? They are not undergoing a real loss of investment income on account of their loan of money to the bank, since otherwise they might have simply hidden the money in a mattress. I do not see how the merely theoretical possibility that they could make gains from investments applies to them, since they are too risk-averse to do so. Can they licitly claim interest on bank accounts and under what title? I think there is a reason for thinking such interest just, but it is not one of the extrinsic titles that theologians approved. It is the mere fact of inflation. "He who receives a loan of money . . . is not held to pay back more than he received by the loan"[53]—but with our ability to

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[50]Paul Samuelson, *Economics*, 9th ed. (New York: McGraw-Hill, 1973), 336.

[51]John F. Cronin, *Economics and Society* (New York: American Book Co., 1939), 131.

[52]John P. Kelly, *Aquinas and Modern Practices of Interest Taking* (Brisbane: Aquinas Press, 1945), 33.

[53]*Summa theologiae* II-II, q. 78, a. 2, ad 2.

monitor the level of inflation in an economy, we realize that money simply left alone, as in a mattress, will actually diminish in value. Therefore payment for inflation for money deposited in a bank or credit union seems just.

Moreover, it does seem possible to roughly distinguish a just rate of interest, anything above which would be usury. If we consider the rate of interest on government bonds, historically the safest investment possible, as risk-free for all practical purposes, we can then examine other interest rates in their light. The following discussion refers to Australian interest rates.

> For example, on 5 January 2002, the ten year government bond rate was 5.21%, and home mortgages were 6.3% while inflation was about 2.5%. The gap between home mortgage rates and government bonds of about 1.1% was due to the riskiness of lending to home buyers compared to the government. By subtracting inflation, the government bond rate is reduced to about 2.7% which is known as the real rate of interest. Markets anticipate a fall in rates, so there is a negligible liquidity preference effect. This means that 2.7% of the loan interest on government bonds, home mortgages and all other lending is purely the result of the expectation of the lender for a return in excess of the principle. That looks suspiciously like usury.[54]

This analysis justifies the interest paid on government bonds only on the basis of inflation, apparently without considering the presence or absence of any extrinsic title. Nevertheless it suggests an interesting way of approaching the question. Another method of analysis is to recall that interest legitimately taken is compensation for an investment opportunity forgone. Thus a just rate of interest could in principle be formulated based on the expected return of an investment which the lender had the opportunity of profiting by, assuming that it was possible to specify a general rate of profit for any particular place and time.

> Abstracting from statutory regulation of interest, and from any special expense or risk of loss incurred by a lender . . . the criterion [of a just rate of interest] is the just rate of profit from investment. This does not mean that the just rate of interest is

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[54]Garrick Small, "Rapacious Usury: Fact or Fiction?" unpublished paper presented at the Campion Fellowship meeting in Toongabbie, Australia, in January 2002, p. 7. Used with permission of the author.

> exactly the same as the just rate of profit . . . [for] 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 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.[55]

We must remember that "the modern world . . . 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."[56] Often we will agree with T. S. Eliot's confession: "I seem to be a petty usurer in a world manipulated largely by big usurers."[57] The point of these last examples is simply that even in an economy that gives and receives interest as a matter of course we can at times distinguish what might be legitimate interest from what is probably usury. Although the praxis of the Church for the past two hundred years has been not to disturb consciences on the subject, that does not mean that there is anything wrong with discussion of the matter and with attempts to identify usury where it is present. An increased consciousness of the evil and the ubiquity of usury today (cf. *Rerum novarum*) cannot but help to make Christians more aware of what to our ancestors was one of the greatest of sins.

Another benefit of discussion of the presence of usury in today's financial transactions is that it might lead to steps to establish institutions which avoid or minimize usury. One possible means of overcoming loansharking, for example, is an institution with some resemblance to the medieval *montes pietatis*, the credit union.[58] A commercial bank has stockholders who expect to receive a return on their investment. If establishing a commercial bank can be considered as a legitimate investment activity, then some return for the

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[55]Lewis Watt, "Usury in Catholic Theology" in *Readings in Economics*, ed. Richard Mulcahy (Westminster, Md.: Newman, 1959), 278.

[56]Kelly, *Aquinas and Modern Practices of Interest Taking*, 20.

[57]"The Idea of a Christian Society" in *Christianity and Culture* (San Diego: Harcourt, Brace Jovanovich, [1939] 1977), 77.

[58]Pope Benedict also commends credit unions in his encyclical, *Caritas in veritate*, 65.

bank stockholders is just. But still, whatever the stockholders receive must be paid for by higher interest rates on loans and higher bank fees. This is not the case with credit unions, which are not profit-making institutions in that sense. Of course they pay wages to their employees, as did the *montes pietatis*, and for the necessary expenses of providing loans.[59]

Today the only financial institutions that operate with the goal of avoiding usury altogether are Islamic banks.[60] If usury is unjust, why are Christians not as active in promoting these sorts of financial institutions as Moslems? Let us in conclusion look briefly at a few more financial practices and institutions which Christians might promote were we to recover the zeal for economic justice that characterized Catholics at an earlier period.

> 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

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[59]One very important topic which space prevents me from taking up is the question of bank-created money. Although it would be possible for a banking system to work otherwise, ours operates by creating money as debt. Most of the money supply today originates in this way. The banking system creates money out of nothing and yet banks charge interest on this money as they loan it out to borrowers. Almost all of the interest on such loans seems to be nothing but usury. See Rupert J. Ederer, "Is Usury Still a Problem?" *Homiletic & Pastoral Review* 84, nos. 11–12 (August–September 1984): 18–20.

[60]Islamic banks claim to engage in risk-sharing agreements with their borrowers, although there is some dispute about whether in fact they do that as much as they claim. See Timur Kuran, "Islamic Economics and the Islamic Subeconomy," *Journal of Economic Perspectives* 9, no. 4 (Fall 1995): 155–73. Kuran claims that the whole notion of Islamic banking originated with Maududi (or Mawdudi), an Indian/Pakistani Moslem theorist of the mid-twentieth century. But see the two bibliographies on Islamic banking, part of a bibliography on Islamic law, the first of which lists works earlier than Maududi's activity: *Law Library Journal* 78, no. 1 (Winter 1986); the section on Islamic banking is at 161–62. The update appeared in the same journal, vol. 87, no. 1 (Winter 1995); the section on banking appears at 122–25.

> 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.[61]

Such a doctrine of money is akin to Paul VI's doctrine of property in *Populorum progressio*.

> [P]rivate property does not constitute for anyone an absolute and unconditioned right. No one is justified in keeping for his exclusive use what he does not need, when others lack necessities . . . . If certain landed estates impede the general prosperity because they are extensive, unused or poorly used, or because they bring hardship to peoples or are detrimental to the interests of the country, the common good sometimes demands their expropriation. (23–24)

Clearly expropriation of funds that are being used merely in idle usury should be a last resort, and normally the law will use financial incentives and penalties to direct such funds toward uses more in accord with the common good. But no Catholic need be afraid to acknowledge that "the public authority, in view of the common good, may specify more accurately what is licit and what is illicit for property owners in the use of their possessions."[62] A Christian society, then, by outlawing true usury completely, and by forbidding or discouraging the kinds of contracts that during the Renaissance helped undermine the usury prohibition among both theologians and merchants, would seek to direct money toward its proper use. Some form of credit union might be adequate to provide financing for non-productive consumer loans. The demand for commercial credit could be satisfied either by merchants diverting funds from investments, and licitly claiming *lucrum cessans*, or by some form of commercial credit union run by associations of businesses.

Just as in the Great Depression of the 1930s, so also now events are forcing theologians and moralists to turn their attention to the economy. But in reality, Catholics should have as lively a sense of the demands of the moral law relative to the economy as they do relative to sexuality or war.

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[61]Kelly, *Aquinas and Modern Practices of Interest Taking*, 46–47.

[62]Pius XI, *Quadragesimo anno*, 49 (Paulist translation).

> In the Middle Ages, it was taken for granted God's law applied to the totality of life. The idea of a double standard of morality, with a strict code for private life and a minimum of moral obligation for business and public life, is an innovation based on philosophical and religious individualism of the eighteenth century.[63]

However far we are today from a Christian society or a Christian economy, the goal "to impress the divine law on the affairs of the earthly city" (*Gaudium et spes*, 43) is always present. With respect to usury the Church has been clear in setting forth a principle, a principle it is true that must be intelligently applied to the complex circumstances of financial life, but which nonetheless is a standard for both individual and social conduct. The doctrine on usury establishes a social goal, and even if we cannot fully achieve that now there are various intermediate goals that we can work toward implementing. □

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[63]Cronin, *Catholic Social Principles: the Social Teaching of the Catholic Church Applied to American Economic Life*, 43.