

Sir William Blackstone

by
Henry Swabey

Appendix II in Usury and the Church of England

List of Contents

1. Background	3
2. The Early Church	7
3. The Medieval Church	10
4. Before the Reformation	18
5. Church Mints	23
6. A Just and Stable Price	29
7. Cloth is My Bread	33
8. Partnership	37
9. Usury Legalized	51
10. Legalized Usury is not Legal	58
11. Usury Moralized	73
12. Eighteenth Century	81
13. After Waterloo	88
14. Christian Socialism	103
15. Recovery	114
<i>Bibliography</i>	124
<i>Appendix I Dante Aligheri</i>	126
<i>Appendix II Sir William Blackstone</i>	127
<i>Appendix III Tawney on Banking</i>	128
<i>Appendix IV Discourse Upon Usurye</i>	138
<i>Appendix V Tawney on Usury</i>	150

May 2008

a cesc publication
edited by Peter Etherden

Appendix II. Sir William Blackstone by Henry Swabey

Sir William Blackstone, in addition to being a renowned judge and writer on the law, was a solid churchman. He lectured at Oxford, and these lectures were printed in 1765 under the title of *Commentaries on the Laws of England*.

In his commentaries he gave the law on usury as it was then,

“by the statute 12 Ann. st. 2.c.16 it was brought down to five per cent, which is now the extremity of legal interest that can be taken” (2.463).

Blackstone defined usury as:

“an unlawful contract upon the loan of money, to receive the same again with exorbitant interest” (4.156)

Blackstone also wrote about usury (2-454-7):

“...the enemies to interest in general make no distinction between that and usury, holding any increase of money to be indefensibly usurious...hence the school divines have branded the practise of taking interest, as being contrary to the divine law both natural and revealed; and the canon law has proscribed the taking any the least increase for the loan as a mortal sin.”

He continued regarding the permission granted the Jews in the Mosaic law:

“to take it of a stranger...proves that the taking of moderate usury, or reward for the use, for so the word signifies, is not *malum in se*...”

And as to the reason supposed to be given by Aristotle, and deduced from the natural bareness of money, the same may with equal force be said of houses, which never breed houses.

And though money was originally used only for the purposes of exchange, yet the laws of any state may be well justified in permitting it to be turned to the purposes of profit, if the convenience of society (the great end for which money was invented) shall require it.

And that the allowance of moderate interest tends greatly to the benefit of the public, especially in a trading country, will appear from that generally acknowledged principle that commerce cannot subsist without mutual and extensive credit. Unless money therefore can be borrowed, trade cannot be carried on. And if no premium were allowed for the hire of money, few persons would care to lend it.

Thus in the dark ages of monkish superstition and civil tyranny, when interest was laid under a total interdict, commerce was also at its lowest ebb, and fell entirely into the hands of *Jews* and *Lombards*. 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 inseparable companion, the doctrine of loans upon interest.

And as to any scruples of conscience, since all other conveniences of life may either be bought or hired, but money can only be hired, there seems to be no greater oppression in taking a recompense or price for the hire of this, than of any other convenience.

To demand an exorbitant price is equally contrary to conscience for the loan of a horse or the loan of a sum of money. But a reasonable equivalent for the temporary inconvenience, which the owner may feel by the want of it, and for the hazard of losing it entirely, is not more immoral in one case than it is in the other.

Without some profit allowed by law there will be but few lenders and those principally bad men, who will break through the law...and then will endeavour to indemnify themselves from the danger of the penalty, by making the profit exorbitant.