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The Juridical Subject of 'Interest'

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In this essay I recover the juridical applications of 'interest' in Roman law, and examine how their initial relationship to financial practices shifted, for a theoretical appreciation of interest-related subjectivity. Drawing on Hegel's discussion of Roman law, I explore the retrospective narrative of subjectivity constructed by the adjudication of interests before the term 'interest' came to apply to money. Examining Albert Hirschman's argument that rationality of interest derives from its origins as a euphemism for usury, I describe how the verbal change reflects the incursion of money into legal terrain that previously excluded it, representing a moment of categorical erosion within the law. I argue that monetary inflation is a critical context for interpreting the effects of this categorical erosion on interest-related subjectivity. Inflation replaces the retrospective narrative of identity with one that is future-oriented and is no longer determined at any single site of adjudication, and therefore remains contested.

Keywords: *conceptual history; interest; Hegel; Hirschman; history of economic thought; subjectivity; usury*

In *Keywords*, Raymond Williams notes that 'interest' exemplifies how "our most general words for attraction and involvement . . . have developed from a formal objective term in property and finance."¹ Williams elaborates no further on this point, but his remark points intuitively toward the centrality of interests for comprehending modern subjectivity, a centrality whose position liberalisms, critical theories, and political-science methods from positivism to formal modeling have adopted and advanced. Among political theorists and conceptual historians, however, emphasis on a financial origin of 'interest' has obscured its other origin suggested in Williams's

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brief remark, namely in legal matters pertaining to real property.² These theorists' and historians' accounts have consequently occluded a distinctively juridical history of interest. For example, Albert O. Hirschman's classic essay, *The Passions and the Interests*, and Stephen Holmes's defense of liberalism in *Passions and Constraint*, both argue that the origin of 'interest' as a euphemism for usury binds the concept of interest to the rational preoccupations of commercial culture.³ They combine this view with another often-touted origin of political interest, namely in Renaissance humanism at the intersection of reason-of-state literature and the mirror-of-princes genre, as explored in J.A.W. Gunn's studies of the vogue of interest-talk in early modern English political discourse.⁴ On these grounds, Hirschman argues that the emergence of interest as a category of moral, social, and political discourses is a key element in the change from feudal to bourgeois society.⁵ He describes how interest, with its essential kernel of calculating self-regard, usurped the place of self-love in moral and political discourse as the proper defense against passions, and rendered palatable the pursuit of gain along the way. Hirschman remains ambivalent about the loss of a richer moral language for examining economic and political life.⁶ Holmes builds on Hirschman's history but takes a more sanguine view of the developments it describes, arguing that the egalitarian (if somewhat cynical) implications of the ascent of interest sets the stage for a greater moral good, namely, liberal democracy.⁷ For both of these authors, the confluence of humanist and financial origins of the term in a moral vocabulary of motivations secures the fundamentally individual and rational character of interest.⁸ The kind of reason thus imputed to the individual accords with a picture of interest as calculable in ways amenable to exchange: a person acting in her interest is said to choose among options after weighing their perceived benefits.⁹ Sweeping as they are, these accounts of emerging modern subjectivity pass over the legal applications and inflections of 'interest' and its cognates in early modern European languages.¹⁰ They therefore downplay or miss altogether the importance of the Roman-legal formula *id quod interest* for the adjudication of real property and indemnity; it is by way of this formula that the word 'interest' was first disseminated across Europe in the practice of Roman law. In so doing, they deflect attention from juridical traces in the uses of the term 'interest' in early-modern and present-day political discourses. To the degree that the term's legal origins and inflections have been overlooked in conceptual histories and analyses of interest, theoretical appreciation of interest-related subjectivity remains incomplete.

In this essay, I follow Hirschman's, Holmes's, and Williams's program of interpreting the history of interest as a window into elements of modern

subjectivity, but I take the roots of ‘interest’ in *id quod interest* as an alternative point of departure.¹¹ So doing, I recover the juridical applications of ‘interest’ as they appeared before and changed throughout its shifting status vis-à-vis financial practices for a theoretical appreciation of interest-related subjectivity.¹² The juridical aspect of interest, with its roots in Scholasticism, is distinct from and irreducible to the economic and humanist roots of interests that Hirschman and others have explored. By juridical, I understand three elements: a norm, conflict or contest over application of the norm, and a decision (including a “who decides”).¹³ Tracking these elements throughout the history of interest’s relation to financial practices and within the present-day grammar of ‘interest,’ I argue that a juridical history offers a model that replaces a view of interest as essentially about calculating self-regard with a view of ‘interest’ as a medium of self-understanding and of action, and therefore of self-constitution. As changing economic conditions and practices interact with the juridical model, appeals to ‘interest’ are revealed as a medium for justifying action on the part of selves and others as a means of realizing an identity from among a field of possibilities. In other words, appeals to ‘interest’ enjoin the active realization of *who* somebody is. A juridical history further suggests how these articulations of identity are contested and incomplete, as indicated by the difficulty of arriving at a final, unproblematic, or uncontested claim about interests in political discourse and political inquiry alike.¹⁴ Lastly, although examining the early modern vogue of ‘interest’ in English and French political and moral discourses is beyond the scope of this essay, laying out the juridical aspects of interest suggests ways that interpretations of the period, such as those offered by Hirschman, Holmes, and Gunn, may be revisited.

I develop my claim about interests in methodological, philosophical, historical, and interpretive stages. In terms of method, in order to de-center the commercial and financial associations of interest and make room for the juridical, I argue in the second part of this essay for a semasiological or word-focused approach to the conceptual history of interest. A word-focused approach emphasizes heterogeneity and highlights the pitfalls of positing euphemism as a conceptual origin. In light of Hirschman’s turn to interest to elucidate the development of commercial society, in the third part of this essay I draw on Hegel’s *Philosophy of Right* to explore his precedent for theorizing commercial life in terms of its relation to the law. In this work, Hegel turns to the adjudication of property claims covered by *id quod interest* as he develops a theory of legal subjectivity, or personality.¹⁵ Augmenting the conceptual-historical approach by drawing on *Philosophy of Right* establishes a second, theoretical means by which Roman legal

categories and practices connect with theories of modernity. Reading a conceptual history of 'interest' through this text moreover presents an opportunity to broaden the appreciation for Hegel's contribution in political theory, which has tended to emphasize his exploration of the psychic pathologies of modern life by way of his *Phenomenology of Spirit*.¹⁶ *Philosophy of Right*, by contrast, turns us to Hegel's examination of the pathologies of civil society, and of the nature and kinds of reason reflected in these pathologies and their resolutions.¹⁷

In the fourth part of this essay, I draw on literatures pertaining to interest and usury offered by historians of economic thought, economic historians, and the *Geschichtliche Grundbegriffe* with the foregoing methodological and philosophical considerations in mind.¹⁸ Taken together, these materials direct our attention to the erosion of Roman-legal categorical thinking at the end of the medieval period as it pertains to the ownership and productive capacities of money in particular. Whereas the typical story emphasizes that the word 'interest' is extended *to* a financial practice, my story takes into account the *from where* it is extended, namely legal matters involving real property associated with *id quod interest*. I emphasize how the incursion of money into legal matters associated with real property, a domain from which money was earlier excluded, reflects changing legal views of money and a changing economy during the age of exploration and the early colonial period. The Sixteenth Century Price Revolution, during which price increases were unprecedented in their degree, temporal persistence, and geographical extent, is of especial interpretive significance for my argument. Turning to my interpretive account in the fifth part of this essay, I argue that the admixture of juridical 'interest' with financial practice adds inflationary considerations to the adjudication of real-property concerns and thus adds futurity and uncertainty to the picture of interest-related subjectivity. I contend that Hirschman's notion of interest as originally a euphemism for usury obscures these effects of the intrusion of financial practices upon the juridical scene where 'interest' was formerly contained. Since the financial sense of 'interest' follows and draws upon juridical uses, the picture of modern subjectivity as it has been suggested by Williams and imputed by Hirschman and Holmes stands in need of revision.

Conceptual History and the Word

Despite their nods to word history, Hirschman's and Holmes's studies pay little attention to the variety of applications of the word 'interest.' Instead they

search for precursors of a concept of interest that focuses from the outset on a propensity for self-regarding calculation commensurate with the individual's orientation to money. Hirschman briefly acknowledges that the term has forebears (e.g., *intérêt* and *interesse*), but says that the "idea" or "concept" of interest "has stood for the fundamental forces, based on the drive for self-preservation and self-aggrandizement, that motivate or should motivate actions of the prince or the state, [and] of the individual."¹⁹ He identifies "two essential elements" that he says "characterize interest-propelled action: *self-centeredness*, that is, predominant attention of the actor to the consequences of any contemplated action for himself; and *rational calculation*, that is, a systematic attempt at evaluating prospective costs, benefits, satisfaction, and the like."²⁰ Owing to this conceptual peculiarity of 'interest,' Hirschman cites as a "simple fact" that "each person is best informed about his or her own [interests]," because he or she is "best informed about his or her *own* desires, satisfactions, disappointments, and sufferings"—interest being little more than a rational amalgamation of these and similar emotions.²¹ Hence Hirschman, like others, treats self-interest as central to and even an origin of the concept of interest.²² As for squaring this conceptual definition with evidence, Hirschman sometimes points out the appearance of the word 'interest' in a text, but often he identifies "*the* notion of interest" or "*the* idea of interest" as being "used" in various contexts independent of the appearance of the word.²³ He does not say how the forebears and cognates of 'interest' supported this concept or what they might have indicated prior to Renaissance and early modern discourses on statecraft and individualism, or the term's eventual ("euphemistic") employment in financial matters.²⁴ These earlier (pre-euphemistic) uses do not accord with the propensity for rational calculation since prior to the sixteenth century the adjudication of 'interest' excluded rational calculation, a point to which I will return below.

Correcting Hirschman's bias calls for a methodological reorientation. Like all non-technical words, 'interest' is multiple in its uses; although we may grasp what 'interest' means in a particular context, grasping the essence of interest or expressing it with any one formula, utterance, or univocal concept is impossible.²⁵ 'Interest' has a great variety of uses, and no one sense of the word encompasses them all, yet these heterogeneous senses do all share a relationship to the word 'interest'; the word is precisely what the uses do have in common. Therefore figuring the relationship between words and concepts more closely may be useful for the study of a concept like interest whose history is so long and bears so many conflicts. An approach that is closely attuned to the uses of the *word*—known as semasiology—offers the possibility of seeing more clearly the processes

by which Hirschman's "two essential elements" of interest came to be *a* sense of 'interest' and *a* form of subjectivity, potentially decoupling and rendering inessential these relations and thereby suggesting other possibilities. A semasiological approach can also overcome a difficulty presented by turning to the rich literature around the origins and legitimacy of charging a fee on a money loan for insights into the language of interest in early modern and modern politics.²⁶ Historians of economic thought continue to explore the emerging legal acceptance of charging a fee on a money loan, but their accounts cannot address the matter of interest-related subjectivity (which is in any case beyond the scope of their inquiries) because they presume from the outset that interest is essentially a permanent net income owed to the individual owner of a capital sum in the form of a fee charged on a money loan.²⁷ Thus defined, interest (like the time value of money which it is said to express) is an ahistorical phenomenon, even if it is only fully realized and realizable in developed capitalist economies. They see medieval wrangling over interest mainly as the struggle of scholastics, jurists, money-lenders, and others to square the law with a timeless economic fact in a way that minimizes coercion and extortion. Therefore very few mention *id quod interest* or other uses of 'interest' aside from the pecuniary at all, and none give them sustained attention.

Despite the ready trunk-and-branch arboreal metaphor commonly used to discuss word histories, language is also rhizomatic; conceptual relationships are crosscutting connections among a word's many uses.²⁸ Excluding a use or family of uses from consideration cannot but impoverish scholars' appreciation of a concept like interest, regarding both its historical development and its present-day grammar. Therefore the legal uses of the term aside from its relation to usury must be given their due. These applications, far from having been swept away by history, still resonate in the word's uses. On the one hand, 'interest' is a noun related to having a stake or share in something; on the other hand, it is a verb in the sense of making someone partake of or be concerned about something. Once we stop thinking of self-interest as a center or origin of interest and allow these other uses to have their say, we can begin to see what the various historical and grammatical threads in the concept of interest *bring to* notions of selfhood that 'interest' is called upon to characterize.²⁹ Therefore recovering the legal origins of 'interest' for political theory is not a merely antiquarian exercise; noting how the uses of 'interest' changed when the term became associated with the practices of charging a fee on a money loan not only sheds light on how 'interest' came to refer to calculating self-regard, it also highlights aspects of interest-related subjectivity that are presupposed by and can exceed rational calculation.

***Id Quod Interest* and Hegel's Theory of Personality in Property and Contract**

The forebears of 'interest' entered vernacular European languages by way of the various uses and extensions of the Roman legal term *id quod interest*. Uses of these words were by definition invocations of a Roman legal concept and conveyors of its implications, even if the relation of Roman law to canon law and to regional and national juridical practices varied by time and place.³⁰ Therefore dramatic expansion of the uses of 'interest' in seventeenth-century England, a development generally taken as the origins of its importance to political discourse, was long preceded by the earliest appearances of the word as a noun in English (i.e., *interesse*) as a shorthand for the expression *id quod interest*. This expression (meaning "that which matters" or "is of importance") was the name for the area of Roman law addressed to matters regarding contracts on a class of real property loans known as *commodatum*. These were loans of objects that were fixed (like land) or were unique or varied significantly in their qualities (like houses or oxen). *Commodatum* signified "given for use, benefit, or convenience," neither as a gift nor in exchange; this use of a durable property was lent to another person for a definite period of time. Ownership was not transferred and the same article was to be returned to the owner when the time was up. Therefore the transaction was a temporally bounded contract; the legal question of *id quod interest* was only brought to bear on real property loans if the contract was disrupted or dishonored, or the property in question was damaged.

The adjudication of indemnity associated with *id quod interest* was regarded as a matter of judgment rather than one of formulaic calculation; Roman law had no strict definition or computational guideline to determine the amount of damages. Moreover, it was retrospective in that jurists could survey damages only after the fact. Indeed, a unique valuation was necessary in each single case since *id quod interest* was not a formal but rather an analyzing principle. Therefore its application was not subsumed to logic, but rather open to jurists' creative application in individual cases.³¹ Wolfgang Orth, who contributes to the *Geschichtliche Grundbegriffe on Interesse*, writes:

It is quite logical [therefore] that in the Roman legal tradition one never uses *id quod interest* for the designation of financial interest [*Zinsen*], especially because financial interest can clearly be calculated according to a formula in each individual case. It is all the more notable that in the Middle Ages *id quod interest* is even turned into the designation of financial interest.³²

The importance of judgment to determinations of *id quod interest* in medieval Roman law runs counter to conceptual histories which make interest seem primordially subject to calculation by privileging pecuniary uses of 'interest' as an origin. It also complicates the humanist view that (as Hirschman and others have it) sees notions of interest as deriving from self-interest, since jurists figured these damages against the norm of community valuation or the prior agreement, which was itself judged in light of common valuation.³³ Such a practice was consistent with medieval justifications for private property and views of just pricing; in the Thomistic understanding on which medieval theologians commonly drew, property was justified by natural law primarily insofar as it promoted common prosperity.³⁴ Both medieval justifications for property on the one hand and the regulation of exchange on the other firmly and explicitly took community life as their basis, a matter for which juridical institutions were the authoritative guide at points of conflict. In most instances community valuation was the common price, 'common' in the sense of conforming to usual practice. But the judicial doctrine was real and robust insofar as courts used it to prevent extortion and exploitation, particularly during shortages. Also note that in the legal term, *id* was "the thing" in question and *interest* functioned as a verb, suggesting the active and dynamic role of contracting parties-turned-litigants and then jurists in valuing and realizing the *id* in question.

Hegel's exploration of personality in *Philosophy of Right* is particularly illuminating in light of the latter consideration. In this work Hegel theorizes personality among the same matters of Roman law that are home to *commodatum* and *id quod interest*, so his discussion opens a way to think about interest-related subjectivity before and into the period during which 'interest' took on financial attributes of calculating rationality.³⁵ In the sections on property and courts of justice spanning his consideration of abstract right and ethical life, Hegel explores how the exercise of property rights actualizes personality; this exercise happens (*inter alia*) in contexts of conflict and adjudication that arise around contracts.³⁶ In the midst of his discussion of various types of ownership, Hegel takes up a discussion of permanent ownership and temporary use of real property pertaining to the legal context of *id quod interest* (noting that the Latin *id* corresponds to *ein Ding*, Hegel's term for the object to be owned). The problem Hegel faces in the context of real property loans is that he has just characterized the use of a thing as a more complete form of ownership than the mere taking or marking of it.³⁷ He must now clarify in what capacity the owner of a thing holds a superior claim to personality in it than does the lessee who uses it. In answer to this question, he writes that "my partial or temporary use of a

thing, like my partial or temporary possession of it is . . . to be distinguished from the ownership of the thing itself”—a definition of property loans that, in the context of Justinian’s *Institutes* that are Hegel’s guide here, corresponds with *commodatum*. Consistent with Roman law, Hegel cites the importance of a loan ending at a specific point in time; indeed *commodatum* is defined by its temporal restriction. “On the strength of this restriction,” he writes, “my abilities acquire an external relation to the totality and universality of my being.”³⁸ For Hegel, this justifies the charging of rent or the payment of reparations: since the loaned object remains the lender’s property, it remains the objectification of his freedom. Hegel goes on to say that “only if I have the full use of the thing [am I] its owner” insofar as “the entirety of its use” marks the objectification of the will in the object and therefore the progressive objectification of personality.³⁹ The entirety of a thing’s use, says Hegel, includes its disposal, which is the prerogative of the owner and not of the lessee. Based on this prerogative, Hegel writes that “ownership is therefore in essence free and complete.”⁴⁰ Confusing partial or temporary ownership for ownership per se would leave the subject “as a positive will at one and the same time both objective and subjective” to him- or herself—“an absolute contradiction.”⁴¹ Appeals to and adjudication of *id quod interest* work to avoid this contradiction. Since ownership is the essence of personality and it is only real when it is complete, juridical appeals to ‘interest’ are a means by which possession is elevated to ownership; a subject’s participation in this process on the occasion of conflict or damage is the actualization of personality. Moreover, the exclusion of accidentals, like the partial and the temporary, from the definition of property marked by the objectivity of positive will and ownership is how the state (as the expression of the community) carves identity out of space and time.

Hegel theorizes the historical quality of the state’s juridical role in securing identity and ownership against temporary and partial possession, but personality as such is a static affair. To see how this is so, consider the adjudication of *id quod interest* in Hegelian terms. The medieval determination of *id quod interest* worked toward reconciliation and reparation; the judgment organized and consolidated past events to accord with community practices and valuations and affirmed the juridical process as the means of their final arbitration. Judgment was therefore narrative in the sense of imposing formal coherence upon the messiness and ambiguities of reality.⁴² Subsequent to plaintiffs’ entering into the legal process, the court’s retrospective and compensatory narrative formed a basis for the restoration of community life and articulated the identity of the plaintiff

within that narrative in the face of contests in civil society that threatened personality with contradiction and unauthorized temporality. Doubtless such a narrative laid a foundation for further action, but it did so by way of assuring that action would not disrupt the steadiness of contracts or their relation to community valuation.

The foregoing consideration applied only to real property; from here, some acquaintance with the contours of Roman law is needed in order to appreciate the means by which *id quod interest* first excluded and later came to legitimate collecting fees on money loans. Examining a few legal terms will also show how seeing these fees as 'interest' connects with the picture of personality. Medieval scholars tried to systematize Justinian's fragmentary *Institutes* after the rediscovery of his *Digest* in eleventh-century Bologna by subdividing *id quod interest* into ever-finer titles.⁴³ Significant for our purposes are two pairs of titles among the many they elaborated. First, the scholars distinguished between *interest intra rem* (what matters is in the thing) and *interest extra rem* (what matters is beyond the thing). The former was used to specify the quality of a property like a horse, considering the physical characteristics that, for example, may have been in need of veterinary mending following an alleged wrongdoing. The latter considered whether, for example, the wrongdoing in question had diminished the horse's usefulness to the owner. This distinction denoted the difference between the property's objectively-determined qualities and that which goes beyond those qualities.⁴⁴ *Id quod interest* was generally directed toward the *thing* under consideration (the *id* "that matters is of importance" to the inquiry); *interest extra rem* introduced an ambiguity as to what had been damaged: the object, or the well-being of the object's owner.⁴⁵ This opened the possibility of a shift in the reference of the *id* from the article of real property to the owner of property; in light of this shift, Hegel's connection of personality and the adjudication of real property contracts and indemnity is particularly evident. *Interest extra rem* turned out to be closely connected to a title that later came to cover fees paid on a money loan. To see this connection, consider a second set of titles under *id quod interest*, namely *damnum emergens* (damage which occurs) and *lucrum cessans* (gain which ceases). Throughout the late medieval period, scholars attempting to systematize the *Institutes* sought symmetry between this pair of titles and the others mentioned above.⁴⁶ Therefore, *damnum emergens* paralleled *interest intra rem*: damage done to real property corresponded to changes in its determinate characteristics. More importantly for the story at hand, *lucrum cessans* paralleled *interest extra rem*: diminished future employment

of the damaged property corresponded to changes in what went beyond those characteristics, including the well-being (and as Hegel alerts us, the personality) of its owner. Scholars noted by way of warning that this parallel was a route by which the prohibition on usury could be circumvented, but the prohibition retained its power anyway, owing to a formidable distinction between real property loans on the one hand, and loans of consumables on the other.⁴⁷

Medieval or scholastic considerations of commutative justice allowed contracts involving real properties to specify payment in excess of principal, consistent with *interest extra rem*. The lending of real property could be shown to have deprived the owner of the advantage or usefulness of a property that was still his own. By contrast, payment for a money loan was known to Roman law as usury; this term signified charging excess return on a loan of consumables, a category called *mutuum*.⁴⁸ In contrast to real property adjudicated by *id quod interest*, *mutuum* was defined as the giving of items returnable in kind, whose “qualities . . . are fixed by weight, number, or measure, and which are used up in consumption, as are money, grain, wine, oils, and other things of this sort.”⁴⁹ Money was therefore considered alongside objects understood to be alike in quality and measurable in discrete units; it was not seen (in modern terms) as a medium of exchange and store of value. Therefore Augustine’s invocation of wine, oil, and grain illustrating the true properties of money was oft-reiterated in the generally monotonous discourse on usury throughout the Middle Ages.⁵⁰ By contrast to real property loans, lent consumables were understood as subject to two distinct transactions, giving and returning. In the time between these transactions, neither the objects themselves nor the quantity exchanged were considered property of the lender because the borrower returned an equal quantity of grain, oil, or money, but not the *same* grains, fluid, or coins. The law did not consider the items’ utility with respect to the lender during the period that stood between the two moments of exchange, and therefore the juridical question of personality, as Hegel sees it, was not at stake. Rather, at the beginning and end of the lending period, the two moments of exchange had to conform to the principles of commutative justice no matter how much time had passed. Any additional payment that rendered this exchange unequal was seen as unjust and immoral; hence usury was prohibited.⁵¹ But things began to change in the sixteenth century as money loans came under the title of *lucrum cessans* and therewith entered the formerly forbidden terrain of *id quod interest*. How did this change come about?

Usury and 'Interest'

Hirschman expresses the common view that 'interest' entered the terrain formerly known as 'usury' as a euphemism designed to make the latter practice appear less morally unscrupulous.⁵² He further posits this euphemistic use as a conceptual origin. Although this is meant to provide a basis for the rationality of interests, it paradoxically acknowledges that the term had a life prior to its newfound servitude but at the same time hides the contribution of that previous life—namely the adjudication of real property—to the subsequent uses of the term. Aside from the shortcomings of positing a euphemistic use as an origin, how might we conceive of euphemism as a mechanism of conceptual change in the case of 'interest'? Euphemistic uses of the word by merchants and traders appear early and throughout in the historical record of Medieval Europe, even though the widespread practice was already carried out under a variety of other names and was roundly supported by humanist scholars.⁵³ As Quentin Skinner has shown, rhetorical practices akin to euphemism worried Renaissance moralists for their power to remake discourse; of especial concern was the trope of *paradiastole* in which actors "attempt . . . to replace descriptions offered by [their] adversaries with a set of terms that picture the action no less plausibly, but serve at the same time to place it in a contrasting moral light."⁵⁴ The influence of euphemistic uses on the juridical history of interest lies elsewhere however.⁵⁵ Some erosion of the categorical difference between real properties and consumables must have taken place for any such rhetorical move to be legally plausible.⁵⁶ Because the distinction between 'interest' and 'usury' has not only moral but also broader legal implications, we need to look at the latter to understand what legal shifts were needed to make euphemistic uses legally effective, and in what historical context. Therefore we must attend to two considerations as we investigate the shift from 'usury' to 'interest' in describing the fee on a money loan: first, the historical and conceptual conditions that made such a shift legally plausible, and second, the effects of these conditions and shift on the pre-existing uses of the term, especially as they relate to the retrospective and compensatory narrative of personality. The conditions and shift in question are evident in the watershed legal innovations widely regarded as abrogating the early modern legal prohibition on charging a fee on a money loan.

These innovations were articulated by Leonard Lessius (1554-1623), an influential jurist and theologian writing and teaching in Leuven around the turn of the seventeenth century.⁵⁷ Given his prominence as a jurist in the Netherlands, which was a center of innovation in banking and other business practices, his work *De iusticia et iure* was an incomparably influential

legal text often consulted by businessmen and jurists working to make sense of the period's economic changes.⁵⁸ Among the several cases on which Lessius commented in his lectures and writing regarding money-lending practices, one is of particular importance to the considerations I described above, and has been noted by scholars as a critical development insofar as it signaled a departure from his earlier, more restrictive view on the Roman legal prohibition of collecting fees on money loans. Discussing a case in which a holder of money made a loan in response to another's need (that is, out of charity), Lessius wrote that the lender was entitled to a fee for having sold not only the money in question, but also the advantage that comes from holding money.⁵⁹ Having given this advantage (as distinct from the money itself), Lessius argued, resulted in *lucrum cessans* (gain that ceases), a title we have already seen was at home in *id quod interest*. Note how Lessius's invocation of *lucrum cessans* draws implicitly on *interest extra rem* (what matters is beyond the thing); the lender may not own the money while it's on loan, but he is entitled to compensation for what goes beyond the sum itself, namely the advantage that comes from holding it. Consistent with the non-calculable adjudication of *id quod interest*, Lessius's invocation of *lucrum cessans* required lenders to specify a unique claim regarding the fee for each loan. Subsequent to Lessius's decision, litigants proceeded to interpret broadly the notion of a charity loan and to charge a fee under the title of *lucrum cessans*; over time, jurists gradually dropped the insistence that a new valuation must be argued in every case.⁶⁰ Lessius's legal innovation raises two questions: what made this the title upon which Lessius could rule and to which money lenders could even appeal? In what context is a set price, rather than one newly specified in each case, sensible? Surely, money lenders' persistent uses of the term 'interest' kept the question of the relation of fees charged on money loans and *id quod interest* before the jurists. Given the longevity of this euphemistic practice however, euphemism can hardly account for the change. But two other developments may account for it, in the sense of offering an interpretive context.⁶¹ One is a legal analogy between money and real property that validated an erosion of the categorical distinction between lending money and real property. Second is colonialist inflation, a feature of the period widely discussed by economic historians but less so by historians of economic thought. These two factors draw our attention to conceptual conditions and crises that made Lessius's change possible, effective, and perhaps even urgent.⁶²

The first of these considerations came out of attempts to grapple with a formidable restriction on usury aside from the distinction between lending real property and consumables. Money's fundamental unproductivity was a

principle in its own right, whose origins, in Aristotle's remarks regarding the unnaturalness of "making barren money breed," medieval jurists and theologians articulated into a doctrine independent of money's status as a consumable.⁶³ Those opposed to the legalization of fees charged on money loans often appealed to this principle doctrine. Various analogical arguments were advanced to attack this point of medieval economic philosophy, mostly drawn from among money's fellows among the consumables. But these did not pass muster with jurists. For example, an argument drawn from the principles of agricultural production was that money was "the seed of gain": everyone knew that although grain was considered a consumable, small amounts of it had to be withheld from consumption as the source of next year's planting. The argument along this route was unsuccessful; by this analogy money was said to be fruitful in certain circumstances but not in itself, just as seed needs fertile soil to grow.⁶⁴ Lessius in particular rejected, or rather denounced this argument, saying that the soil in which money was rendered fecund was "the industry of the greedy."⁶⁵ But a somewhat different analogy found more and decisive success with Lessius in particular. Drawing upon agriculture and early manufacture, merchants argued that money was a tool of business. In 1552, Martinus de Azpilcueta (1493-1586), more often known as Doctor Navarrus and writing from the School of Salamanca in Spain, had been the first to acknowledge and reproduce this argument within a work that subsequently circulated among medieval jurists.⁶⁶ His approval of this analogy was a crucial development.⁶⁷ Tools (unlike grain) fell under the category of real property, adjudicated according to *id quod interest*. While Lessius had rejected the notion that money was productive in itself, he nonetheless accepted that, like a tool which can only be used when it is in the owner's possession, money too had an advantage that the lender relinquished when it was not in his immediate possession. Once recognized, this analogy allowed money to be seen differently than it was when restricted to considerations governing consumables. The importance of Dr. Navarrus's acknowledgement of this analogy for Lessius's ruling highlights a process of categorical erosion that brings money into contact with terms formerly related to the adjudication of real property contracts only.

Just as the analogy of money to tools is a precondition for the appeal to 'interest' in the case of money loans, another factor is needed as a precondition of relaxing the requirement that each appeal to *lucrum cessans* required a unique valuation. This factor is inflation, a consideration which will become especially important when we return to the matter of time, narrative, judgment, and interest-related subjectivity. European colonial

expansion in the sixteenth century and the trade in other expensive consumables like spices, sugar, and coffee increased the number and variety of cases involving consumables before courts of law, particularly in imperial Spain, Portugal, and the Low Countries.⁶⁸ But above all, the dramatic influx of African and New World gold and silver into the Spanish, Portuguese, and to a lesser extent, Dutch economies in the sixteenth century is a critical context for this development.⁶⁹ The consequent increase in the money supply simultaneously made more specie available for lending and, what was the other side of the same coin, brought inflation at unprecedented levels. After centuries of stable prices, the sixteenth century saw inflation of over 470%.⁷⁰ Although this was mild by present-day standards, lent money was conspicuously less valuable when returned, especially after a long period of time. By mid-century, after at least fifty years of consistent price increases, lenders had ample reason to expect an inflationary future and to hedge against it. Inflationary conditions would have rendered visible the distinction between a money sum and the advantage of employing it since the user of money was capable of employing it in ways that made up for, or perhaps exceeded, the sum's temporal loss in value. Inflationary conditions further would have rendered redundant the requirement for a lending party to make a concrete claim in every case regarding how one incurred damage by lending; the damage would be evident and could be roughly expected. Evident too would be what later economists would come to call the time value of money, for inflation rendered it imperative (or, what might amount to the same, rational) for the holder of money to put it to gain one way or another, either by investing in business or lending for a fee. In light of these circumstances, the prohibition of usury broadened in practice, intensified in effects, and became more controversial. Given medieval views of just pricing, it would make sense for jurists following Lessius to put this value in the hands of a market—in this case, the meeting of merchants at the local bourse.

Inflation created a crisis for common peoples and treasuries; might it even have influenced Lessius? The steepest inflation of the Sixteenth Century Price Revolution was the period 1595-1602, during which he decisively changed his position on the legitimacy of charging a fee on a money loan by invoking *lucrum cessans*.⁷¹ True, Lessius wrote in Leuven, but his distance from the inflationary extremes of Spain and Portugal do not much lessen the possibility that inflationary pressures are relevant to his change of mind. Not only did inflation affect the Netherlands, but close economic (not to mention political) ties between Spain and the Low Countries in this period erupted as influences in concrete ways: for example, a document

written by Spanish merchants residing in Antwerp, justifying *inter alia* their money-lending practices, was partly influential in Lessius's reconsideration of the matter.⁷² The observation that jurists did not invoke inflation directly in their writings may be answered by noting that sixteenth-century plaintiffs and jurists did not have our modern notion of inflation, let alone a category or title capable of addressing it separately within the Roman legal framework.⁷³ Instead, questions of price increases had to be treated as a matter of just prices, which only reinforces the bourse as a location for valuing the advantage of the use of money for a period of time.⁷⁴ Claiming a causal relation between those especially pronounced price increases and Lessius's conceptual innovations would be precarious, but inflation is unmistakably the context in which they would have been and are intelligible. Even to the extent that one should hesitate to conclude that inflation contributed to Lessius's innovation, it is particularly illuminating as a backdrop to the change, given that it was achieved in part by an emerging practice on the part of many litigants and jurists of dropping an individual valuation in the case of each loan. Subsequent to Doctor Navarrus's legal analogy and in light of the inflationary context of the legal changes, the ending of gain came together with consideration of the *id* whose change was viewed as a temporal loss of value.

Categorical Erosion, Inflation, and the Subject of 'Interest'

My presentation of this juridical history emphasizes an origin of 'interest' in the active realization of personality. Recognizing the importance of financial practices to this history, it identifies the categorical erosion that brought money-lending into the legal domain of 'interest,' and notes the intimacy between the newly employed title for charging a fee on a money loan (*lucrum cessans*) and another title that makes judging *id quod interest* particularly relevant to the realization of personality (*interest extra rem*). Lastly, I look at inflation. Historically, the Sixteenth Century Price Revolution was a crisis that rendered visible the advantage of holding money, and was furthermore a condition for the plausibility of fees charged on money loans not needing unique valuations in every case. Conceptually, inflation enters the picture because money suffers temporal devaluation just as it enters *lucrum cessans* and touches the realization of personality. Categorical erosion admits into the adjudication of *id quod interest* a kind of property subject to an altogether alien logic. Formulae are at hand for its adjudication, but

money's uneven temporal devaluation introduces future-oriented uncertainty even as its fungibility introduces calculating rationality.

These considerations affirm Hirschman's judgment that financial practices are significant for interest-related subjectivity, but demonstrate that their importance must be interpreted in a broader context. Interpreting interest-related subjectivity through the lens of this juridical history promotes a richer appreciation for conceptual complexities of 'interest' overlooked in seeing interest mainly as contending with passions. After all, 'interest' is not only a psychological orientation toward benefit, though this is where most political-theoretical attention has been focused. It also denotes a share or stake in something, which implies the question of by what measure or standard that stake or share is determined. The latter question, in turn, implies a "who decides." These two considerations draw our attention to the uses of 'interest' as a verb. Although this verb can mean "making curious" or "drawing attention to," it can also denote so doing by giving someone a share or stake in "that which matters" or "is of importance"—the very definition of *id quod interest*. These uses of 'interest' are inflected with its juridical history, but they are nonetheless political inasmuch as politics does address questions of who has a share and who decides. One need look no further than debates over citizenship and immigration (alongside initiatives to combat "voter fraud") to see disagreements over who has rightful share in a national economy and governmental protections, and by what standard such a share should be decided or apportioned. Insofar as these matters echo juridical interest, how does recovering the juridical history of interest enrich a theoretical appreciation for the concept of interest, particularly in light of how readily 'interest' is invoked (in theoretical, social-scientific, and everyday talk alike) to characterize subjectivity?

To begin, this juridical history offers a way to think about the modern notion of self-interest, and especially of the self as a pre-existing or natural backdrop to political institutions. Consider the role played by just prices as a norm in the adjudication of *id quod interest*. Prior to money arriving on the scene, community life was the basis for the court's retrospective and compensatory narrative, and the court articulated the identity of the plaintiff within that narrative. The value under consideration was determined in principle, as Lessius described it, "with the whole town coming together at the voice of the town crier."⁷⁵ As this image suggests, Lessius's allowance of charging a fee on a money loan eventually subjected money to a price set *at* the market but it did not yet remand the value of all goods to prices set *by* the market.⁷⁶ The crucial difference is that markets, at least as far as Lessius's law was concerned, were still localized in space, time, and activity.

Yet even as *lucrum cessans* became a title under which money lenders could earn licit profits on their activity, common valuation was breaking down at the end of the sixteenth century owing to newly proliferating forms of exchange, like brokerage and auction.⁷⁷ Lessius's notion of the market was rapidly becoming a quaint one; it is alien to modernity. As markets become a more generalized and apparently autonomous part of everyday life, opportunities for the invocation of 'interest' proliferate too; although these invocations bear elements of the juridical, they are no longer strictly legal. Given the importance of price to the foregoing story, with inflation being treated under law as a matter of just prices, which are in turn set at the local bourse, personality flows not out of juridical determination but rather from the encounter with universal valuation in the form of price. In modern economic practices, as conceptualized by microeconomic theory, market price represents exchangeable value as the aggregated result of many potential transactions. In the long run, this result indicates the just price, known in the idiom of classical economics as the "natural price." In other words, to modern persons, price is no longer their community's witness of its usual practices in the exchange of useful objects. Instead, price reveals the exchange value of a thing to the community of laborers or consumers as "natural;" both community life and the identity of persons are revealed by market prices as this norm is ascribed to "nature."⁷⁸ In light of such abstract and apparently neutral bases for setting the boundaries of personality, it would be easy to interpret the ascension of money to *id quod interest* as pegging interests to natural persons and their primordial attributes.

But the inflationary aspects of interest—particularly given that inflation is a matter of unpredictably rising prices—contravene the apparently natural determination of identity, in two ways. First, the new sense of time brought to bear on *id quod interest* subordinates the present to the future.⁷⁹ The incursion of finance shifts the determination of a person's stake or share away from the retrospective and compensatory; instead, as a norm, financial interest values any principle in a prospective light. Hence interest is closely tied to becoming and to action, suggesting why the appeal to 'interest' is so often a justification for, or an explanation of, an action.⁸⁰ The appeal to 'interest' is a claim regarding what course of action (whether political, regarding investment strategy, etc.) rightly promotes the person (or principle) in question. Given uncertainty, however, the future comprises a field of possibilities. Therefore interest, as a hedge against inflation, is a bet against the future's indeterminacy. This brings us back to a juridical aspect of 'interest,' namely the role of conflict or contest over the application of a norm and the question of who decides. Attending to conflict or

contest is critical since the picture of interest that emphasizes its rationality, calculability, and basis in ostensibly concrete particulars like natural persons or states cannot account for the disputes regarding in what exactly the interests of persons or states lie. Whole literatures in political theory and international relations are devoted to these as-yet unresolved questions. The contestability of appeals to 'interest' also appears in political discourse where, for example, the national interest is readily invoked in support of disputed or controversial policies.

Whereas the appeal to 'interest' was first mediated by common valuation, expressed as price and determined by a specific authority, future price as the guide to that determination now escapes specific authority and remains unsettled. So too, in the face of an appeal to 'interest' as a justification for action, another can always argue that it is not in one's interest to follow that course, despite the promise of calculating rationality as the resolution of questions into concrete and unambiguous answers. Thus inflation keeps contestation relevant to this picture of interests and highlights the context in which appeals to 'interest' are often useful, that is, as a justification for action in the face of conflicting possibilities. The connection of 'interest' to juridical determination of personality suggests why calculation of costs and benefits can resolve few, and hardly the most critical, disputes over persons' (or states', or nations') interests: the dispute is less a matter of calculation than a discussion of the identity of the "who" is realized by action that promotes what is said to be "in its interests." The appeal to 'interest' is still a judgment regarding identity, but owing to the uncertainty and open-ended horizon of the market, no single judgment is complete or authoritative in its own right.

Therefore interest-related subjectivity is paradoxical. Consider two instances of this paradox drawn from historical documents that are prominent in conceptual histories of interest and have consequently been treated at length by scholars. In 1659, Marchamont Nedham published a pamphlet whose title, "Interest Will Not Lie," provided seventeenth-century England with a political catchphrase.⁸¹ On the title page, Nedham promised to illustrate England's interest against another writer's contrary (and "treasonable") picture of England's interest, thus giving the impression that the pamphlet's author punned on the ability of "lie" to mean both "deceive" and "stay put."⁸² Could each author's vision speak to a different England and call upon his readers to realize his vision by means of action? To but mention a second example, note how 'interest' can be seen either as a banner under which Jeremy Bentham sought a monistic account of motivations on the one hand, or as a term that ultimately stymied his attempts, on the

other.⁸³ Herein lies the paradox: 'interest' bears the possibility, if not the imperative, of calculation when it comes to matters involving interest, including those connected to real property and personality. Nedham, Bentham, Hirschman, and Holmes have taken this aspect of interest as an assurance that it is unified and rational. At the same time, the uncertainty of an inflationary future means the benchmark against which questions of identity must be measured becomes uncertain too. As the sites of appeals to and judgments regarding interest proliferate with money's transgression of these categorical boundaries, so do conflicting possibilities among the identities at which appeals to interests aim. Even as appeals to 'interest' attempt to hedge against the uncertainty of identity, such appeals signal the intrusion of uncertainty into the question of subjectivity. The paradox of appeals to 'interest' raises doubts about the "simple fact," cited by Hirschman, "that each person is best informed about his or her own [interests]," even if he or she *is* "best informed about his or her *own* desires, satisfactions, disappointments, and sufferings."⁸⁴ Hirschman's claim may reflect a liberal prejudice regarding "who decides," but it does not reflect a conceptual feature of interests. Although Hirschman and others take the rationality of financial interests as securing the acceptance of individual, self-regarding reason in early-modern and modern discourses, particularly liberalism and social science, its juridical history illustrates how subjects' interests are inflected by rationality, but more importantly by an effort in the present to hedge an identity in the face of an uncertain future.

Conclusion

The conceptual history and analysis of 'interest' I have sketched here offers two insights. First, although the uses of 'interest' expanded dramatically in early modern English and other European languages, its significance for interpreting the contours of subjectivity must include its earlier legal applications and the juridical inflections of its early-modern and present-day grammar. The area of legal usage from which 'interest' is drawn—the settling of real property claims in disputes of contract—links 'interest' to the active realization of personality. Seen in the context of medieval treatment of property, the application of *id quod interest* in Roman law reveals that the determination of interests, and hence interest-related subjectivity, was originally static and judged according to local considerations. At the intersection of changes in sixteenth-century legal practices and economic conditions, shifts in the prohibition on the collection

of usury are promoted by and emblematic of the erosion of the legal distinction between loans of real property on the one hand, and consumables on the other, inaugurating the paradoxical encroachment of both calculability and contingent futurity upon considerations of *id quod interest*. This encroachment changed the uses of ‘interest’ by opening a path to articulations of interest not subject to the considerations formerly governing its application; money was, after all, subject to formulas and calculations whose application to durable properties was previously denied. In the inflationary context of this change, however, authoritative ascription of interest was threatened by the uncertainty of the future that it hedged, thereby rendering the appeal to ‘interest’ newly open-ended and subject to contestation.

Taking into consideration the juridical roots of ‘interest’ and the significance of those roots to subjectivity, we must hesitate before assuming, on the basis of its conceptual history, that interests are a marker of freely exercised calculating rationality on the part of actors whose identities form a backdrop to political institutions and power. Instead we must consider how appeals to ‘interest’ echo juridical scenes of contestation and judgment regarding the identities in question, even as these identities shift from retrospective and compensatory to prospective, inflationary, and uncertain. These origins of ‘interest’—juridical determination of quality, character, kind, personality, and identity—direct our attention to features of interest that a focus on rational individuals predisposes us to overlook: namely, how appeals to interest take different and indeterminate subjects as their points of departure; how appeals to interest invoke rationality at the service of temporal, uncertain, and contingent identities; and how persons’ appeals to interest remain open to contestation, on their part and others’.

Notes

1. Raymond Williams, *Keywords: A Vocabulary of Culture and Society* (New York: Oxford University Press, 1983), 173.

2. Williams indicates that ‘interest’ entered early modern English through the French term *intérêt*, meaning “damage or loss.” He does not note that this is a legal term.

3. Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph* (Princeton, New Jersey: Princeton University Press, 1977); Stephen Holmes, *Passions and Constraint* (Chicago: University of Chicago, 1995). See also Albert O. Hirschman, “The Concept of Interest: From Euphemism to Tautology,” in *Rival Views of Market Society* (Cambridge, Mass.: Harvard University Press, 1992).

4. J. A. W. Gunn, “‘Interest Will Not Lie’: A Seventeenth-Century Political Maxim,” *Journal of the History of Ideas* XXIX, no. 4 (1968); J. A. W. Gunn, *Politics and the Public Interest in the Seventeenth Century* (Toronto: University of Toronto Press, 1969). On reason-of-state literature, see also Nannerl Keohane, *Philosophy and the State in France* (Princeton:

Princeton University Press, 1980) and Stephen G. Engelmann, *Imagining Interest in Political Thought: Origins of Economic Rationality* (Durham: Duke University Press, 2003). Unlike the others, Engelmann acknowledges the significance of juridical interest before shifting his argument toward different terrain, which he calls "monistic interest."

5. Hirschman, *The Passions and the Interests*, 4-5.

6. *Ibid.*, 12-14, 32-33.

7. Holmes, *Passions and Constraint*, 4, 26-66.

8. Hirschman, *The Passions and the Interests*, 32-33.

9. See William Connolly, *The Terms of Political Discourse* (Princeton: Princeton University Press, 1993), 64 and throughout.

10. The *Oxford English Dictionary* and the *Middle English Dictionary* indicate that another form related to *intérêt*, the middle-French *interesse* (and its spelling variants, *enteresse*, *entrest*, and *intrest*), came directly into Middle English legal usage from French much earlier, arriving with the Normans as a term of art in Law French; this idiom survived and influenced English into the early modern period [see J.G.A. Pocock, *The Ancient Constitution and the Feudal Law* (Cambridge: Cambridge University Press, 1957), 34]. From Law French 'interest' entered Middle English vernaculars, as illustrated by Chaucer's use of *interesse* in his poem, *Fortune*, to mean a right or share that extends well beyond the pecuniary.

11. In so structuring my account, I distinguish first-order and second-order interpretations. In the accounts of Hirschman and Holmes, the first-order interpretation situates 'interest' as a feature of modern subjectivity; the second-order interpretation interprets this subjectivity in terms of calculating rationality and humanism. I accept the first-order interpretation, noting that it is an interpretation of subjectivity, while enriching it with a more encompassing second-order interpretation [see David Couzens Hoy, *Critical Resistance* (Cambridge, Mass.: MIT Press, 2004), 39].

12. On recovering historical practices and ideas for philosophy, see Charles Taylor, "Philosophy and Its History," in *Philosophy in History*, eds. Richard Rorty, J. B. Schneewind, and Quentin Skinner (Cambridge: Cambridge University Press, 1984).

13. T. M. Knox, ed., *Hegel's Philosophy of Right* (New York: Oxford University Press, 1967), §219-22; Carl Schmitt, *Political Theology* (Chicago: University of Chicago Press, 2005), 30-1, 59.

14. See Connolly, *The Terms of Political Discourse*, ch. 1.

15. Knox, ed., *Hegel's Philosophy of Right*; Istvan Hont, "Commercial Society and Political Theory in the Eighteenth Century," in *Main Trends in Cultural History*, eds. Willem Melching and Wyger Velema (Atlanta, GA: Rodopi, 1994), 61.

16. Georg W. F. Hegel, *Phenomenology of Spirit*, trans. A. V. Miller (New York: Oxford University Press, 1977).

17. See Axel Honneth, "A Social Pathology of Reason: On the Intellectual Legacy of Critical Theory," in *Cambridge Companion to Critical Theory*, ed. Fred Rush (New York: Cambridge University Press, 2004), 339-40.

18. For a discussion of *Begriffsgeschichte* scholarship and the *Geschichtliche Grundbegriffe*, including its relation to Anglophone conceptual history, see Melvin Richter, *The History of Political and Social Concepts: A Critical Introduction* (New York: Oxford University Press, 1995).

19. Hirschman, "The Concept of Interest," 35.

20. Hirschman, *The Passions and the Interests*, 36.

21. Hirschman, "The Concept of Interest," 36. For an account of how interest came to be such an amalgam, see Engelmann, *Imagining Interest*.

22. Stephen Holmes goes so far as to make the plainly anachronistic assertion that various uses of 'interest' have self-interest at their origin [see Holmes, *Passions and Constraint*, 64; see also Jane Mansbridge, "Self Interest in Political Life." *Political Theory* 18, no. 1 (1990): 132-153.]. For a history calculating self-regard before "self-interest," see Pierre Force, *Self-Interest before Adam Smith: A Genealogy of Economic Science* (Cambridge: Cambridge University Press, 2003).

23. Hirschman, *The Passions and the Interests*, 33, 38 (emphasis added).

24. Neither does Hirschman consider the extent of humanist or economic discourses' appropriation of 'interest' from late-medieval scholastic, Roman-legal, and religious-mystical language—possibilities whose significance goes beyond the my argument here.

25. Discussions among conceptual historians regarding the relation of words to concepts have used a neologism ('originality') as their example [see Quentin Skinner, "Language and Political Change," in *Political Innovation and Conceptual Change*, ed. Terence Ball, James Farr, and Russell L. Hanson (New York: Cambridge University Press, 1989), 8; Terence Ball, *Transforming Political Discourse: Political Theory and Critical Conceptual History*. (New York: Blackwell, 1988), 15]. But neologisms may be more like technical than non-technical words in terms of being conceptually univocal, so the applicability of these discussions to 'interest' is debatable.

26. Ernst Wolfgang Orth's contribution to the article on *interesse* in the *Geschichtliche Grundbegriffe* models the semasiological method I follow and extend in this essay [Ernst Wolfgang Orth, "Interesse," in *Geschichtliche Grundbegriffe*, ed. Otto Brunner, Werner Conze, and Reinhart Koselleck (Stuttgart: Ernst Klett Verlag, 1982), 305].

27. The definitions here are Böhm-Bawerk's [Eugen von Böhm-Bawerk, *Capital and Interest*, trans. George D. Huncke and Hans F. Sennholz, (South Holland, IL: Libertarian Press, 1959), vol. 1, pages 1, 9, 12-13]. Although subsequent studies have greatly refined and extended scholarly appreciation of the routes by which charging a fee on a money loan has been legitimated, these definitions are practically unchanged [see Joseph Schumpeter, *History of Economic Analysis* (New York: Routledge, 1992); John Thomas Noonan, *The Scholastic Analysis of Usury* (Cambridge, Mass.: Harvard University Press, 1957); Raymond de Roover, "Economic Thought, Ancient and Medieval Thought," in *International Encyclopedia of the Social Sciences* (1968); Odd Inge Langholm, *The Aristotelian Analysis of Usury* (New York: Columbia University Press, 1984); Toon van Houdt, "'Lack of Money': A Reappraisal of Lessius' Contribution to the Scholastic Analysis of Money-Lending and Interest-Taking," *The European Journal of the History of Economic Thought* 5, no. 1 (1998)].

28. Gilles Deleuze and Felix Guattari, *A Thousand Plateaus* (Minneapolis: University of Minnesota Press, 1987), ch. 1; see also Hanna Fenichel Pitkin, *Wittgenstein and Justice* (Berkeley: University of California Press, 1993), 70, 85.

29. For a discussion of ways selfhood is conceived and lived in modernity, see Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge, Mass.: Harvard University Press, 1989).

30. Roman law had penetrated European legal systems by multiple vectors by the fifteenth century. It provided a legal grammar disseminated by medieval legal training throughout the Continent and England. Feudal courts turned increasingly to civil law to resolve disputes when customary law fell short. Early modern rulers promoted Roman law because as it offered a secular, "universally valid" alternative to canon law. See Peter Stein, *Roman Law in European History* (Cambridge: Cambridge University Press, 1999), 57-65.

31. Dieter Medicus. *Id quod interest*. (Koln: Graz 1962), quoted in Orth, "Interesse," 308.

32. Orth, "Interesse," 308.

33. Raymond de Roover, "The Concept of the Just Price," *Journal of Economic History* 18 (1958).
34. Bernard W. Dempsey, *Interest and Usury* (Washington, D.C.: American Council on Public Affairs, 1943), 132-3.
35. Knox, ed., *Hegel's Philosophy of Right*, §80 and *passim*.
36. *Ibid.*, §219, 222; see also Robert R. Williams, *Hegel's Ethics of Recognition* (Berkeley: University of California Press, 1997), 135-37.
37. Knox, ed., *Hegel's Philosophy of Right*, §58-9. Hegel does not use the legal terms in question but his discussion pertains directly to *commodatum* and *id quod interest*.
38. *Ibid.*, §67.
39. *Ibid.*, §62.
40. *Ibid.*, §62.
41. *Ibid.*, §62.
42. Hayden White, *The Content of the Form* (Baltimore: The Johns Hopkins University Press, 1987), 20.
43. The *Digest's* recovery led to a surge in attention to the *Institutes*, whose brevity and fragmentation had previously frustrated attempts to systematically apply Roman law [see Stein, *Roman Law in European History*, 43].
44. Orth, "Interesse," 308.
45. *Ibid.*
46. The coherence of the *Digest* catalyzed scholars' efforts at systematizing the *Institutes*, both internally and in parallel to canon law [see Stein, *Roman Law in European History*, 46].
47. Orth locates this warning in the *Glosse* [see Orth, "Interesse," 309].
48. The counterparts of *commodatum* and *mutuum* in English common-law jurisprudence are *letting* and *lending*. These categories are congruent owing in part to the persistence of Law French and to the long influence of ecclesiastical authority over usury [see Eric Kerridge, *Usury, Interest, and the Reformation* (Burlington, VT: Ashgate Publishing, 2002), 53-4].
49. Dempsey, *Interest and Usury*, 143.
50. *Ibid.*, 147. On ancient and medieval prohibitions on usury, see Böhm-Bawerk, *Capital and Interest*, ch. 2; Langholm, *The Aristotelian Analysis of Usury*.
51. This prohibition derived at least in part from canon law too, though medieval jurists and theologians increasingly elaborated canon and Roman (civil) law in parallel throughout the twelfth and thirteenth centuries [Stein, *Roman Law in European History*, 48].
52. Hirschman, "The Concept of Interest," 35.
53. Orth, "Interesse," 306. For other titles for a fee on a money loan, see van Houdt, "'Lack of Money,'" 17.
54. Quentin Skinner, *Visions of Politics: Volume II—Renaissance Virtues* (New York: Cambridge University Press, 2002), 271.
55. Euphemism is a safer characterization of the relation of 'interest' to 'usury' in light of Skinner's description of *paradiastole* as working within a distinctive features of Aristotelian moral discourse, namely that every virtue is a mean between two vices [*Ibid.*, 274, 283]. This criterion of moral discourse does not apply to the legal terrain of 'interest' and 'usury'; while 'usury' was immoral, 'interest' was *amoral*, and no second vice relates this pair.
56. Historians of political discourse distinguish conceptual changes that are "brought about by action, practice, and intention" in periods of crisis from "unintended structural change occurring in the historical context" [Terence Ball and J.G.A. Pocock, "Introduction," in *Conceptual Change and the Constitution*, ed. Terence Ball and J.G.A. Pocock (University Press of Kansas, 1988), 1, 7, 14; see also Quentin Skinner, "Meaning and Understanding in

the History of Ideas,” in *Meaning and Context*, ed. James Tully (Princeton, New Jersey: Princeton University Press, 1988); J.G.A. Pocock, “Concepts and Discourses: A Difference in Culture?” in *The Meaning of Historical Terms and Concepts*, ed. Hartmut Lehmann and Melvin Richter (Washington, D.C.: German Historical Society, 1996), 48-9]. Many focus on intentional change, but Pocock and Ball intimate the importance of long-term change to the success of intended changes when they describe innovation as depending upon the “persuasiveness” of the winning side’s argument [Ball and Pocock, “Introduction,” 2]. Similarly, Skinner’s discussion of *paradiastole* (described above, n. 55) shows how plausibility is a precondition for agent-directed conceptual change to have any force [Skinner, *Visions of Politics II*, 274, 83].

57. van Houdt, “‘Lack of Money,’” 2; see also Louis Baeck, “Spanish Economic Thought: The School of Salamanca and the Arbitristas,” *History of Political Economy* 20 (1988); Murray N. Rothbard, *Economic Thought before Adam Smith, Volume I* (Northampton, MA: Edward Elgar, 1995).

58. Leuven is in present-day Belgium. Regarding the influence of Lessius, see de Roover, “Economic Thought, Ancient and Medieval Thought.”

59. Lessius, *De iusticia et iure*, 2:20:10 [cited by Toon van Houdt, “Implicit Intention and the Conceptual Shift from *Interesse* to *Interest*,” (conference paper delivered in Uppsala, Sweden, 2006)]. Lessius writes that money is sold (*vendi*) for advantage (*commodum*) but not lent (*commodatum*).

60. In unpublished research, Toon van Houdt explores a notion of “implicit intention” as assisting this development. My argument by contrast explores background changes in light of which the claim to *lucrum cessans* presents a contradiction and in which a market price for the fee is sensible. See *Ibid.*

61. Regarding historical interpretation vs. explanation, see Taylor, *Sources of the Self*, 202-3.

62. James Farr explores the “mechanisms” of conceptual innovation as triggered by actors’ responses to contradictions [James Farr, “Conceptual Change and Constitutional Innovation,” in *Conceptual Change and the Constitution*, ed. Terence Ball and J.G.A. Pocock (Lawrence, KS: University Press of Kansas, 1988), 14]. As Farr suggests and others have realized, describing the historical conditions that set up contradictions is an essential task for rounding out histories of conceptual change.

63. Aristotle, *The Politics* (New York, Oxford University Press, 1958), 1258b.

64. Dempsey, *Interest and Usury*, 159.

65. Lessius, *De iusticia et iure* 2:20:1, cited in *Ibid.*, 158.

66. Navarrus, *Enchiridion sive manuale confessoriorum et poenitentium* (Antverpieae, 1601) cap. 17 no. 212, cited in van Houdt, “Implicit Intention.”

67. van Houdt notes the importance of Dr. Navarrus’s ruling but does not say why it was critical [see *Ibid.*].

68. Dempsey, *Interest and Usury*, 141.

69. For discussion of the contribution of Iberian precious metals imports to the Sixteenth Century Price Revolution, see Pierre Vilar, *A History of Gold and Money, 1450-1920* (New York: Verso, 1991), 146-7; David Hackett Fischer, *The Great Wave: Price Revolutions and the Rhythm of History* (New York: Oxford University Press, 1996), 82.

70. The figure is for the Iberian Peninsula; the Low Countries experienced only slightly lower rates [Vilar, *A History of Gold and Money*, 78-81]. While local and short-term price fluctuations were common throughout the middle ages, the sixteenth century saw a long period of dramatically rising prices across western Europe [Fischer, *The Great Wave*, 4-7].

71. The period 1595-1602 saw inflation of 120% [Vilar, *A History of Gold and Money*, 78-81]. Regarding the timing of Lessius’s decisive change, see van Houdt, “‘Lack of Money,’” 4-11.

72. van Houdt, "Lack of Money," 13-4.

73. Medievalists assumed that prices were stable in the longer term; see John W. Baldwin, *The Medieval Theories of the Just Price: Romanists, Canonists, and the Theologians in the Twelfth and Thirteenth Centuries* (Philadelphia: The American Philosophical Society, 1959), 81-2.

74. Aspects of just price jurisprudence were developed in response to what would now be termed inflationary pressures in the Roman 3rd Century CE. See Károly Visky, *Spuren Der Wirtschaftskrise Der Kaiserzeit in Den Römischen Rechtsquellen* (Bonn: Habelt, 1983). Loss of gain by lending in comparison to investment is a common claim taken up by jurists in these disputes; see van Houdt, "Lack of Money."

75. Lessius, *De iusticia et iure*, 2:21:76, cited in Dempsey, *Interest and Usury*, 150. For fuller discussions of community valuation and its relation to practice, see Toon van Houdt, "Just Pricing and Profit Making in Late Scholastic Economic Thought," *Supplementa Humanistica Lovaniensia* XVI (2000): 410-11; Odd Inge Langholm, *Merchant in the Confessional: Trade and Price in the Pre-Reformation Penitential Handbooks* (Leiden: Boekhandel en Drukkerij, 2003), 245-47.

76. van Houdt, "Just Pricing," 20.

77. In addition to new forms of exchange, "common valuation" was eroding as a juridical standard by the beginning of the sixteenth century. See Langholm, *Merchant in the Confessional*, 248-9.

78. See Karl Marx. *Capital*. Translated by Ben Fowkes. Vol. I. New York: Vintage, 1977, 164-9.

79. Engelmann describes the futurity of interest as derived from state rationality, stressing its monism rather than seeing the future as a field of possibilities [Engelmann, *Imagining Interest*, 81].

80. Terence Ball, "Interest-Explanations," *Polity* Vol. 12, no. 2 (Winter 1979).

81. J. A. W. Gunn, "Interest Will Not Lie," 556.

82. Marchamont Nedham, *Interest Will Not Lie* (London: 1659).

83. See Engelmann, *Imagining Interest*, 48-76; Hanna Fenichel Pitkin, "Slippery Bentham: Some Neglected Cracks in the Foundation of Utilitarianism," *Political Theory* 18, no. 1 (1990).

84. Hirschman, "The Concept of Interest," 36.

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