

Objection 1. It would seem that a sale is not rendered unjust and unlawful through a fault in the thing sold. For less account should be taken of the other parts of a thing than of what belongs to its substance. Yet the sale of a thing does not seem to be rendered unlawful through a fault in its substance: for instance, if a man sell instead of the real metal, silver or gold produced by some chemical process, which is adapted to all the human uses for which silver and gold are necessary, for instance in the making of vessels and the like. Much less therefore will it be an unlawful sale if the thing be defective in other ways.

Objection 2. Further, any fault in the thing, affecting the quantity, would seem chiefly to be opposed to justice which consists in equality. Now quantity is known by being measured: and the measures of things that come into human use are not fixed, but in some places are greater, in others less, as the Philosopher states (*Ethic. v, 7*). Therefore just as it is impossible to avoid defects on the part of the thing sold, it seems that a sale is not rendered unlawful through the thing sold being defective.

Objection 3. Further, the thing sold is rendered defective by lacking a fitting quality. But in order to know the quality of a thing, much knowledge is required that is lacking in most buyers. Therefore a sale is not rendered unlawful by a fault (in the thing sold).

On the contrary, Ambrose says (*De Offic. iii, 11*): “It is manifestly a rule of justice that a good man should not depart from the truth, nor inflict an unjust injury on anyone, nor have any connection with fraud.”

I answer that, A threefold fault may be found pertaining to the thing which is sold. One, in respect of the thing’s substance: and if the seller be aware of a fault in the thing he is selling, he is guilty of a fraudulent sale, so that the sale is rendered unlawful. Hence we find it written against certain people (*Is. 1:22*), “Thy silver is turned into dross, thy wine is mingled with water”: because that which is mixed is defective in its substance.

Another defect is in respect of quantity which is known by being measured: wherefore if anyone knowingly make use of a faulty measure in selling, he is guilty of fraud, and the sale is illicit. Hence it is written (*Dt. 25:13,14*): “Thou shalt not have divers weights in thy bag, a greater and a less: neither shall there be in thy house a greater bushel and a less,” and further on (*Dt. 25:16*): “For the Lord . . . abhorreth him that doth these things, and He hateth all injustice.”

A third defect is on the part of the quality, for instance, if a man sell an unhealthy animal as being a healthy one: and if anyone do this knowingly he is guilty of a fraudulent sale, and the sale, in consequence, is illicit.

In all these cases not only is the man guilty of a fraud-

ulent sale, but he is also bound to restitution. But if any of the foregoing defects be in the thing sold, and he knows nothing about this, the seller does not sin, because he does that which is unjust materially, nor is his deed unjust, as shown above (*q. 59, a. 2*). Nevertheless he is bound to compensate the buyer, when the defect comes to his knowledge. Moreover what has been said of the seller applies equally to the buyer. For sometimes it happens that the seller thinks his goods to be specifically of lower value, as when a man sells gold instead of copper, and then if the buyer be aware of this, he buys it unjustly and is bound to restitution: and the same applies to a defect in quantity as to a defect in quality.

Reply to Objection 1. Gold and silver are costly not only on account of the usefulness of the vessels and other like things made from them, but also on account of the excellence and purity of their substance. Hence if the gold or silver produced by alchemists has not the true specific nature of gold and silver, the sale thereof is fraudulent and unjust, especially as real gold and silver can produce certain results by their natural action, which the counterfeit gold and silver of alchemists cannot produce. Thus the true metal has the property of making people joyful, and is helpful medicinally against certain maladies. Moreover real gold can be employed more frequently, and lasts longer in its condition of purity than counterfeit gold. If however real gold were to be produced by alchemy, it would not be unlawful to sell it for the genuine article, for nothing prevents art from employing certain natural causes for the production of natural and true effects, as Augustine says (*De Trin. iii, 8*) of things produced by the art of the demons.

Reply to Objection 2. The measures of salable commodities must needs be different in different places, on account of the difference of supply: because where there is greater abundance, the measures are wont to be larger. However in each place those who govern the state must determine the just measures of things salable, with due consideration for the conditions of place and time. Hence it is not lawful to disregard such measures as are established by public authority or custom.

Reply to Objection 3. As Augustine says (*De Civ. Dei xi, 16*) the price of things salable does not depend on their degree of nature, since at times a horse fetches a higher price than a slave; but it depends on their usefulness to man. Hence it is not necessary for the seller or buyer to be cognizant of the hidden qualities of the thing sold, but only of such as render the thing adapted to man’s use, for instance, that the horse be strong, run well and so forth. Such qualities the seller and buyer can easily discover.