

Ordinatio IV, distinction 46, question 4: "Does justice work together with mercy in the punishment of the wicked on the part of God as the one punishing?"

79 The fourth question is whether justice works together with mercy in the punishment of the wicked on the part of God as the one punishing.

80 Arguments for the negative:

Augustine, *De diversis quaestionibus*, q. 3 : "No wise agent (*auctor*) makes a human being worse." *A fortiori*, therefore, God does not make a human being worse, since God is greater than any wise person. But one who adds something bad to what is already bad makes the whole thing worse, just as one who adds something good to what is already good makes the whole thing better, as we read in *Topics* III [119a23]. Therefore, etc.

81 Moreover, according to Deuteronomy 25:2, the measure of the beatings will correspond to the measure of the sin. Now any sinner's sin is temporal and finite; therefore, a just punishment for such a sinner will also be temporal and finite. So there is no justice in eternal punishment for a temporal and transitory fault.

82 Moreover, a just punishment aims at the correction of the one punished, but no one who is damned is corrected through his punishment. The first premise is proved from what the Philosopher says in *Rhetoric* I [1369b12–14].

83 Moreover, James 2:13 says, "Judgment without mercy will be done to one who did not show mercy." And in commenting on Psalm 118:151, "You are near, O Lord," Augustine says, "Where God does not show mercy, vengeance is given." Therefore, in the damned there is justice without mercy.

84 Moreover, Revelation 18:7 says, "However much she glorified herself and lived voluptuously, give her so much torment and sorrow." So in that case there is a strict correspondence of punishment to fault, without any forgiveness and mercy.

85 On the contrary:

Psalm 24:10 says, "All the ways of the Lord are mercy and truth." Cassiodorus, commenting on Psalm 50, says, "These two things are always conjoined in the ways of the

Lord.”¹ And Scripture speaks frequently of both: for example, “The Lord is just and loves justice” [Psalm 10:8] and “God will not forget to show mercy” [Psalm 76:8, 10].

I. REPLY TO THE QUESTION

A. THE CONSENSUS VIEW

1. EXPOSITION OF THE VIEW

86 In reply to this question, it is held² as a probable opinion that in every divine act mercy accompanies justice, as the Psalm [24:10] says: “All the ways of the Lord are mercy and truth.”

87 The argument³ for this is that an artisan who voluntarily produces an effect in conformity with his own rule is just, since “justice renders to each what he is owed,”⁴ and what is owed above all else to the artisan’s product is that it be in harmony with the artisan’s rule. And God is such an artisan with respect to every creature.

88 Similarly, there is mercy in coming to someone’s assistance in the case of a present need, so as to relieve it, or in the case of a future, impending, need, so as to prevent it. Now in producing any creature, God comes to a creature’s assistance in one of those ways. Therefore, etc.

89 The following consideration supports the idea that the two work together: the more virtues incline to one and the same act, the more perfect that act is (just as, by reasoning from the opposite, the more virtues to whose inclination or rectitude an act is opposed, the more blameworthy that act is). Now every act of God’s, as his act, is supremely perfect; therefore, every act of God’s proceeds from every virtue that can possibly concur in one and the same act. Now it is possible for mercy and justice to concur in one and the same act, as is evident from the reply to questions 1, 2, and 3 in this distinction [nn. 29–36, 40–45, 56–57, 64–66].

¹ Cassiodorus, *Expos. Psalmorum* ps. 50, 16.

² Bonaventure, *Sent.* IV d. 46 a. 2 q. 4 in corp.; Thomas Aquinas, *Sent.* IV d. 46 q. 1 a. 1 qc. 2 in corp.; Richard Middleton, *Sent.* IV d. 46 princ. 2 q. 3 arg. in opp; Peter of Tarantaise (Innocent V), *Sent.* IV d. 46 q. 2 a. 2 arg. 1 in opp.; and others.

³ Cf. Thomas Aquinas, *Sent.* IV d. 46 q. 1 a. 1 qc. 3 in corp. and ad 1.

⁴ Cf. Cicero, *De natura deorum* III c. 15; *Iustiniani Institutiones* I tit. 1 c. 10.

2. ANALYSIS OF THE VIEW

90 But the first argument, which proceeds from the definitions of justice and mercy [n. 87], understands them⁵ very generally. For if justice properly speaking consists in rendering what is owed, and nothing is owed to any product of art except according to the artisan's will, it follows that there is no justice, strictly speaking, in the making of that product; and with respect to a creature God is just such an artisan. So the premise that "what is owed to the artisan's product is that it be conformed to the artisan's rule" should be denied if 'owed' (*debitum*) is taken strictly, since God does not owe this to the things he produces. If, by contrast, we understand the premise as meaning that this is required if the product is to be made in the way it ought to be (*debite*), then it doesn't follow that there is justice in the one producing it if he acts purely freely in bringing it about that his product is thus in conformity with his rule, apart from any preexisting demand on the part of the product—and that is the case here.

91 Likewise, the argument about mercy [n. 88] considerably stretches the notion of mercy to include alleviating or eliminating any deficiency whatsoever, when in fact mercy properly speaking is limited to alleviating or making good a deficiency that causes unhappiness, and not everything that has a deficiency can be unhappy.

92 And that consideration in favor of the concurrence of multiple virtues [n. 89] depends on a controversial claim, since it is not certain that the essential character of any virtue can actually exist in the divine will—not merely as really distinct (there's no doubt that that can't be the case) but even as formally distinct, since the will, in virtue of being infinite, is more sufficient for every rectitude in an act than any superadded virtue, however distinct, whether really or conceptually. But even if one should concede that there is in God a virtue formally distinct from his will—say, wisdom, or some other intellectual virtue in the intellect—it is not evident that the concurrence of multiple such virtues in one and the same act is required for the supreme perfection of that work.

⁵ Reading *eas* (Q) for the edition's *illa*.

93 And even granting that those arguments are conclusive in general with respect to God's positive acts, because both rectitude and the elimination of need are evident in them, they would still not appear to be equally conclusive in the present context, because in the punishment of the wicked something bad is inflicted, such that someone is made needier after the punishment than before.

B. SCOTUS'S ANSWER

94 So in order to answer the question we must investigate, first, what the punishment of the wicked is; second, whether it is from God; third, if justice contributes to it; and fourth, if mercy contributes to it.

1. WHAT THE PUNISHMENT OF THE WICKED IS

a. THE ESSENCE OF PUNISHMENT: SORROW

95 As for the first topic, punishment is a perceivable lack of a suitable good, or a perceivable presence of an unsuitable evil, in an intellectual nature. Now there are two kinds of good for an intellectual nature: the advantageous good and the honorable good. The third kind of good that is often posited—the useful good—is of course reduced to one or the other of these two, depending on which of the two it is ordered to. And although the advantageous and the honorable sometimes coincide in the same thing, as they do in the enjoyment of God in heaven, in general whatever is honorable is advantageous but not vice versa. Still, what is supremely advantageous is happiness, and it would be advantageous even if *per impossibile* it were not honorable; and what is supremely honorable is charity, and it would be honorable even if *per impossibile* it were not advantageous. So, because there is a twofold good of which an intellectual nature can be deprived, there is a twofold punishment in such a nature: the first is called “the evil of injustice” or “the evil of fault” and can be called “fixity (*obstinatio*) in sin”; the second is called “the punishment of harm” or “harm” or “damnation.”

96 No activity of a purely intellectual nature, simply as an activity, can be an evil

unsuitable to that nature, since any activity is suitable. After all, every act of understanding, simply as such an act, is suitable to the intellect, and every act of willing is suitable to the will; and similarly every act of willing-against, simply as such an act, is suitable to the will, since its willing-against is just as free as its willing. And even if we look at one power as related to the other, an activity of one is not unsuitable to the other. So we find nothing positive in the domain of activity that is unsuitable to such a nature, but only a distinct passion contrary to an activity or an activity that is unsuitable, not as such, but as willed-against. Sorrow is such a passion. An activity that is willed-against—and indeed generally anything that is willed-against but is actually brought into effect—causes sorrow. Unrestrained awareness of fire is this sort of activity, as I said earlier, in question 44 [n. 71]: it is contrary to the command of a will that wills to use its intelligence freely, applying it now to this object and now to that, whereas in fact the intelligence is always occupied, contrary to this will, in an intense awareness of fire, which (as I said earlier) prevents it from paying perfect attention to other objects.

b. THE FOUR FORMS OF SORROW

(i). THE PRIVATION OF THE HONORABLE GOOD, OR GOOD OF GRACE, THROUGH FAULT

97 Now there are four kinds of sorrow in the damned, including a twofold privation of good. One of these is the privation of the honorable good, or the good of grace, through fault. For they sorrow over their own fixity in sin, which is the first privation—or at any rate they sorrow over the sin that they committed in life and in which they are now stuck, without [the possibility of] forgiveness. They do not in fact sorrow over either of these in its own right, as this sort of privation, but as demeritorious and thus earning them the punishment of harm; that is, they sorrow, not because they offended God, but because they realize that by sinning they deprived themselves of the very thing that they immoderately desired. And this sorrow can appropriately be called “the punishment of the worm,” that is, sorrow born of remorse for sin committed, not as sin, but as the demeritorious cause of the punishment of harm.

(ii). THE PRIVATION OF THE ADVANTAGEOUS GOOD, HAPPINESS

98 Sorrow over lacking the advantageous good, happiness, either (1) has no name but can be called “engrossing sorrow,” since when someone perceives that he will permanently lack the very thing, a desire for which belongs to his nature in the highest degree (especially when justice as a potential curb on this desire has been abandoned), he experiences a sorrow that engrosses his entire attention; or (2) it is called “the punishment of harm” taking that construction transitively, as the punishment brought about by harm—for in calling just the lack of the advantageous good⁶ “the punishment of harm” we take that construction intransitively.

(iii). THE TWOFOLD POSITIVE UNSUITABLE EVIL

99 Now there are two kinds of sorrow over positive unsuitable evils: one is over perpetual detention in fire as a place of confinement, and the other is over the detention of the intelligence in an intense awareness of fire as its object. These two positive things—these two detentions—are willed-against and are therefore unsuitable, not in the sense that they destroy the nature of the power in which they are present, but in the way that it is unsuitable for something heavy to be up high and so a heavy thing would be sorrowful if it perceived that it was up high. We can call the first of these two sorrows “the punishment of imprisonment” and the second “the punishment of blinding”—the construction [in both cases] being taken as transitive, understanding “punishment” as sorrow, and the “of *x*” qualification indicating the object that causes sorrow.

100 And so we have two kinds of punishment, corresponding to the privation of a twofold good, and a fourfold punishment corresponding to four positive sorrows, of which two have positive causes (the two detentions that are willed-against) and two have privative causes (the two privations that are willed-against and perceived).

⁶ “just the lack of the advantageous good”: as opposed to the sorrow brought about by (the realization of) one’s lack of the advantageous good.

2. IS THE PUNISHMENT OF THE WICKED FROM GOD?

101 Regarding the second topic:

The first punishment, fault prolonged without interruption (a prolongation that can be called “fixity”), does not have God as a positive cause. For just as a fault, when committed, does not have any positive cause *qua* fault, so too it has no positive cause *qua* fault when it is continued. And it is *qua* fault the first punishment, in keeping with what Augustine says in the *Confessions* [I.12.19]—“You have commanded, Lord, and so it is, that every sinner is his own punishment”—and as I explained in Book II.⁷ But *qua* prolonged this fault is from God as a negative cause, that is, as not forgiving it; and yet he is not the first cause. Instead, the will itself as voluntarily prolonging its fault is the demeritorious cause of God’s not forgiving it; or at any rate the will itself, when it committed sin, demerited, even if does not always prolong the fault after that sinful act.

102 Similarly, the second punishment, being a privation, has no positive cause; but it does have God as a negative cause, in that he does not grant happiness. But this not-causing-happiness has another demeritorious cause in the damned, namely the fault: as I have explained, it is on account of this fault that this advantage is not granted to them.

103 By contrast, the two detentions that are willed-against are from God, because they are positive beings and consequently goods. And this first detention is from God immediately, at least *qua* perpetual, since although fire detains the spirit quasi-formally, it does not effectively confine it to a place or (in other words) effectively detain it in this ‘where’ except by precluding its being anywhere else, and the spirit does not confine itself to a place, at any rate perpetually. So God is immediately the cause of this perpetual and confining detention. Now fire is a proximate, though partial, cause of the other detention, the detention of the intelligence in an intense awareness of fire. But God is the remaining, immediate, cause, since, in keeping with the general order of causes, the object ought to have a causality subordinate to that of the will in acting on someone’s intelligence; in this case, however, it is not subordinated to the spirit’s will,

⁷ Cf. Scotus, *Ordinatio* II d. 7 n. 92, dd. 34–37 n. 173.

but in fact moves him contrary to his will as an agent immediately subordinate to the divine will.

104 So these four sorrows are from God because they are positive effects; but all of them are from God mediately, that is, through the apprehension of an object that is willed-against.

3. WHETHER JUSTICE PLAYS A ROLE IN THESE PUNISHMENTS

105 Concerning the third topic I say that since justice is understood in two ways in God, as I explained in question 1 of this distinction, in this punishment there is not only the first justice, in that it befits the divine goodness to punish in this way, but also the second, since punishment corresponding to fault is a demand or something just.

106 And this can become clear if we go through the punishments that have been discussed.

a. GOD'S JUSTICE IN THE FIRST PUNISHMENT

107 The first punishment of course is not inflicted—and it could not be inflicted justly, since it is formally fault. Rather, it is a punishment that consists in being abandoned (*poena derelicta*), as Augustine says in commenting on Psalm 5, verse 9: “When God punishes sinners, he does not impose evil on them; instead, he leaves the evil to their own evil.”⁸ I understand this as applying to this first punishment, which is fault that is left in place (in other words, not forgiven) or the abandonment of the sinner in such a state of fault. This is from God in the sense I explained in the previous section [n. 101], and in that way it is from God *justly*. For God justly leaves them in that state or does not forgive them: either because their will voluntarily wills evil continuously, or because they persevered in sin without repentance to the end of their lives (a length of time determined precisely in order to allow them time for repentance), or, third, because they sinned in this present life and thereby deserved to be thus left in their fault.

108 It is of course just for someone who persists in evil not to be freed from that evil by

⁸ Augustine, *Enarrat. in Psalmos* ps. 5 n. 10.

someone else. It is also just for someone who could have left evil behind and had a precisely determined amount of time to do just that, but instead persevered in evil and did not correct himself, to be abandoned to his evil after his allotted time has come to a close. And third (to take the least obvious case) if someone through his own fault has sunk into a state of powerlessness from which he cannot escape by his own efforts or those of anyone else besides the person whom he offended, he can be justly left in that state of powerlessness. For example, if someone voluntarily hurls himself into a ditch from which he cannot escape by his own efforts, or in any other way, except with the help of some other person to whom he showed contempt, and whom he offended, by hurling himself into that ditch, then he can be justly left there.

109 These three seem sufficiently clear to establish the point at issue. For one who is damned is continuously in some bad willing (as seems probable), and remained impenitent to the end of his life, and in the course of his life offended by falling into sin, from which he could not escape by his own efforts, except only by acting in such a way as to dispose himself to acquire merit *de congruo*, and that during the course of his life; but instead he passed his whole life unfruitfully, without any such merit.

b. GOD'S JUSTICE IN THE SECOND PUNISHMENT

(i). EXPOSITION

110 The second punishment is also from God in this way—that is, negatively—in that God does not grant happiness. It is from God justly: justice requires that the honorable good be repaid with the advantageous good, and in the same way it demands that sin, the privation of the honorable good, be repaid with the privation of the advantageous good. And this just correspondence of the privation of the advantageous good to the privation of the honorable good orders that fault—to the extent that it *can* be ordered and yet remain, since in an absolute sense it is contrary to order. Hence, if the whole is to have the order that it can have with the fault remaining in it, the order of the whole requires that something else be added if the fault remains. An example: putrefaction in a limb is unqualifiedly contrary to the good order of the body, so if the body is to have the best order that it can have with the putrefaction remaining in

it, something else—something that corresponds to the rotten limb according to the natural order of the body, that is, something that prevents the putrefaction in that limb from spreading to the rest of the body—must be added; if there were no putrefaction, the order of the body would not require such a thing.

111 Boethius supports this view in *Consolation* IV [prose 4]: “The wicked are unhappier if they are granted impunity unjustly than if they are punished justly.” And this is not surprising, since impunity involves only a good of nature, which, however, is vitiated by fault, whereas punishment involves something over and above the good of nature: a just correspondence of punishment to fault, which is a good that transforms fault.

(ii). OBJECTIONS

112 On the contrary:

There is evidently no goodness in the relation of one bad thing to another.

113 Moreover, it would surely be better for the first bad thing to be removed than for it to remain and another bad thing corresponding to it to be added, as is clear in that example of the rotten limb [n. 110]: the elimination of the putrefaction would be unqualifiedly better for the body than merely preventing the putrefaction from spreading from one limb to another.

114 A reply to the first objection [n. 112]: as one falsehood follows necessarily from another, so a disadvantageous evil corresponds justly to a dishonorable evil.

115 In reply to the second objection it is said⁹ that some evils must be permitted in the universe in order for it to be better. This argument is drawn from Augustine, *Enchiridion* [8.27]: “The Almighty judged it better to allow evils to come about, because he has the power to bring greater goods out of those evils.”

116 Augustine also says [*Enchiridion* 3.11] that “Evils, fittingly ordered, commend good things all the more eminently.”

117 And this is applied to the present case in particular¹⁰: by allowing faults and punishing

⁹ Thomas Aquinas, *ST* I q. 22 a. 2 ad 2, q. 48 a. 2 ad 3.

¹⁰ Thomas Aquinas, *Sent.* IV d. 46 q. 2 q. 1 qc. 3 ad 2, q. 1 a. 2 qc. 4 ad 2–4

them, God's works manifest justice, which would not be manifest if no fault were punished. So Augustine says in *De civitate Dei* XXI.12: "The human race is divided: in some the power of merciful grace is shown, in the rest, just retribution. For both could not be shown in all."

118 And this commendation of the good by its contrast with evil is referred¹¹ to the glory of the saints, about which Isaiah 66:24 says, "They will go forth and see the corpses of the men [who rebelled against me], and this will be for the satisfaction¹² of all flesh," in keeping with what we read in Psalm 57:11, "The righteous one will rejoice when he sees your retribution."

119 Augustine discusses this in *De civitate Dei* XX.21.

120 So one would have to deny that it would be better for the universe if the evil of fault were removed from the wicked [n. 110]: for if it were, the goodness of just punishment would also be removed, since punishment cannot be either just or good if all fault is removed. And that example about the rotten limb does not work. Yes, it would be better for this particular body if the putrefaction were removed than if the limb were dried out but the putrefaction remained; and similarly it would be better for this particular person if his fault and his punishment were taken away than if these two privations, with their mutual correspondence, were to remain in him, since both privations are bad in themselves and bad for him, and each is a greater evil than the correspondence of one to the other is a good for him.

121 But that correspondence is a greater good *for the universe* than for no such thing to exist in the universe, since a multiplicity of levels of goodness contributes to the perfection of the universe. Thus, it would be better for the moon if it had the sun's light (if the moon could have the sun's light while retaining its own nature), but it would not be better for the universe, since then there would not be all the levels of luminous bodies in the universe.

(iii) RESPONSE TO THE OBJECTIONS

122 Against this: A highest possible nature has not been and will not be made in the

¹¹ Thomas Aquinas, *Sent.* IV d. 46 q. 1 a. 3 ad 4.

¹² In context, the last clause of this verse means "and they will be an object of loathing to all flesh," and our English Bibles render it accordingly; but in order for the argument to work we have to take *satietas* here in the sense of what satisfies by its abundance rather than as what disgusts by its excess.

universe (as the probable opinion has it), and not all possible levels of happiness in a nature capable of happiness will exist in the kingdom of heaven. So if God will not make all the levels of goodness for the sake of the perfection of the universe—levels that are good not only for the universe but in themselves and in those who possess such goodness—what necessity could there be for this lowest sort of goodness, which is bad both in itself and for the one who possesses it, for the sake of the perfection of the universe? Indeed, it is lower than any goodness that is good both in itself and for the one who possesses it! Would it not be better for all such things to be removed and for something good to be granted in their place, something that would be good both in itself and for those who possessed it, namely, happiness?

123 This rules out the first argument [n. 115]: for evidently it is not the case that greater goods are brought out of the wicked themselves than the goods of which those evils deprive them would be. For this privative punishment is not unqualifiedly a greater good than the charity or happiness of which they are deprived.

124 As for the point that “evil fittingly ordered more eminently commends goods” [n. 116], it seems that the eminent commending of goods does not require something that is evil to be fittingly ordered, since whatever is evil is evil precisely because it is contrary to order. And the use of different colors in pictures is not analogous, since any color is something positive and moves vision in its own way; but if a painter could leave a vacuum in one spot, the picture would not be more beautiful as a result.

125 The argument about manifesting divine justice [n. 117] does not appear conclusive. For rewarding merit is a more eminent act—more eminent even as an act of justice—than punishing demerit. Indeed, justice in punishing is the lowest form of justice, and so its act (unlike justice in rewarding and exchanging) should never be chosen unreservedly, but always with a sort of displeasure. And an act of will that needs to be less voluntary if it is to be good is a less perfect act; for a whole-hearted choice (*magna electio*) to punish is cruelty. So this does not follow: “divine justice is not manifest in the lowest act that can belong to justice; therefore, divine justice is not manifest.” Far from it: justice would be manifest more eminently in other, more

perfect,¹³ acts of justice.

126 The fourth argument, about the joy of the blessed [n. 118], should evidently not move anyone. For as Gregory says in *Dialogi* IV.44, “Because God is gracious, he is not gratified by suffering; because he is just, he does not stop punishing sinners.” *A fortiori*, it is unfitting for the blessed to be gratified by suffering, since this is attributed to God precisely on account of justice, and justice sometimes compels a judge to punish when someone else who is not a judge has compassion for the one who is punished. But suppose that the blessed are in conformity with divine justice and therefore rejoice over the punishment of Judas: would they not rejoice even more over his glorification if he were made happy? Obviously they would. For Peter rejoices more over Linus’s happiness than he does over Judas’s damnation; whereas if Judas were made happy, Peter would rejoice over Judas’s glorification as much as he now does over Linus’s happiness.

c. GOD’S JUSTICE IN THE THIRD PUNISHMENT

127 It can be said that the justice of demand is sufficiently manifest in the third punishment.¹⁴ For just as a ‘where’ in the noblest body is fitting for the good (circumspectively for the bodies of the blessed and definitively for the good angels), though with freedom for another ‘where’ as they please—for the ability to use their motive power to any ‘where’ that is not incompatible with glory is itself a feature of glory—so also it is just for the reprobate to be located in the vilest body, which is earth, and to be restricted there by being deprived of their motive power, which, because of the badness of their wills, they would use badly if they could.

¹³ Reading *perfectioribus* with the MSS against the edition’s *eminentioribus*, “more eminent.”

¹⁴ In the edition this sentence begins with *Ista excludendo, et confirmando rationes illas sumptas ex dictis Augustini*, “By way of ruling out these [claims] and confirming the arguments drawn from Augustine.” I can’t make sense of this. The edition identifies “these [claims]” as the arguments of nn. 112–121 and the Augustinian arguments as those of nn. 115–118, but that can’t be right. The Augustinian arguments are in support of Thomas Aquinas’s view, and Scotus has just argued rather vigorously against them. Moreover, nothing that follows in this paragraph has anything to do with the arguments of nn. 112–121 in general or the Augustinian arguments of nn. 115–118 in particular. The paragraph reads better without this phrase, and since there has clearly been some textual dislocation at this spot (see the apparatus of the edition), I have chosen to demote the phrase to this footnote.

d. GOD'S JUSTICE IN THE FOURTH PUNISHMENT

128 There is also justice in the fourth punishment. For just as the intellects of the blessed are determined to seeing the supremely noble object, the divine essence, and their wills are concomitantly determined to enjoying that object (though they retain the freedom to think about and love other objects such that thinking about and loving them does not interfere with this good), so too the intellects of the wicked are determined to thinking intensely of an object that is unsuitable, because it is willed-against, and imperfect, because it is corporeal, and their wills are determined to will-against¹⁵ something posited in being that is such as to cause sorrow, and they lose their freedom to think about and will other things that, if thought about and willed, would mitigate their punishment. And the reason in the case of both the good and the wicked is that they have merited exactly this through their intellect and will. And these are the noblest powers of an intellectual nature; consequently, the perfection or imperfection of an intellectual nature consists precisely in the perfection or imperfection of these powers.

e. GOD'S JUSTICE IN THE FOUR SORROWS

129 Now in the other four punishments—that is, the sorrows—justice is sufficiently evident, since the consummation of punishment requires sorrow. But if in damned human beings after the judgment we posit burning in fire in place of the second detention and pain in the sensory appetite in place of the fourth sorrow, then there is justice in virtue of the correspondence of this bitterness to the inordinate pleasure that they had in sin.

¹⁵ Reading *nolendum* (NQ) for the edition's *volendum*, "will." The edition reports N's reading (Q is not even collated) with a sarcastic exclamation mark. But since it is obviously not the case that the wills of the damned are determined to *will* the awful, sad-making thing—the binding of their intellects to an awareness of the unquenchable fire in which they are bound—but to *will-against* it, I think it is the editors who deserve a sarcastic exclamation mark.

4. DOES MERCY CONTRIBUTE TO THE PUNISHMENT OF THE WICKED?

130 Concerning the fourth topic, as I explained earlier [n. 57], liberating mercy excludes all unhappiness; sparing but not liberating mercy excludes some part of the unhappiness that is owed. The first sort of mercy is not present in the punishment of the wicked, but the second is.

a. THOMAS AQUINAS'S VIEW

(i) EXPOSITION

131 In support of this view, an argument like the following is offered¹⁶: “Agent and patient always correspond to each other proportionally in such a way that the agent is to the action as the patient is to the passion. Now items that are unequal to each other do not have the same proportion to other items unless those items in turn are unequal to each other. For example, because six and four are unequal, they have a proportion, as double, to three and two, which are likewise unequal. So when an agent exceeds a patient, it must be the case that the action exceeds the passion.”

132 This conclusion is confirmed by the fact that we see in all equivocal agents that the patient does not receive the whole effect.

133 On the basis of this conclusion he speaks to the present issue as follows: “A giver has the role of the agent and a recipient that of the patient. Therefore, when the giver greatly exceeds the recipient, it is fitting that the giving exceed the receiving that is proportionate to the recipient. Now ‘less evil’ and ‘more good’ are reckoned in the same way, as is said in *Ethics* V [1131b22–23]; therefore, just as God always gives more good than someone deserves, so also he inflicts less evil than someone deserves.”

¹⁶ Thomas Aquinas, *Sent.* IV d. 46 q. 2 a. 2 qc. 3 in corp.

(ii) REFUTATION

134 I argue against this view. First: if two items have the same proportion to two other items, then one item of the first pair exceeds the other by as much as one item of the second pair exceeds the other—understanding ‘as much’ in terms of proportion, not quantity. That is clear in his example: just as six is in the proportion of one-and-a-half times four, so also three is to two. But the action does not exceed the passion as much as the agent exceeds the patient,¹⁷ since in the present case the agent or giver infinitely exceeds the patient or recipient, and yet the giving is not infinitely beyond what is deserved.

135 You might say that the divine action is in fact infinite, as is the giving so far as it is on God’s part, because it is God’s willing. But then the argument [n. 131] is beside the point. For it does not follow from this that this agent has to cause something greater, beyond what it is fitting for the recipient to receive; all that follows is that the agent’s action, remaining in the agent himself, is something more perfect than the recipient’s reception.¹⁸ That would be the case even if what were given to the recipient in the effect were just the minimum proportionate to it.

136 Moreover, his example actually supports the opposite of what it’s intended to prove. For if the patient does not receive the whole effect of an equivocal agent, then either some other patient does, in which case an equivocal agent would always require a plurality of patients at the same time, or else no patient does, in which case along with the effect in the patient the agent will have some other free-standing effect. Both of these possibilities are obviously absurd.

137 So perhaps the argument could be refurbished: we could take ‘action’ in the sense of the action that remains in God himself as agent.¹⁹ But if we are talking about the effect, then the claim in this argument that the patient does not receive the whole effect of an equivocal agent

¹⁷ Reading *sed non in quantum excedit agens patiens tantum excedit actio passionem* (PZN) for the edition’s *sed numquam excedit agens patiens, sicut nec excedit actio passionem* (A).

¹⁸ Reading *receptione istius* (ZN) or *illius* (PQ) for the edition’s *receptione sua* (A). *sua* would have to mean the *agent’s* reception, which is dumb and a half.

¹⁹ I have translated as much of this sentence as I know how to make out. It reads *Unde licet posset colorari ratio, loquendo de actione, faciendo brigam in hoc quod actio accipiatur manens in ipso Deo agente*. I don’t know how to take *faciendo brigam*—how does providing an acceptable way to read the argument make a difficulty?

[n. 132] is manifestly false, as it also is if we speak of action as it is in the patient [n. 133], as the Philosopher speaks in *Physics* III.²⁰

138 So, to address the argument [n. 131]: either the major premise is false, or the minor premise is, or the argument equivocates on ‘proportion’ as applied to action insofar as it is something in the patient. For if ‘proportion’ is understood in its proper sense, and the claim is that the proportion of the agent to the action is similar to the proportion of the patient to the passion, then this proposition is false, just as the following proposition is: “a patient exceeds the form received in itself as much as the agent exceeds the form that comes from it.” Nor does this understanding of the similar proportion among these four items follow from the antecedent, “an agent is proportionate to a patient”: for an agent and a patient are proportionate in virtue of the fact that the agent is in actuality such as the patient is in potentiality, where the agent and patient are extremes of a single proportion. So how can be it inferred from this that agent and patient have a similar proportion to two other items—namely, action and passion—unless one assumes that the action is in actuality such as the passion is in potentiality? And that’s false. By contrast, if ‘proportion’ is understood in some improper sense in the major premise, not in terms of exceeding and being exceeded but in some other way that allows the major premise to have some semblance of truth, then the second premise—that “unequals do not have a similar proportion except to unequals” [n. 131]—is not true.

b. SCOTUS’S VIEW

139 I say therefore that a better foundation for the conclusion that there is sparing mercy in punishment can be found in James 2:13, “mercy greatly exalts judgment.”²¹ For, as was said at the beginning of the reply [n. 89], the more virtues that contribute to an act, the more perfect the act is. So if judgment is from justice and from mercy as well, it is that much more perfect. And that is the case if, in inflicting the punishment that justice dictates should be inflicted, God

²⁰ See Thomas Aquinas, *Physica* III lect. 5 n. 13.

²¹ The sense of this phrase in context is “mercy triumphs over judgment,” but the argument requires Scotus to take *superexaltat* as “magnifies” or “greatly exalts.”

withholds something that mercy inclines him to withhold; and thus mercy greatly exalts the divine judgment, in that it is more perfect as a result of mercy than it would be if it proceeded from justice alone.

140 Against this: it seems instead that mercy destroys just judgment. For just as judgment requires punishment, so too it requires punishment proportionate to the offense. Therefore, just as it would be contrary to justice not to punish, so too it would be contrary to justice not to punish fully.

141 I reply: giving something good that is not owed is not contrary to justice, since it is an act of generosity, and the act of one virtue is not opposed to another virtue, whereas taking away a good that is owed is contrary to justice. Now in the present case, giving something good and not inflicting something bad are on a par as far as justice is concerned. Therefore, inflicting something bad beyond what is owed is contrary to justice, because it amounts to taking away a good that is owed, whereas inflicting less of something bad than is owed is not contrary to justice, just as giving something good that is not owed is not contrary to justice.

142 The argument on the contrary [in n. 135] still holds: in that case, it would not be contrary to justice to inflict *nothing* bad or to grant or give the *greatest possible* good that is not owed. Confirmation: suppose there is some fault of intensity level 3, and the corresponding punishment, according to strict justice, has three dimensions or parts, *a*, *b*, and *c*. Then from what has been said, it is consistent with justice that *c* not be inflicted.

143 From this it follows, first, by parity of reasoning, that it would be consistent with justice that *b* not be inflicted, since justice does not dictate that *b* be inflicted any more necessarily than it dictates that *c* be inflicted. And the same goes for *a*. Second, it follows that if justice permits one level in a sin not to be punished according to its proper punishment, then by parity of reasoning it can permit another level in that sin not to be punished, and thus the whole sin.

144 Look up the response.²²

²² See Scotus, *Ordinatio* IV dd. 18–19 nn. 24–26 and d. 46 q. 1 nn. 29–34.

II. REPLIES TO THE INITIAL ARGUMENTS

145 Reply to the first initial argument [n. 80]: Augustine is speaking of the evil of fault, not the evil of punishment, because God judges the wicked well. As Deuteronomy 32:35 says, “Vengeance is mine; I will repay.”

146 On the contrary: this doesn’t undermine Augustine’s argument. For as he himself argues, no wise agent makes a human being worse, so *a fortiori* God does not do so; and punishment makes a human being worse, because it adds one bad thing to another.

147 I reply: if the first bad thing remains, the second bad thing that is added to it may indeed be worse for the particular person, but it is not worse in an unqualified sense, since it is not worse in relation to the universe, the order of which requires that the bad thing that remains be ordered by some other bad thing. For example, though it would have been better for the man born blind [in John 9:1–41] to have had his sight from the beginning, it would not have been better as ordered toward manifesting the divine wisdom and goodness. So we should expound the claim that no wise agent makes a human being worse either as holding only for the evil of fault or—if it holds of evil unqualifiedly—we should say that a human being does not become unqualifiedly worse because of the punishment that is added, even though he is subject to more evil of various kinds, because the proportion of the second evil to the first is something just in him.

148 To the second argument [n. 81] it is said²³ that if the wicked lived perpetually, they would sin perpetually; and so they are punished perpetually because they sinned perpetually in their wills. This is Gregory’s argument in *Moralia in Iob* XXXIV.19.36.

149 Against this: someone sins with the intention of repenting; therefore, he does not sin either implicitly or explicitly with a fixed purpose of sinning perpetually.

Response: he makes himself liable to remaining perpetually in sin, as was explained in the reply using the example of the person who hurls himself into a ditch [n. 108]; and this is especially true of someone who passes his entire life without repentance.

²³ Thomas Aquinas, *Sent.* IV d. 46 q. 1 a. 3 in corp. The objection and response that follow are also taken from Aquinas.

150 There is another approach, which is evidently the one Augustine adopts in *De civitate Dei* XXI.11. There he appears to say that justice does not require perpetual punishment in order to be adequate to the fault; rather, it is perpetual because a person is perpetual and remains perpetually in a state of fault. For he says, "Just as the punishment of the first death cuts human beings off from this mortal city, the punishment of the second death cuts human beings off from that immortal city." And a bit earlier, speaking of certain penalties inflicted in this mortal city, he says, "Are not punishments imposed that are evidently like eternal punishments, to the extent that this life allows? They cannot actually be eternal because the life in which they are endured is not eternal." He means that some fault does not merit total exclusion from the city, and this is temporal in terms of civil life, whereas some fault is so great that it merits total exclusion from civil life, and the intensity of that exclusion corresponds to the fault, though it happens that its extent is finite because life is finite. So it is in the case at hand: mortal fault merits total exclusion from that heavenly city: and that exclusion is perpetual precisely because the life characterized by that fault is perpetual.

151 Here is an argument that evidently supports this approach: it would be possible for God, even according to strictly rigorous justice, to impose a punishment intense enough to be fully adequate to the fault, even if the nature were going to be annihilated right away. Therefore, the reason an eternal punishment is in fact inflicted is not that eternity is an intrinsic, essential feature of the punishment as adequately punitive; rather, eternity accrues accidentally to the punishment because the person punished is eternal and the fault that remains is eternal. And this is a better account of the way in which "the measure of the beatings will correspond to the measure of the sin": this applies to the *intensity* that is intrinsically required for the punishment. The infinite *extension* of that punishment is an accident that derives from the causes I have just described.

152 To the next argument [n. 82] I say that there are two kinds of medicine: curative and preservative. Punishment serves as both kinds of medicine: it is inflicted on the corrigible in order to cure them and on the incorrigible in order to preserve, not indeed the incorrigible themselves, but others, since it is for the good of the community that the legislator determines certain punishments that are to be inflicted on offenders. And it is not only in the determination

of those punishments, but also in their infliction, that there is preservative medicine for those who are in a state of preservation. Now the fact that punishment is not medicine in either way for the one punished is not incompatible with justice, as is evident in the case of the civil punishments of exile or death for grave faults.

153 To the next argument [n. 83] I say that James is speaking of liberating mercy, as is Augustine.

154 To the next argument [n. 84]: 'however much' and 'so much' do not indicate²⁴ equality of quantity but equality of proportion. That is, someone who inordinately glorified himself more than another should be punished more than another according to a similar proportion. Thus, granted that reward exceeds merit, someone who merits more than another will be rewarded proportionately more than another.²⁵

²⁴ Reading *notant* (Q) for the edition's *negant*, "deny" (!).

²⁵ The edition adds, "which [reward] may he grant us" (AZN), to which Z further adds "who with the Father and the Holy Spirit lives and reigns."