



Promising - Part 2

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Abstract

The explanation of promising is fraught with problems. In particular the problem that promises can be valid even when nothing good comes of keeping the promise (the problem of ‘bare wrongings’), and the bootstrapping problem with explaining how the mere intention to put oneself under an obligation can create such an obligation have been recognized since Hume’s famous discussion of the topic. In part 1, I showed that two main views of promising which attempt to solve these problems fall short of explaining the promissory obligation nonetheless. In this second part, I will explain what it takes to show that there is such an obligation (rather than just a reason of a different kind) to keep one’s promises, and discuss a further account of promissory obligation – the normative powers account – which perhaps stands a chance to solve both the bootstrapping and the bare wrongings problem (or rather, to show why we needn’t be worried about those problems after all), and to successfully explain promissory obligation. It comes in at least two different forms: one which regards the normative power to promise as based on our ability to form special relationships, and another which regards the promisee’s ‘authority interest’ as the basis.

Explanations of promising and promissory obligation have been fraught with difficulties. Two of them are particularly salient: the bootstrapping problem, and the problem of ‘bare wrongings’. The bootstrapping problem has been the focus of many a discussion of promising: how can a person make it the case that she is under an obligation to ϕ simply by uttering ‘I promise to ϕ ’ (or by performing some other action which, in the circumstances, constitutes promising)? According to Prichard, she cannot: obligations are simply not the kind of things that agents can create directly. (I call this ‘Prichard’s axiom’.) The problem of ‘bare wrongings’¹ is that promises seem to be valid, even when nothing of value is achieved by keeping the promise: when the promisee does not have any interest in the promise being kept nor will she benefit from it, nor will anybody else’s interests be affected by breaking the promise. The problem is with explaining how a person can be under an obligation to do something that is utterly void of value.

In Part 1 – the companion of this essay – I discussed two accounts of promissory obligation that attempt to solve these problems: The expectation account (EA), and the practice account (PA) of promissory obligation. They each tend to be coupled with different views of what promises actually are. Most proponents of EA take promises to be firm expressions of intentions. (I called this the intention account of promises, IA.) According to many proponents of the PA by contrast, a person promises to ϕ by communicating her intention to undertake (by this very act of communication) an obligation to ϕ . I call this the voluntary obligation account of promising, or VOA. It turned out that while both EA and PA solve the problems of bare wrongings and bootstrapping, they are plagued with many problems of their own. At best, they could be developed into radically revisionist theories of promising. One problem which afflicts especially PA is that, while PA points to reasons for keeping (some of) our promises, it cannot explain why there is an obligation to do so. Take the Humean PA which appeals to the practice-based

sanctions that a person who breaks her promises encounters: she will be regarded as untrustworthy, and will forgo the benefit of the cooperation of others. Surely there is a reason for avoiding these sanctions which any prudent, self-interested person will recognize – but there is no *obligation* to keep a promise (provided the prudential reasons are the only relevant ones). Yet, we tend to believe that a promisor is under an obligation to keep her (valid) promises – and not just that she has a reason for doing so.

In this part, I will focus first on the concept of ‘obligation’, and the difference between obligations and reasons of other kinds, and then discuss yet another account of promising – the normative powers account of promissory obligation – which attempts to capture the distinctive features of promissory obligation that escape EA and PA.

1. Obligations

I will simply assume here that if a person is under an obligation to ϕ , she also has a reason to ϕ , the reason being that ϕ -ing will fulfil her obligation.² She may of course have any number of different reasons for ϕ -ing as well. The PA and the EA have drawn our attention to some of those that typically accompany promissory obligation. I am interested here in explaining what kind of a reason the reason for discharging one’s obligation is, and how it differs from reasons unrelated to obligations.

I will also assume that reasons from obligation are defeasible – or *pro tanto* – reasons. This seems hard to deny without denying also that there can be conflicts between obligations that, in some cases at least, have a solution. If so, it must be because one or more of the conflicting reasons are defeated.

Yet reasons to fulfil one’s obligation are often seen as being more stringent than reasons unrelated to obligation. In a sense yet to be explained, this seems right to me. It is not, however, because they are particularly weighty reasons. Reasons from obligation can be trifling, as when I am, qua academic teacher, under an obligation to fill in yet another form to be filed away into the stack of real and virtual papers that universities gulp down as part of their daily nourishment. What then is the difference between reasons from obligation and other reasons?

Take an example: Having received a new office computer, it would be good, if someone helped you to set it up so that you could start working. Perhaps everyone who can help has therefore a reason to do so. If some stranger, noticing that you need help, came to the rescue, she would have done this for a reason. But if, being in a hurry, having made other plans or simply being on her way to have a coffee, she didn’t stop to help, this may well be because in her situation the reason for helping you isn’t very strong and is defeated. But if I promise to help you with this, and don’t show up, I violate an obligation and you are entitled to demand my performance. That I had lots of other things to do, or found that I would like a coffee just at the agreed time, or had subsequently made other plans wouldn’t excuse me in the slightest – given that I promised, none of these considerations carry any weight. Yet you would have accepted ‘sorry, I’m busy’ from the stranger. Thus, some of the reasons for acting in a certain way cease to be relevant once there is a promissory obligation. They are not simply outweighed – they are out of place. What the promissory obligation seems to do is (to use a metaphor of David Owens’) to change the shape of the normative landscape. Where previously there was only some reason to do something because it would be good (or in your interest), now there is a much more stringent reason.

One account of the stringency of obligations is in terms of normative exclusion: the promisor not only has a reason to keep the promise, but also a reason to disregard many

alternative options that she had prior to promising. The latter is a second order reason, and has been called by Joseph Raz (who champions the view) an ‘exclusionary reason’.³ Some first order reasons are excluded from deliberation when there is a reason from obligation. Obligations are generally defeasible, but not in the same way in which ordinary reasons are. The reason for excluding certain countervailing reasons is not simply thrown into the balance, but imposes a certain structure: only if the countervailing reasons are not of the excluded kind are they to be considered at all. This is not saying that the excluded reasons cease to be reasons (that they are cancelled), but only that they must be disregarded when deciding whether or not to act on an obligation.⁴ The excluded reasons are typically reasons that relate to personal goals, or matters of convenience.

Whether or not normative exclusion is the right way to account for the stringency of the reason to comply with an obligation, one lesson we can draw directly from the example above is that whatever good is being realized through complying with a promise (in our example: that you can start using your computer) is not sufficient for explaining why there is an obligation. The value of making your computer work explains the stranger’s reason to help you, but not the obligation to do so. It follows that Hume’s claim that we can explain obligation easily when there is a natural motive (someone’s interest will be served, or the action is good in some respect), but not when there isn’t, is false: that a certain action is good may explain why there is a reason for it, but not why there is an obligation to act in this way. Another lesson is that promissory obligations forge special relationships, even when there is no special relationship prior to the promise. They make it the case that I owe something to you, that my compliance takes precedence over a number of things that I would have reason to do otherwise, and that I would wrong you by failing to comply with my obligation.

That is perhaps why promissory obligation has sometimes been deemed difficult to explain from a consequentialist point of view.⁵ To be sure, forging a special relationship to another person may sometimes be a good thing: it allows for bonding, and for taking responsibility. But is it really more important than doing all kinds of things one could have done instead? Surely, for a consequentialist the answer depends on a close inspection of the other available options. How can they be foreclosed in the way the ‘normative exclusion’ suggests?⁶

Yet, focusing on the obligation may direct us to a feature of promising that can explain why we have the ability to promise: It is because it is good to be able to bind oneself and to enter into special relationships with others.

2. Normative Powers, Bootstrapping and Prichard’s Axiom

An account of promissory obligation that sits well with this view of obligation regards promising as an exercise of our normative powers. Coupled with VOA, the view that by promising a person communicates her intention to undertake (by this very act of communication) an obligation to ϕ , the normative powers account of promissory obligation simply adds that persons can, under certain conditions, create reasons, obligations or rights through certain actions intended to do so. Claiming that we have normative powers and that the ability to create promissory obligations is one of them is tantamount to rejecting the bootstrapping objection together with Prichard’s axiom. As an account of promissory obligation, the suggestion simply is that – under suitable conditions – we can create obligations at will. Let’s call this the ‘Normative Power Account of Promissory Obligation’, for short NPA. This simple denial of the bootstrapping problem may seem unsatisfactory.

However, the feature of promising that Prichard objects to is shared with many other action-types, such as commanding, giving, and consenting.⁷ We believe that we can through all of these create obligations and/or rights: by commanding, a person can create an obligation for someone else; by consenting one can give another person a right to act in a certain way, or waive a right; by giving, one can make it the case that another person has a property right in something she didn't previously own. And it seems that in all these cases the obligations and rights are created – *per impossibile* as Prichard see it – directly.

Yet the magic is quite circumscribed. Not everyone is in a position to command anyone at all; someone who can issue commands is not thereby in a position to command whatever she likes; consent is only relevant in very circumscribed cases (e.g. when a person has a right to something, but waives it). 'Giving' is similarly confined: I can give only what's mine, but even if something is mine I may not be able to give it away.

Something similar holds for promises: they must be given freely, and deliberately, and the promisor must be aware that she promises. Coerced, or deceitfully extracted promises aren't valid. A promise to act immorally is not a binding promise (at least according to some). And a promise must be accepted to be valid (again according to some).⁸ This is not meant to be a comprehensive list of the conditions of validity, but only of some of the most commonly accepted ones.

But even if the magic is limited, isn't it magic all the same, and therefore the bootstrapping problem persists? If we accept VOA as an account of promising, we can escape the bootstrapping objection only if we can make sense of normative powers. Doing so is crucial for explaining many of our practices including commanding, consenting, making law and giving – thus not only promising will be in trouble if we can't explain normative powers. But *tu quoque* is an insufficient response – we need to explain the normative power of promising: why we have it when we have it. I suggested earlier that the value of the ability to bind ourselves and create special relationships with others explains why we can do so.

One worry about this value-based explanation of normative powers is that it seems to involve wishful thinking⁹: Isn't 'it would be good if we could bind ourselves, hence we can' like 'it would be good, if we could fly – hence we can'? But the analogy doesn't hold. To be sure whether we can fly does not depend on the value of being able to do it. But promising is different. It doesn't effect a causal change, but a normative one: it creates an obligation. Perhaps 'it would be good if, under certain conditions, we could create promissory obligations' entails that there is a (normative) reason for being able to create promissory obligations. Is this similar to 'there is a (normative) reason for being able to fly'?

The ability to fly is a natural ability, which certain animals have, and having it is not under anyone's agential control. Thus having a reason to have the ability to fly seems to be an absurdity. Could the ability to create obligations for ourselves in a similar way depend on our natural outfit? Take a different example: It would be good if I could waive my right not to have sex with others by consenting. Could it be that while it would be good if I could waive this right (i.e. if I had the normative power to consent) I lack the natural abilities to do? The answer is of course 'yes' if my ability to communicate is permanently or temporarily impeded, or I am mentally ill, or I am a child. But could I lack the ability in a more profound way, even when none these conditions obtain?

Anscombe voiced the objection clearly:

I might say ‘Let there be a constraint upon me to do such-and-such’. *This* is a sign signifying a will to be constrained. It is clear that we could understand this, and still go on to ask ‘Will there be any such constraint?’¹⁰

But she also directs us towards a reply:

Suppose I say ‘Let there be a legal obligation on me to...’ we may ask whether one was in fact brought about [...]. *If* – by my merely having pronounced *those* words in appropriate circumstances and before witnesses – there is automatically created the legal fact, then this must be by a special rule of law.¹¹

If there is a rule of law according to which ‘Let there be a legal obligation on me to...’ in circumstances C will be binding, then there is a legal obligation, says Anscombe. Thus the worry, as she sees it, is not that we may simply be unable to voluntarily affect normative changes – she doesn’t endorse Prichard’s Axiom – but that we can do so only when there is a general rule that allows us to do it. Applied to promissory obligation perhaps the following suggestion is along Anscombe’s lines: if it is a true moral principle that uttering ‘I promise to ϕ ’ in C is binding, then there is an obligation to act as promised. The question then is whether there actually is such a moral principle. How would we go about answering this question?

According to the value-based explanation of normative powers there is such a principle if it is good that we can create obligations in certain circumstances (and any contravening reasons do not outweigh the value of having this ability). Applied to promising, we have the normative power to put ourselves under an obligation by promising, if and only if¹² it is good that we can make it the case in C that we are under an obligation to ϕ by promising to ϕ (and contravening reasons do not outweigh the value).¹³

On this view it is the value of having the normative power that explains why we have it (why we shouldn’t be worried about bootstrapping). Can it also explain why sometimes the exercise of this power can lead to creating promissory obligations even when the keeping of the promise is of no value at all (that is: does NPA provide a reply to the problem of ‘bare wrongings’)?

3. ‘Bare Wrongings’

The problem of bare wrongings is that promises bind even when complying with them is not in anyone’s interest, or doesn’t achieve anything of value. The promisee may have accepted a promise only to do the promisor a favour. Perhaps the promisor promised to give up smoking, or to go to the gym regularly. In such cases, it may not matter to the promisee whether or not the promisor keeps the promise. And yet, once accepted, the promise creates an obligation owed to the promisee, and thus the bond between promisor and promisee which all promises forge.

Does this show that there is no problem of bare wrongings after all, because the keeping of every valid promise realizes something of value – even when doing what is promised is not in any way of value? Does it depend on whether the special relationship created by giving a promise is of value in each case when there is a valid promise? We started out with the assumption that having the *ability* to create special relationships, to bond with others, and to bind oneself is of value. It doesn’t follow that the exercise of this ability is always creating something of value. There will be bare wrongings on this view of promissory obligation if a promise can be valid even when neither what is promised, nor the special relationship between the promisor and the promisee are of any value. (I will come back to this point.)

NPA does, however, escape the other objections against PA and EA that I discussed in part 1. Hume relies on the interest of avoiding social sanctions for breaking a promise. Prichard objects that, while the view directs our attention to a reason for keeping (some of) our promises, it cannot explain why there is an *obligation* to do so. According to NPA, there is value in being able to create special relationships. Creating the special relationship, binding oneself, consists in undertaking an obligation. Hence, Prichard's objection needn't worry proponents of NPA. And since keeping the promise is owed to the promisee the obligation is a directed obligation. Scanlon's, and Kolodny's and Wallace's objection to PA doesn't affect NPA either.

4. *Explaining the Normative Power to Promise*

4.1. BINDING ONESELF/BONDING WITH OTHERS

One suggestion for explaining the normative power to promise – the one I relied on to some extent above – is that it is grounded in the value of being able to create special relationships. NPA's explanation of promissory obligations would be (as Raz notes¹⁴) a two-stage one: first we explain why and in which circumstances some action-type is an exercise of a normative power by explaining the value of having this power. Secondly, we investigate whether a particular instance of exercising the power (or attempting to do so) creates an obligation.

Raz maintains that the value of having the power to make promises is that it allows us to forge special relationships through binding ourselves. It is different from, say, the value of having the normative power to command (which is perhaps a function of several features: being in the best position to make the right decisions, and being able to coordinate actions when quick and efficient coordination is crucial). Being able to promise allows bonding with another person because the obligation is owed to that person. Promises can have this function even when there is nothing to be said for fulfilling the promise otherwise.

For many promises among the reasons for keeping them will be one (or more) of the reasons spelled out by EA or PA. But according to NPA, there is also a further content-independent reason for keeping every valid promise which is simply that one promised, and by promising one has undertaken an obligation to act as promised. It is this reason that is explained by the normative power of promising. It exists if and because we have the power to bind ourselves. Explaining what is good about having this power must determine its limits: it must explain why, say, coerced or deceitfully extracted promises are invalid. It thereby explains which promises are valid. But the value of having the power to undertake obligations doesn't guarantee that its exercise is of value. Since the power is a normative power, a power to create an obligation for oneself, there will always be a reason to keep any valid promise, namely the content-independent reason that one promised. But is failing to comply with this reason a 'bare wrong'?

Take our example of a bare wrong (from part 1) again: Maklay, the Russian anthropologist.¹⁵ Why ought he to keep his promise to the Malayan servant? There is a strong reason for breaking the promise: it would help Maklay's research project considerably. Yet by promising he created a reason not to photograph the servant, which is at the same time a reason to ignore the advantage to himself (if the obligation is understood along the lines of normative exclusion sketched above). Maklay now owes it to the servant not to photograph him. None of the reasons that PA relies on are relevant though: neither would the servant's trust be undermined if Maklay broke his promise nor would Maklay's

reputation suffer as a result. Is it the value of the relationship created by the promise that provides a reason for keeping the promise then? It is difficult to answer this question, since the servant trusted Maklay (we assumed) independently of the promise. It is not clear that their relationship is strengthened or deepened by the promissory bond. But what then is the force of the content-independent reason in this case? Does it have any? And furthermore, even if the bond that the promise creates were of value, its value would not be a reason for keeping the promise. After all, the value consists in forming the normative structure itself. The obligation to the servant exists even when the promise is not kept. The breaking of the promise does not make a difference to the fact that Maklay bound himself to the servant.

The proponent of NPA relies on the value of the ability to establish the promissory bond, not the value that results from exercising the ability. To be sure, the ability could not be of value if exercising it would, quite in general, not be. But it needn't be the case that every instance of promising creates something of value. If so, it seems that there can be bare wrongs on this account. Promises are valid simply because the power to create a promissory obligation was exercised in the right way, and the promisee didn't release the promisor from her obligation.

4.2. THE RIGHT OF THE PROMISEE

David Owens (and similarly Seana Shiffrin) approach the explanation of the normative power to promise from a different angle¹⁶: Promising, Owens explains, serves the 'authority interest' of the promisee. It puts the promisee in a position of authority over the promisor: she can decide what the promisor must do, and we sometimes have an interest in having this kind of authority over the actions of others. Owens and Shiffrin base their claims in part on the observation that promises can empower the promisee. The view explains why receiving a promise is often in the interest of the promisee, and sometimes given on the promisee's prompting ('Do you promise?'). On this view, the promisee's interest is in having the *right* to decide – not (or not only) in being spared the harm or inconvenience that results when one relies on another person who lets one down. Owens shows that we can have an interest in having a right to decide, even when we have no interest in the promisor's action itself.

But what exactly is this special right that the promisee acquires? Seana Shiffrin expounds the idea, proposing a rights-transfer view of promising: The promisor transfers the right to decide what she must do to the promisee.¹⁷ But put thus, the account seems to stipulate a right that the promisee simply does not have. If I promise you something, I give you a right: the right to release me from the promise. And at times I would be grateful if you exercised that right, thereby letting me off the hook. But I don't give you the right to decide what I do. That right remains with me. If I break my promise – be it for good reasons, or simply by renegeing on the promise – I am not violating your right to decide. Your complaint will not be (except in special cases) that *you* should have decided what I do, but rather that I violated my obligation to act as promised.

Owens does not support the rights-transfer view. He claims, however, that the promisee is given a right that puts her in a position of authority over the promisor. The normative power of promising is, on Owens's account, explained by the promisee's authority interest: by the value of being able to have authority over the promissory obligation. The promisee controls not the promisor's performance of course, but the promissory obligation, because she can at any time release the promisor from the

obligation. Owens proposes that it is the value of having this kind of control which explains the normative power.

Owens' account spells out a feature of the special relationship between promisor and promisee that promises establish, attempting to explain the promissory obligation through the value of the normative control (or 'authority') that the promisee gains. Are there, on this account, bare wrongings then? Again, the answer is 'yes'. The interest that explains the normative power is, on this account, in the normative structure itself: in controlling the obligation, not in the promisor's performance. (Of course, the promisee may have an interest in the performance as well, but she needn't have it for the promise to be valid.) Any breach of promise does not violate the promisee's normative interest. She controls the obligation, whether or not the promise is kept. So as before, the value of the promisee's right does not preclude promise breaking from being a bare wrong. The value is not in the outcome, but in having the control itself.

But isn't this rule-consequentialism in disguise? Let's grant that having the power to create promissory obligations is of value (in both of the ways explained). This value determines the rules of promising (which in turn determine when a promise is valid). But if there is a case when nothing of value would be achieved in keeping the promise, but the promise is valid according to the rules, doesn't keeping it amount to mere rule-worship? It isn't. True, the rules of promising are determined by a value. This explains, for instance, why coerced promises are invalid: having the power to create promissory obligations for oneself under coercion isn't of value, nor is giving the coercer control over one's obligations. But there is no assumption that the point of promise-keeping is realizing something of value beyond giving the promisee control over the obligation. The value that NPA focuses on and that explains the content-independent reason for keeping the promise is in having the power to promise, and in being giving the right to control the obligation, not in anything that is achieved by keeping the promise.

4.3. A FINAL PROBLEM

But on both of these explanations is there a reason then for keeping the promise? If the value that explains the power to promise is realized whether or not the promise is kept, why keep it? On both explanations, we have that power because the normative structure that promises create is itself valuable. The power of binding oneself to another person or, alternatively, of giving the other person authority over one's actions, so the suggestion, is itself a good thing. The value of having the normative power is supposed to explain why there is a content-independent reason for promise-keeping: the reason to keep the promise because one promised. The explanation is that being able to create an obligation for oneself, or to give the right to release to the promisee, is of value. How can this value explain the reason for keeping the promise? After all, there is an obligation, as well as a right to release, whether or not the promise is kept. The value of having the power to create the normative structure isn't affected by the breaking of the promise, nor does the promisor lose the power to make valid promises, if she occasionally breaks them. Here is Owens' answer to this question¹⁸: By promising – by creating an obligation – I bring it about that I wrong the promisee if I don't keep the promise. Therefore – because breaking a promise is a wronging of the promisee – there is a reason for keeping the promise. There can't be any further question why there is a reason not to wrong another person. Thus the normative structure that promises create also explains why, other things being equal, they ought to be kept. We can explain the content-independent reason for keeping promises, even if failing to comply with this

reason is a bare wrong. This is why this version of NPA isn't troubled by the Humean worry.¹⁹

Short Biography

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Notes

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¹ I take this expression from David Owens (forthcoming).

² By making this assumption, I cast 'obligation' as a normative concept. But of course the word can be used in ways that leave it open whether or not it expresses a normative concept. Some legal- or role-obligations may be cases in point. If the word is used in a way that does not entail that there is a reason for fulfilling one's obligation, it is used in a sense different from the one I am going to discuss. For a more comprehensive discussion of the concept of an obligation, as well as a survey of alternative views see Owens (forthcoming).

³ Raz (1975, 1977, *et passim*); Scanlon (1998) adopted a similar view, even though he does not put it in Raz's terms; for a recent discussion and defense of exclusionary reasons see Owens (forthcoming).

⁴ They are not cancelled, because if (e.g.) a weak-willed agent acted for one of the excluded reasons, she would still have acted for a reason. If I violated my obligation to help you because I was so enthralled by the novel I was reading that I couldn't bring myself to put it down at the agreed time, I would have acted wrongly – but I would have still acted for a reason.

⁵ For further discussion of promissory obligation and consequentialism see Smith (2011).

⁶ Raz (1977) presents the view as a way of explaining how rules can themselves be reasons to act in a certain way, and not just summary statements of the reasons on the ground. A rule consequentialist may well find this congenial. I explain below why Raz's view is not a version of rule consequentialism though.

⁷ Prichard (2002a,b) himself notes similarities between promising, giving and exchanging. David Owens (forthcoming) puts promising within in the context of other normative powers such as consenting and commanding, and so does Seana Shiffrin (2008) who discusses the parallels between promising and consenting.

⁸ E.g. Thomson (1990); Shiffrin (2008) argues against acceptance as a condition of the validity of a promise, and contends that only 'a right (and a low-cost opportunity) to reject the promise or to waive performance' (491) are required.

⁹ E.g. by Anwender (2006) who raises objections of this kind against the specific explanation of normative powers that I focus on in this paper: The claim that whether we have a normative power depends on the value of having it.

¹⁰ Anscombe (1981), p. 98.

¹¹ Anscombe (1981).

¹² Is the 'if and only if...' too strong here? It seems to me that it isn't, and that we could even generalize that the same holds, *mutatis mutandis*, for other normative powers. But this may be a matter of debate.

¹³ Possibly there are different ways of explaining normative powers. Anwender (2006) raises the 'wishful thinking' objection specifically against the value-based one that I explore here. However, any account of normative powers has to explain why at least some of them are transient, i.e. they cannot be explained as part of our nature as rational agent (or some such). An agent may have the power to command, for instance, only on one specific occasion (and never again). The value-based account can easily explain such transience.

¹⁴ Raz (1977).

¹⁵ For a description of the example see either 'Promising – part 1', section 4, or Foot (2001), p. 47.

¹⁶ Owens (2006, forthcoming); Shiffrin (2008).

¹⁷ As Shiffrin emphatically puts it: the promisor 'forfear[s] the moral right to alter the course' (2008), p. 507. It seems to me that it follows from the fact that promissory obligation is defeasible that no such right is transferred.

¹⁸ Owens (forthcoming), chapter 6, section 28.

¹⁹ I presented an early version of this paper in the CEM colloquium at Leeds, and I am grateful to the participants for a very instructive discussion. In particular, I would like to thank Daniel Elstein, Wouter Kalf, Gerald Lang, Timothy Taylor, Georgia Testa and Pekka Väyrynen. Norbert Anwander, David Owens, Joseph Raz, Mark van Roojen and an anonymous referee provided me with very helpful comments on an earlier draft – while I doubt that I have addressed their worries to their satisfaction, I have benefitted very much from receiving them.

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