

2012

Is There a Reason to Keep Promises?

Joseph Raz
Columbia Law School, jr159@columbia.edu

Follow this and additional works at: https://scholarship.law.columbia.edu/faculty_scholarship



Part of the [Law and Philosophy Commons](#)

Recommended Citation

Joseph Raz, *Is There a Reason to Keep Promises?*, KING'S COLLEGE LONDON DICKSON POON SCHOOL OF LAW LEGAL STUDIES RESEARCH PAPER NO. 2014-5; OXFORD LEGAL STUDIES RESEARCH PAPER NO. 62/2012; COLUMBIA PUBLIC LAW RESEARCH PAPER NO.12-320 (2012).

Available at: https://scholarship.law.columbia.edu/faculty_scholarship/1766

This Working Paper is brought to you for free and open access by the Faculty Publications at Scholarship Archive. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Scholarship Archive. For more information, please contact scholarshiparchive@law.columbia.edu.

Is there a reason to keep a promise?

Joseph Raz

The Dickson Poon School of Law

Somerset House East Wing

Strand Campus

The Strand, London

WC2R 2LS

King's College London Dickson Poon School of Law
Legal Studies Research Paper Series, paper no. 2014-5

This paper can be downloaded without charge from:

<http://ssrn.com/abstract=2162656>

Is there a reason to keep a promise?

Joseph Raz¹

Recent times saw the publication of a good number of articles and book chapters about promises and related normative phenomena like contracts, agreements, voluntary undertakings and consent. Of these one may think that promises are the least important, and if we think of the kind of promises that moral and political philosophers write about this may be so. At least it is true that most undertakings and agreements are much less formally created, arising not so much out of explicit acts of commitment as out of the implied meaning and consequences of an interaction over time. Discussions of promises commonly aim to illuminate much more than promises. They aim to explain voluntary undertakings in general, and to shed light on consent, hypothetical consent and agreements. That promises are undertaken (or are at least discussed by philosophers as if they are undertaken) in an act of commitment merely makes them clearer and easier to discuss, but *mutatis mutandis* they stand for the wider class.

But do they? Possibly the paradigm, and therefore the explanation, is radically different. It may be in the web of mutual obligations arising out of stable continuous interactions, of one or another of recognised kinds, among people, as in personal friendship, or in parent-child relations, or the relation between a client and his regular supplier of goods or services.

I will not discuss the claims of this second type of explanation. It seems to be credible, and of great importance to the understanding of social life. I doubt, though, that it can displace the accounts of promises and other undertakings generated by acts of commitment. They require a different explanation, and their explanation is also vital to an understanding of human interactions. The explanation of promises alone is the topic of this paper.

¹ I am grateful to David Owens and to participants in my seminar at Columbia 2012, and in the Harvard Moral and Political Philosophy Workshop 2012 for helpful comments on earlier drafts.

The paper discusses the bare bones of promises. Promises are made by acts of communication, but the content of the promise is not the same as what is said in making the promise. Much of it is implied rather than said (did I, when promising to water your garden daily during your trip away, promise to do so first thing in the morning, as we know that we know that you do?), and some of it is determined by the general moral principles governing the conditions that apply to promises (that they lapse if the promisor is paralysed, that failure to perform the promised act because it could only be performed by killing someone is not a breach of the promise, etc.). They have different meanings in different contexts, though sometimes made almost useless when the context is too thin (a stranger comes up to me asking for a loan of a dollar, promising to return it the following day – if I give him the money this is only because I discount the promise, though I am unlikely to reject it openly as this would openly display distrust of him). At the other extreme within a close intimate relationship promises may be out of place. Friends trust each other to act sensitively and the very fact that one promises an action whose performance should have been taken for granted may be inappropriate in that it conveys that one does not believe that the friend trusts one. And if one did promise and broke the promise it may be inappropriate for the other to express criticism invoking the promise, rather than the failure to act as one should have anyway, for that would show that one does not count on the other to be sensitive to the situation. I'm writing about the bare bones of promises, ignoring the rich contexts in which they occur, because the richness is based on familiarity with the bare bones and that enables the embedding of promises in the rich fabric of life.

If promises are binding, if they are cogent ways for people to bind themselves, there must be a reason to do as one promised. The paper is motivated by belief that there is a difficulty in explaining what that reason is, a difficulty that is not often noticed. It arises because the reasons that promising creates are content-independent. Similar difficulties arise regarding other content-independent reasons, though their solution need not be the same.

Section One introduces an approach to promises, and outlines an account of them that I have presented before.² It will form the backdrop for the ensuing discussion. The problems discussed in the paper arise, albeit in slightly modified ways, for various other accounts as well. It is, however, helpful to use a specific account as a springboard leading to one explanation of promissory reasons, namely of the reasons that valid promises constitute for performing the promised act (Section Two). We can call it the bare reasons account. Sections Three and Four will raise difficulties with that account leading to its abandonment in favour of an alternative in Sections Five and Six. Throughout I will avoid technicalities except when they matter to the issues under consideration. Thus I will refer indistinguishably to the promise, the promising, or the promising act as the reason or the source of the reason, or something that creates or establishes or provides a reason. I will not consider the conditions for a promise to be valid (can young children bind themselves by promising? Are promises to act immorally binding? Are promises binding after the death of the promisee, etc.), and will assume that they are fulfilled in the cases here discussed. And for the most part I will not comment about the special character of obligations, even though promisors have an obligation to keep the promise, and assume no more than that they are reasons. Nor will I say much about the fact that promisees have a right that the promise be kept.³

1. Promissory reasons as content-independent reasons

To see the difficulty think of an ordinary case: I have reason not to hit you, in fact there are a number of such reasons: it may injure you, it may cause you pain, invade your body, etc. They all depend on the nature of the action, its consequences and context. Now think of a reason arising out of a promise, say my reason to let you use my car tomorrow. The reason is that I promised to do so. But that very same reason applies to all my promises. If I promise to feed your cat next week, to come to your party, to send flowers in your name to your mother on Mother's Day, to lend you my new DVD, or

² See 'Promises and Obligations', in *Law, Society and Morality: Essays in Honour of H.L.A. Hart*, ed. with P.M.S. Hacker, (Oxford: OUP 1977).

³ Though to avoid misunderstanding it is worth remarking that on my view the right to have a particular promise kept is derivative from the general right to have promises made to one kept, and it is grounded on the general interest promisees have to have the promise-generated relation to promisors.

whatever the action I promise to perform (or to refrain from) the reason is the same: my promise. Of course, these are different promises. But normatively speaking they are the same, they are all binding on me because they are promises I made, regardless of what is the act promised. This is why they are (called) content-independent reasons.⁴ There are considerations that make them binding, that account for the fact that the promisor has a duty to perform the promised act. But these are reasons why a promise is binding as a promise. They have nothing to do with its specific content.

This last paragraph exaggerates. Some acts or omissions cannot be promised. One can mean to and even try to promise them, by communicating an intention that would have made a valid promise had it related to acts or omissions that can be promised, but the putative promise will not be binding.⁵ If so, in what sense are promises content-independent reasons?

One simple idea is that promises are binding *qua* promises (or rather that that is the only ground for their binding character of relevance here), and that they are promises because they are communications of an intention to undertake an obligation by that very communication, regardless of their content, regardless of which act or omission they are about. I suggested that there are exceptions; acts that one cannot promise to perform. For example, a promise (given in current circumstances) to exterminate *homo sapiens* or all primate species would not be binding. One may think that so long as such exceptions are rare they do not undermine the suggestion that promises are content-independent. Such classifications are commonly subject to exceptions. For example,

⁴ The term was coined by H.L.A. Hart. See 'Legal and Moral Obligation', in A.I. Melden (ed.), *Essays in Moral Philosophy* (Seattle: University of Washington Press, 1958) 102, and *Essays on Bentham* (Oxford: OUP, 1982), 254–255. For my own discussion see 'Authority, Law, and Morality', *The Monist* 68 (1985) 295–324, republished in *Ethics in the Public Domain; The Morality of Freedom* (Oxford: OUP, 1986); 'Reasoning with Rules'. For some other discussions see Markwick, 'Law and Content-Independent Reasons', *Oxford J. of Legal Studies* 20 (2000) 579–96 and S. Sciaraffa, 'On Content-Independent Reasons: It's Not in the Name' *Law and Philosophy* 28 (2009) 233–260. As these discussions illustrate there are other kinds of content-independent reasons. E.g., whenever any person or institution has (normative) power to impose duties on some people those duties are content-independent for they are binding not because of their content but because they are the product of the use of duty-imposing powers.

⁵ 'promise' and its cognates are used to refer both to what I here called a putative promise, and to a binding promise. As is common I rely on context to disambiguate their meaning.

most of his readers do not think that Nozick's idea of side-constraints is undermined by the fact that, as he allows, side-constraints are not exceptionless.⁶

We have, however, to say more in order to explain the kind of reasons we are talking about. We require an explanation on two grounds: (1) if the exceptions are not to undermine the cogency of the classification, there must be an explanation of what it is that makes them exceptional. Perhaps there is no need for a special explanation when the suspected exceptions are borderline cases. But many, including my examples, are not. (2) The acts for which we have content-independent reasons are acts for which we have such reasons because of some of their features: they bring the acts within the ambit of those reasons. So in classifying the reasons as content-independent we mean that some aspects of (the content) of the acts are irrelevant to the fact that they fall within the ambit of those reasons. But that is true of all acts: reasons apply to them because of some, not all of their features. We need an explanation of the special way in which these reasons are content-independent.

We can proceed on the assumption that all content-independent reasons are generated by the use of normative powers. This is not entirely true but the explanation of why the other cases are cases of content-independent reasons is analogous to explanations that apply to reasons generated by the use of normative powers.⁷

Normative powers are the abilities of people (or institutions) to change normative situations or conditions (i.e. to impose or repeal duties, to confer or revoke rights, to change status etc.) by acts intended to achieve these changes, where the ability depends on (namely is based on, grounded on, justified by) the desirability (the value) of those people (or institutions) having them.

In the case of promises the value of the power is that it expands people's ability to fashion their lives, or aspects of their lives, by their actions. Through their promises they

⁶ See *Anarchy State and Utopia* p.

⁷ A typical and relatively well-known example concerns the making of the first laws of a new legal system, e.g. of its first constitution. In all respects it is just like the use of legislative power, except that as the original lawmakers established the first laws of the system there was at the time no law that conferred legislative power on them. They may or may not have had mere moral power, but they did not have morally valid legal power to make the laws that they did. I discussed such cases in

commit themselves to others. Up to a point, promises are analogous to decisions that constitute reasons for the deciders to perform the act they decided to perform. Both are ways of opening up options through closing other options, normatively speaking. Decisions, as well as having goals, facilitate undertaking complex activities (giving a ball, writing a symphony, etc.) that require concerted actions. Promises, being commitments to others, facilitate co-operation, the forging of relations that presuppose dependence, trust and joint actions, and more. For the sake of brevity I will refer to the value of having these powers as the value of enhanced control (of one's life)⁸, though a somewhat different explanation of their value is required when the powers are held by institutions.

Now we have the answers to our questions: The claim that some (putative) promises are not binding presupposes a distinction between binding promises that are overridden by conflicting reasons, and promises that are not binding, and therefore do not constitute any reason at all. The difference is that the former do, and the latter do not serve the value that grounds the power to promise, giving promises their normative force, making them reasons for the promised acts. The assumption is that there are some undertakings ability to make which does not serve the value of having enhanced control. Ability to promise to become a slave may be an example, as is a promise to destroy all primates. If the assumption is mistaken, and that is a substantive moral

⁸ Note that no claim is made that trust or co-operation etc. require promises. They do not, but often the ability to promise makes it easier to facilitate them, as well as – by refraining from promising – to make clear that they are not sought. However (these observations are prompted by a question of Selim Berker), would not the value of enhanced control be equally served if people believed that they have the power to promise even though they do not have it? False beliefs always lead to the conduct that the same beliefs would have led to had they been true until they collide with reality, a collision that if circumstances are propitious, leads to their abandonment. The same is true of normative beliefs. Those who know that they do not have the power to promise will not be able to make promises (unless they are willing to mislead the promisees) and those who discover that there is no power to make binding promises will realize that all the promises made to them are not binding, and the trust and reliance they inspired are ill-founded, or depend on the promisees remaining ignorant of the truth. Not only the vulnerability of the falsely secured enhanced control leads to it not being as valuable as the one provided by the power to promise. It is also misguided to think that a significant good is systematically secured by continued false belief, especially when this implies, as it does here, that people unknowingly rely on the other not knowing the truth.

question, then we have power to make such promises, and when made they are binding and constitute reasons.⁹

The crucial point is that it is not having the obligations one undertakes by promising that is valuable, in enhancing people's control or in some other way. These obligations may or may not be valuable. Even when they are their value does not establish the existence of a normative power to undertake them by a promise. The power is grounded in the desirability of people being able to commit themselves by the relevant act of communication. For example, it may or may not be desirable that Jean will have a duty to serve in the army, or to do jury service. It is a separate question whether it is desirable that she should be able to undertake such obligations by promising to serve. So the value of the ability to promise to help a neighbour, for example, is the value of being able to fashion one's life in one's relations to one's neighbours, and it is as important to people to be able to decide to keep a distance from their neighbours as to get involved with them. The value is in being able to decide **whether** to commit to the neighbours, not in the value of committing to them. When you can commit, not committing is itself significant, and the ability to commit at will makes it so. And indeed, we know that people can gain by avoiding commitment (but only when that avoidance is optional, when they could have committed). For example, one person may reward an agent for not committing to another.

Therefore, if one does not have a power to promise to extinguish all bird species, that is not because it would be bad to extinguish them. That would only show that the

⁹ The considerations help with the question what intention is required for the promise to be valid. Clearly, an intention to keep the promise is not a condition of its validity. But is an intention to undertake an obligation by the act of communication such a condition? Is an intention to communicate an intention to undertake an obligation? Some would argue that the value of having the power to promise is served only so long as one is bound only when the promising is done with the intention to thereby undertake an obligation. But arguably an intention to communicate, by the conduct that constitutes promising, an intention to undertake an obligation is sufficient for the promise to be binding, according to the explanation I gave. Others say that neither intention is needed for a promise to be binding. Promises are binding if the promisee would reasonably assume that the intention to undertake (or to communicate an intention to undertake) is present. This, if unqualified, goes too far. The consequences of even reasonable mistakes may justly have to be borne by those who make them. However, when a reasonable mistake is due to careless or negligent conduct of the promisor, the promisor will have a duty to compensate for any untoward consequences of the mistake, and that would often be the same as a duty to keep the promise (or to compensate for its breach). It would be pedantic to expect our concepts to be clear about whether that duty is the promissory duty or a separate one.

obligation that the promise would have generated had it been binding, is overridden. What explains the absence of the power to make such a (binding) promise is that it is not desirable that one should be able to decide whether or not to undertake such a commitment.¹⁰

That is why the value of the ability to bind oneself to others, in identifying the range of acts performance of which we have the power to promise, establishes the sense in which the reasons to perform them are content-independent: it is not independent of their character as promised acts (whose performance was undertaken in binding promises), but it is independent of all their other features. The fact that they depend only on this one external property makes the use of the term content-independence natural.

2. Promissory reasons as bare reasons

Does this explanation of why promises constitute content-independent reasons answer the question of the title? It appears to do so: we have reason to act as we promised because we promised, and promises are such reasons because they are the product of the use of a valuable normative power. This may be true, but it also generates a puzzle.

Given that normatively all promises have the force of a promise, it must be, the argument goes, that their strength or stringency is the same. It does not matter whether the promise was to look after your children while you are away on a work-trip next week, or to lend you a copy of the new Murakami novel. The reason to keep either of these promises is the same because they are both promises, and have the so-called weight that all promises have. This may appear absurd. But perhaps it is not. Arguably as promises they all have the same force or weight. But once given they may affect the course of events in different ways. In the children promise my friend forgoes making alternative arrangements for looking after his children in his absence, in the Murakami case he forgoes buying the novel in a book sale. Given these facts the results of breaking

¹⁰ How broad is the category of cases regarding which it is not desirable that one should have the power to bind oneself? It may relate to types of acts (self-enslavement, etc.) or duration or other aspects of the promise (cannot promise to obey forever, etc.), and it applies to the largest class of cases that does not include a subclass (demarcated in universal terms) such that it is desirable to have the power to promise regarding it.

the promises will be very different, and therefore the force of the promise is different, much greater in the children promise than in the Murakami one. But the difference in the strength of the reasons for keeping the promises is due not to the bare facts that I made the promises, but to events that happened as a result of promising, and for which I am responsible. *Qua* promises my reasons to do as I promised are indeed the same, the appearance of the difference is due to other events for which I am responsible. Of course, one may point out that the additional reasons, the ones that depend on the consequences and/or context of the promise, would not constitute the reasons that they are but for the promise. Therefore, they are promise-generated reasons. But they are contingently dependent on the promise. Let us call them secondary strength-affecting factors. The bare fact of the promise generates a reason of the same strength in all cases, never mind what is the content of the promise.

This argument is reinforced by the fact that what I called secondary strength-affecting considerations need not even be present. Possibly the promise was not relied upon and did not affect the course of events in any way. Nevertheless, even such promises are binding. That shows, the argument proceeds, that the very reason to keep a promise is independent of these strength-affecting factors. The strength-affecting factors are indeed secondary. The bare promise, shorn of all these contingent additions, is the reason to do what I promised, and it always has the same strength.

Perhaps this conclusion is premature. Perhaps the strength of the promise is determined by the promisor in the act of making the promise. 'Why can't the promisor communicate an intention to create an obligation specifically of strength *S*?'¹¹ Perhaps promisors do so explicitly: 'I promise to lend you my book, and that promise will have the strength *S*', but more commonly they may do so by their demeanour, or by making the promise in circumstances that imply that it has a certain strength.

The answer lies in the nature of promises. By promising we create a reason to act as promised. The nature of the promised act contributes to the determination of how much I am willing to give up to keep it. If I promise you \$1000 I create a reason that requires a greater "sacrifice" from me than if I promise you \$1. I indicate that the

¹¹ A question urged on me by David Owens.

promise has greater strength.¹² As each promise defeats “ordinary” self-regarding reasons against keeping it, the more it costs me the stronger it is: the more weighty reasons against keeping it it defeats. So by making that promise I determine its strength at least to that extent. If promises are ever binding that is because of the value of people having the power to determine (up to a point) the strength of the promised act relative to their other interests. But that does not mean that there is value in people being able to determine the strength of the reasons that promises generate, or the strength of any other reasons, relative to the strength of reasons that arise out of the interests of others. There is not. I cannot make a binding promise to come to your party even if this will require me to injure or rob someone, or not to help a person just injured in an accident, etc. While it is, I assume, desirable that I should have some control over the strength of my promise relative to some of my own other interests, and the very making of a promise does just that, there is no case for letting me determine its strength relative to other people’s needs, interests, etc.¹³

The strength of a reason is its standing when conflicting with other reasons. Assume that G has a general power to determine the strength of his promises. He can (a) promise to perform some action, and (b) determine that the promise will have a certain strength, and he can do both by communicating an intention to do that by that very communication. He can of course promise to perform an act without determining what strength that promise has (beyond what is inherent in making a promise to perform that act). Can he also determine the strength of existing reasons without creating a new reason? Why not? He could, e.g., do that by making the following promise: ‘Tomorrow I will do whatever serves my self-regarding interests regardless of whatever other reasons apply to me’. That promise does not constrain him to perform

¹² I have argued that promises have exclusionary force: They are reasons not to act for some reasons that apply to the promisor. More specifically, they are reasons not to act on some reasons that arise out of the promisor’s convenience or his personal interests. That is why the reasons they provide are duties (roughly, exclusionary categorical reasons). This is consistent with the fact that the duty to act as promised can be overridden by some considerations relating to the promisor’s interests or well-being.

¹³ As always there are exceptions that confirm the underlying principle. Some promises are made in response to a request by the promisees that their interests or concerns shall not stand in the way: I may promise my partner that when choosing my next employer I will not be affected by her convenience, but by what is best for my own career. That promise binds me to downgrade reasons that concern her, but only in response to her own wishes.

any act he would not have reason to perform anyway (one's interests are reasons anyway). Its effect is merely to reduce to nothing the force of all reasons that derive from the interests of others applying to him. How much strength, if any, does this declaration have? I find nothing to suggest that there is any value in people having that power.

Two additional clarifications may be useful here. First, I ignore informal aspects of the manner of promising, those that convey sincerity, assurance of performance, etc., as they may affect trust in the promisor, but not the strength of his obligation. Second, different considerations apply to undertakings of different kinds, marked by their formal features. There are oaths of office (as a judge, etc.), and of loyalty (upon naturalisation, etc.), vows of marriage, and more. These are voluntary undertakings that do or purport to affect the relative strength of reasons arising out of interests of people other than the person who undertakes them. Not all of them are normatively sound, and not all do yield valid undertakings. But some do, and those that do differ from promises in many ways, among them the fact that as they are established by law or custom (a) people committing themselves do so in public; (b) they undertake duties whose content is determined by law or custom rather than by them; (c) there are restrictive qualifications for being able to undertake these obligations; and (d) strict conditions for being released from them; and all of these help explain why they do affect the strength of other people's interests. They establish, when sound, valuable optional patterns for structuring one's life, and relationships.

Back to the bare reasons account of promissory reasons. Though the reasons for embracing it may differ, it is often implicitly assumed, and has recently been explored by David Owens¹⁴, who traces it back to Hume's discussion of an analogue of the issue, applying to motives rather than to reasons.¹⁵ According to it promising (when creating a binding promise) generates a bare promissory reason, which is the same reason with

¹⁴ David Owens, 'The Possibility of Consent' *Ratio* (2011) 402 ff at 404. Rather than write about the obligations and reasons promises create he writes about the wrongings that (presumably only some) of their violations constitute. See his explanation of 'bare wrongings' on 404 and on the relations between them and secondary reasons for keeping promises on 405). These matters are explored in greater breadth in his *The Shaping of the Normative Landscape* (Oxford: OUP, 2012), Part II.

¹⁵ David Hume, *Treatise on Human Nature* (Oxford: OUP, 1978), 482-483.

the same strength (relative to reasons relating to other people's interests and concerns) regardless of the promised act. However, the overall force of a promissory reason may be affected by secondary strength-affecting considerations, so that the case for keeping promises varies with these considerations.

3. What is the strength of bare promissory reasons?

Later on I will argue that (a) while the reason for performing the promised act is the promise, (b) the strength of that reason is varied by factors that are not contingently related to the promising in the way that the secondary weight-affecting considerations are. But first, what is actually wrong with the thought that all promises qua promises have the same strength?

Imagine that I promised to do something today, and imagine that no secondary strength-determining factors apply. The promise was beyond doubt a binding one. Therefore, it constitutes a reason for performing the promised act. As is common, there are, however, also conflicting reasons. At the very least, if the promise is to act, but sometimes even when it is to refrain from action, behaving as promised requires attention and effort that one could usefully put to other use. Hence the question: what is the strength of the promissory reason, how does it fare against the conflicting reasons?

Why not consider a case where there are no conflicting reasons?¹⁶ Would not that reveal the true strength of the promissory reason on its own? No, is the answer. That would only establish whether the promise is binding at all. The strength, stringency, weight, importance, call it what you will, of a reason just is the case for conforming to it rather than to conflicting reasons.

So, what determines the bare strength of the promissory reason? As with all other practical reasons, it must depend on the considerations that make promises binding. At this point the content-independent character of our case complicates matters: The case for any particular promise being binding, thereby being a reason for the promised act, does not depend on the specific character of the action promised, but merely on the

¹⁶ We need not consider here whether a no-conflict situation is in principle possible.

fact that it was promised. Therefore, it would appear that the case for keeping a promise must rest with factors that unite all binding promises regardless of their content. So, plausibly the factors that determine the strength of the reason to promise are to be found in the case for, the value of, possessing the power to promise. For example, given that I promised to let you use my car today, I have reason to let you use my car today. That reason does not depend on the wisdom or value of having made the promise, nor of your using the car, of having the chance to use it, nor of that chance being provided by me, nor on anything else to do with this particular promise and its content. It derives from the power to promise. Needless to say, I would not have the power if my promises did not bind me. They bind me because I have the power to bind myself, and I used it to make them.

Why not the other way round? Why not say that I have the power because my promises are binding? The order is the order of grounding or justification: as was suggested in the previous section, we have the power to promise because it is valuable to be able to undertake obligations, of certain kinds and in certain conditions, and that value is sufficient to establish in us the normative power to do so. Powers, normative and otherwise, are not valuable unless some of their uses are. But their value is not in the value of their uses. It is in the value of the option to use them. Refraining from using them is one of the options that possession of powers provides, and indeed not using a power can be to the advantage of those who have it as much as using it. As was mentioned in the previous section, they can earn money or other benefits by making it known (or by undertaking) that they will not use a power.

Here finally is the puzzle: I have a reason to let my friend use my car because I promised, and the promise is binding because that is the consequence of having and using the power to promise, and I have the power because of the value of the enhanced ability to shape my life that it provides. The value of that power should, I suggested, determine the force of the reason to keep the promise. But it does not seem to do so. My enhanced ability to control my life manifests itself in having the power to promise and in using it by promising. How does it reflect on the reason to keep a promise, and on its strength? Keeping the promise will not further enhance that ability, nor will

breaking the promise undermine it. The normative case is a case for possessing the power to promise, not a case for keeping a promise, unless that is constitutive of or conducive to having the power. But is it? People who break their promises do nevertheless have the power to promise, as is evidenced by the fact that their promises are binding. If they were not there would be nothing wrong in breaking them.¹⁷

It is true that sometimes breaking promises will reduce the value of having the power to promise. Generally speaking the value of the power depends on the degree to which some people (those to whom we may wish to make promises) trust us to keep our promises. Sometimes, though far from always, breaking a promise undermines that trust. In such circumstances the case for protecting the value of the power to promise is one of the secondary strength-affecting considerations I referred to above. But in no case does it affect the strength of the bare reason to keep a promise, because it does not affect possession of the power to promise and the case for the power is the only resource that can provide bare promissory reasons for keeping promises.

It would, by this reasoning, appear that the value of having the power to promise is realised, and exhausts itself, by making binding promises. It does not determine the strength of the reason to keep one's promise. Worse still, it appears not to determine the strength of promissory reasons because it is powerless to give one a reason to keep promises.

4. Is there a bare reason to keep promises?

I began with a puzzle about the resources available to determine the strength of the bare reason to keep a promise. In exploring it we discover that it goes further. It raises a question mark on the very existence of a reason to keep a promise. Earlier I assumed that the value of enhanced control over one's life, by providing an adequate case for

¹⁷ Some people think that habitual promise-breakers lose the normative power to promise. I think that they lose trust of others, and with it much of the value of having the power to promise, but they lose that power only if it is impossible for them to regain trust, and only if having the trust of others is the only way in which the power to promise is valuable to those who have it. Both conditions rarely materialize. It is true, though, that if a promise breaker loses the confidence of people they will refuse to accept, or will rescind, any promise he may make.

having the power to promise, also constitutes an adequate case for the binding force of promises, for the power cannot exist without it, and thereby it establishes that there is a reason to keep them. But that may have been premature. Without resolving the puzzle about the force of bare promissory reasons, one may claim, there is no case for holding that there are any reasons for keeping promises. If so the reverse of the original argument holds: if one has power to promise one has reasons to keep one's promises. Therefore, since one does not have reason to keep promises one has no power to promise. Can it be that we have reason to keep our promises even though they do not have any strength? I doubt it. Here is an argument supporting the doubt:

First premise: The secondary strength-affecting considerations apply only if there is a bare reason to keep promises.

Of course there may be other reasons for performing the promised act. Letting you have my car today may express friendship or good will and trust, and there may be a case for lending you the car for reasons to do with these or similar considerations. But these are reasons to perform the promised act independently of whether or not there is a valid promise.¹⁸ The same is true of reliance. Some writers have maintained either that people would not rely on promisors to perform the promised act, or that such reliance will not constitute a reason for promisors to perform it unless promises are binding and constitute reasons to act, at least if they were relied upon. But that is not true. People rely when they expect their reliance to be vindicated. This may be because they believe that binding promises were made, or more likely because they believe that the people on whom they rely think that they are bound by promises they made, but it does not presuppose that promises are binding. Nor is it the case that one has no reason to fulfil another's expectations when the other acted on them unless one made a valid promise to that person. The results of frustrating the reliance may be such as to require avoiding them. Besides, in many situations if the other innocently believed that I am bound by a valid promise that is a sufficient reason to behave as I would had I really been bound by such a promise. So, reliance can be an independent reason to behave as

¹⁸ In saying that I am not denying that where there is a valid promise and a promissory reason to keep it some such considerations may affect its strength, may constitute strength-affecting considerations.

one promised. So can various other secondary reasons: where there is no binding promise they may be independent reasons in their own right. But they cannot be considerations affecting the strength of the reason to keep a promise, unless there is a binding promise that constitutes a reason, whose strength they affect.

Second premise: A reason that has no strength-determining factors is no reason at all. First, an aside: Could it be that it has some strength that we simply cannot know? Even if it has, the point is irrelevant here. The premise is about factors that make the strength what it is, regardless of our ability to know the strength. But throughout the discussion I assume that factors that ground reasons can in principle be known because reasons are factors that one can be guided by, one can act for, and that requires that they will be – in principle – knowable.¹⁹ I further assume that they can not only be known, but be understood. They are intelligible considerations, ones whose force and binding character can be understood.

Given that assumption, then if a reason has strength or stringency there are grounds determining its stringency that can be known. And if there are none then either there is no reason or there is a reason whose degree of strength or stringency is zero. That possibility can be ruled out, given that the very idea of a reason is of a factor that militates in favour of some action (or omission), namely that lends some support to the possible conclusion that that action is the one to take.

But perhaps we should distinguish between two aspects of the normative force of reasons: the first is that they favour an action (or omission), the second that they have some strength or force. The first aspect is essential to all practical reasons, but the second is not. In its absence the reason cannot defeat any conflicting reasons, but it can (a) determine what is to be done in the absence of conflicting reasons²⁰, and (b) be a tie-breaker. Can there be such reasons? They will be reasons that will be defeated if they conflict with another on their own²¹, however insignificant that other reason is. I find

¹⁹ See *From Normativity to Responsibility* (Oxford: OUP, 2011), Chapter Six.

²⁰ I suggested above that that is hardly ever the case with actions. But perhaps it is not that rare with omissions.

²¹ Note that the claim that any reason has some strength supporting the conclusion that the action it is a reason for is to be done is consistent with allowing that its existence makes no difference to the conclusion that the action is the one to be undertaken. It is possible that whenever that

that hard to envisage: what could make it understandable that a consideration that militates for an action so that in the absence of any conflicting considerations one would have conclusive reason to perform it will nevertheless be defeated by even the most insignificant conflicting reason? I suspect that the distinctions on which we rely in deliberation and in reasoning cannot cut that fine. Therefore, I am inclined to conclude that: Unless there are factors that determine the strength of a bare reason it is not a reason, and we have discovered no such factors. Indeed, if all promises have the same strengths it is difficult to see what could determine it.

This argument does not contradict any of the premises of the earlier argument that seemed to establish that there are binding promises. Rather, it points to a missing step: that argument relied on the fact that it would be good if people had the power to promise, and that there is no conflicting normative case sufficient to show that on balance people should not have that power. But that is not enough to show that people have the power to promise. It is impossible to have the power to promise, however good it may be to have it, unless that one promised is a reason to do as one promised, and it is impossible for there to be a reason to keep a promise unless it has strength. If promissory reasons have no strength they do not exist and however desirable it is to have the power to promise one cannot have it.

Yet we do have it. It would seem that I have failed to notice some factor that connects the case for the power to promise with the reasons to keep promises in each case in which one has promised. The fault may be in looking for too direct a connection. Here is one different approach, based on considerations of integrity: the power to promise serves and expresses one's ability to have some control over one's normative situation. Having exercised that power by making a promise it would show lack of integrity to deny that one is bound by the promise. Possibly, the degree to which denying that a promise is binding compromises one's integrity varies with the content of the promise, and therefore while the reason is always the promise its strength varies with the damage to one's integrity of denying that it is binding.

reason for doing Φ is present so is another reason for Φ -ing, and that the combined strength of both is no greater than the strength of either one of them in support of the action.

But the argument is suspect for it merely shows that the promisor has reason not to deny that his promises are binding. Is that enough to show that they are binding (even assuming that the reasons not to deny that they are are conclusive)? Besides, the argument is guilty of *petitio principii*. Integrity is involved only regarding people's attitudes to obligations they have. It cannot establish the existence of those obligations, and therefore it cannot establish that promises create reasons.

The conclusion towards which we are driven is that there are no bare promissory reasons, and therefore no considerations that determine their strength. The thought that there are misunderstands promises because it misunderstands the point of promises. This conclusion can be reinforced by examples.

Consider the car lending case with some additions. Abby promised to bring Ben her car and leave it in his garage for his own use for the whole of today. Yesterday Ben, who lives alone, was taken suddenly ill and is now in hospital unconscious, where he is expected to stay for at least a week. The example is meant to be one of a bare promise in that no conditions that could qualify as secondary strength-affecting considerations obtain.²² Would Abby be breaking her promise if she fails to leave the car in Ben's garage, and instead uses it to do her shopping? Could it be that she would be breaking the promise and violating her duty to Ben, but that she is justified in doing so because the reasons to use the car for her shopping defeat the reasons for keeping the promise?

It is hard to think of any reasons that would not defeat the promising reason. Suppose it is just to save her the expense on petrol of driving the car to Ben's place, or suppose it is just saving herself the bother of getting out of bed in time to deliver the car. It appears that any reason against keeping the promise would in the circumstances override the promising reason. That makes it virtually impossible to maintain that the promise is a reason to perform the promised act. As we saw, to be a reason the promise must have some strength or force, and strength just is resistance to conflicting reasons. A reason that is defeated by any possible conflicting reason is (possibly apart from some exceptional cases) one without force and therefore is not a reason. That

²² That means that it is assumed that Ben intended to use the car himself, made no arrangements for others to use it if he is prevented from doing so, that there is no one with the right to make such arrangements in his stead, etc.

conclusion generalises to all promises. The reason we are investigating is the reason provided by a bare promise according to the account that takes the strength of that reason to be the same regardless of the content of the promise. It is determined just by the fact that it is a promise, and is the strength of all bare promissory reasons (promises to counteract climate change, to provide pensions for the elderly, etc.). It appears that the bare reason account must be mistaken.

The way out is to deny that in the circumstances Abby is bound by the promise. Promises, like intentions, decisions, orders, vows, permissions, and the like are subject to conditions. These can be described as part of the content of the promise (I will give you the car so long as there is the slightest chance that having it will be of use to you, or something along those lines) or they can be described as part of the ground rules that limit the kind of promises people can make: the limits can be conditions under which promises lapse, etc. (rather than merely specifying kinds of promises that can never be binding). In some cases one of those ways of perceiving the situation is better than the other. In some cases it matters not which way it is taken to be. What matters is that in some kinds of circumstances, and Abby's are one such kind, promises that appear to apply to them do not in fact apply.

This seems right, but it is also right that these background conditions eliminate the possibility of bare promissory reasons. It is plausible to think that in all situations to which no strength-affecting considerations apply there is no valid promissory reason. That casts doubt on the bare reasons account. It is time to consider an alternative account.

5. The point of promises and the interests of promisees

We have some building blocks: The point of the power to promise is to expand people's options by enabling them to undertake obligations at will, more specifically by communicating to the promisees an intention to undertake those obligations by that very act of communication. It is a valuable power, which is used (or not used) for many purposes. The value of having the power, and the fact that that value defeats contrary considerations, constitute the case for the existence of the power. It shows that its existence is desirable.

The difficulty we encountered is that it is impossible to have the power unless promising creates a reason to perform the promised act. And so far we found no way in which the value of having the power by itself generates such a reason. We need an account that shows how the exercise of the power changes the normative situation, most likely in different ways on different occasions, and how through that the value of the power to promise can explain why one has a reason to keep promises, the same reason, but possibly with a different strength on each occasion.

To find it we have to describe more fully what we do when we promise. One way to think of it is to think of the point, or purpose, of promises generally, meaning here not the point of having the power to promise (discussed earlier) but the point served by promises made. Different promises or classes of promises have, no doubt, different specific points or purposes. But all of them are particular instances of the general point of promises, and it determines what we necessarily do when we promise. For example, that general point cannot be to confer an advantage on the promisee, for while often this is the whole or part of the point of a promise, it need not be. It need not even appear or purport to be. I can promise my mother that I will look after my health, or that I will give money to Oxfam, or that I will never give her interests precedence over the interests of my father, for example. But something about promises being obligations undertaken *for the promisee* must be right. The question is how to understand the phrase '*for the promisee*'.

But why must it be that promises are obligations undertaken *for the promisee*?²³ There are two defining features of promises whose explanation establishes the point. First, obligations are binding only once communicated to the promisee. Second, the promisee has a right that the promise be kept, and a right and power to waive his right²⁴, releasing the promisor from his undertaking, at any time and at his complete

²³ There are marginal cases, but probably not clear counter examples. I can promise my friend to diet if he sets me a weekly eating menu. Clearly that is a promise meant to help me rather than him. But it presupposes that he cares about my state of health, or just about me, and would be gratified if I keep my promise.

²⁴ Does it include the power to vary the terms of the promissory obligation? Possibly the matter is not completely determined – there may well be variations about which there is no fact of the matter whether the promisee has power to make them. But generally speaking promisees have the power to change the terms of the promissory obligation in ways that are clearly to the

discretion. These features are not necessary elements of all undertakings. Vows do not require a recipient in the same way (though some have recipients). Undertaking an office, say of a judge, is not open to revocation at will by some recipients, etc. But the two are defining features of promises. Some writers add a third pointer in the same direction: the promisee, they say, has to accept the promise for it to be binding. This may be an exaggeration. I may promise someone in person, face to face, to come and visit him in hospital tomorrow. He receives the promise stone faced, saying nothing and moving not a muscle. My promise is binding, and it requires some imagination to claim that it has been accepted. It is merely that the promisee can release me from the obligation, at any time, including when it is undertaken. He did not do so, which is why I am bound by it.

That the promisee has a right that the promissory duty be kept, and a power to waive it and terminate the duty, reinforces the thought that the obligations are meant to be for the promisees. However, as we saw, being *for the promisees* does not mean conferring on them an advantage. It has to be understood more broadly, perhaps something like responding to something they are interested in or have an interest in, or may become interested in or develop an interest in (by relying on the promised act, betting on it, or some other way) once the promise is made.

The combination of the two factors, (a) the obligation is *for the promisee* and (b) he has the power to rescind it, implies a third (c) that the promisor relinquishes control over the question of whether it ever was or still is or is likely to become of interest to or in the interest of the promisee. It is up to the promisee to judge that and cancel it or not cancel it. Promising, we may say, relates to the self-governing ability of the promisor and the promisee alike, though in different ways. The promisor's interest in enhanced ability to control his life establishes his power to promise, and promising is an exercise of the power. On the other side, the promise once made enhances the power of the promisee by giving him *the normative assurance* of the promised act. I will use this expression to refer to the assurance, which can be overridden and is therefore not

advantage of the promisor. But what these are may be very context-dependent. Even a simple extension of the deadline for performance of the promised act will sometimes be against the interest of the promisor.

absolute, that a promise gives the promisee. It is normative for it is provided by the normative structure of a promise. It consists of (a) the obligation the promisor undertakes plus (b) the power of the promisee to terminate that obligation, plus, (c) the disability just noted above of the promisor to terminate the promissory obligation on the ground that it is no longer in the interest of the promisee, and I will return to this point.

We can highlight the role of the promisee by contrasting a promissory obligation to my brother, with an obligation to do something for him arising in some other way. Suppose that my mother told me, and that I should obey her in this matter, to do something for my brother, who is finishing a gruelling task at work. I intend to buy him a week in an Alpine hotel, judging that to be an appropriate gift. Until I actually buy the holiday (and possibly even for some time after that) I should change my intention the moment I realise that it never was, or no longer is, a suitable gift. But if I promised my brother the holiday (thinking that it is an ideal gift) I cannot change my mind. He has the normative assurance that he will have the holiday, and it is now up to him to decide whether to release me from the promise or not.

The general point of promising, I conclude, is to give promisees the normative assurance of the promised act. If that is *for the promisees* it must relate to their interests (in both senses of the word) that promises serve. The power to promise serves the interest of promisors in enhanced control. When wisely used, and subject to luck, etc., both making a promise and refraining from making one serve an interest of the promisor (or the one who might have been the promisor). Given that promises are *for the promisees* promisors are served by serving the promisees. They may do so in one or both of two ways. First, the promise or the keeping of the promise may serve, directly or indirectly, an interest of the promisee, or something the promisee is interested in, cares about. Second, the promise gives the promisee (as it were as a gift) an opportunity to develop an interest, one that it may not be sensible to develop or to have without the promise or the performance of the promised act being there.

I dwell on the second way of being for the promisee not only because it is sometimes ignored, but also because while it is contingent whether the promisee has an interest in

the promised act, and whether it serves his interests, it is in the nature of promises that they (to use metaphorical language) extend an invitation (not always trustworthy) to the promisees to develop an interest that depends on the promised act. A book I will lend you may lead to developing new interests, as may a game of chess or an hour on the tennis court, or the loan of a sum of money, and so on. To the extent that a promise provides an opportunity, the opportunity will be there unless the promise is not kept. Often they can be used after the promises are kept. These opportunities may range from being of little value to being of very great value. The crucial point is that normally opportunities, options, for things or actions that may be of interest to a person have some value in themselves, that is *qua* opportunities, regardless of whether they are made use of or not. And it is that option that the normative assurance that the promise gives assures. It may do more, much more, but the rest is both specific to individual promises and contingent. If we are looking to what interest the normative assurance the promise is just about always serves – that is it.

Admittedly, even that option may be without value to the promisee. However, promises do not expire once they no longer serve the promisees. As I noted above, giving promisees the power to terminate the promissory reason implies that the continued normative force of the promise depends on the promisee's action – it is not merely that a promise may have lapsed but the promisor may not rely on his judgement on the matter. It does not lapse merely for the reason that it no longer serves the promisee, and the promisor is unable to terminate it on that ground. Its continued existence is now in the promisee's hand. It binds so long as it was not rescinded, provided that the power of the promisee to waive it has not lapsed as well.

The promisee's power is neither unconditional nor absolute. For one thing, the reason to keep the promise may be overridden by conflicting considerations. Furthermore, if the promisee is disabled in a way that makes it impossible for him to waive the promise then if the promise no longer serves the promisee it lapses. That was the case with Abby's promise to lend Ben her car. Once he became ill in such a way that he could neither make use of the car, nor waive the promise to lend him the car, the promise

lapsed and Abby had no promissory reason any more to lend him her car.²⁵ Finally, it is arguable that the power to rescind lapses if abused, that is if exercised for immoral purposes, or in an arbitrary way.

Is the power to rescind the promissory obligation a third kind of promisee's interest (in addition to the interest served by the performance of the promised act and the opportunities to develop new interests that it provides)? David Owens goes further. Seeking an explanation of the way promises are for the promisees, he claims that their function is to enhance an important individual interest: the interest of gaining authority over another.

[P]romising exists because it serves our authority interest, our interest in having the right to oblige others to do certain things. My claim will be that human beings have an interest in the possession of authority for its own sake, regardless of any further purpose this authority might serve, and that this fact accounts for the distinctive features of a promise.

The authority interest is a normative interest: it is an interest in the possession of a certain right, the right to impose an obligation.²⁶

I doubt that there is such an interest, and if I am mistaken and people have that interest I doubt that there is a general reason to protect or serve it. But that is beside the point, as its existence is irrelevant to promises. Owens maintains that

the fundamental promissory interest is an interest of the promisee ... namely the promisee's interest in gaining authority over the promisor.

This suggests that the function of promises is to endow promisees with that authority. While not all promises are made in order to serve their function, given that they are made intentionally by people who know what promises are, it seems to follow from Owens's view that standardly promises are made when people intend to endow others with authority over them and they make them in order to endow those others with power over them, in order to submit themselves to such power. This is of course consistent with maintaining that promisors make promises in order to serve a goal that

²⁵ Two clarificatory points: First, that Ben's condition is not permanent does not matter. What matters is his ability to waive the promissory duty before or at the time its performance is due. Second, nor does it matter that Ben has an interest in being able to control the duty in the sense that it would have been good for him to be able to waive it. The control or power to waive that we are concerned with is the power you have only if you (physically) can use it.

²⁶ D. Owens, *Shaping the Normative Landscape*, 146

they themselves are interested in. They aim to serve it by making the promise, namely by subjecting themselves to the power of another.

According to the account offered here matters are very different. The point of promises is to provide promisees with normative assurance that the promised act will be performed, thus enabling them to get the advantages and opportunities that that assurance can provide. Again, promises are not always made to serve the point, but standardly this is the intention with which promisors make them: to provide that normative assurance and enable the promisees to have those advantages and opportunities. The power to rescind is merely part of the normative structure that creates the normative assurance: promisees have a right that the promise be kept, and (as with many rights) a power to waive it, to terminate the promissory obligation. Furthermore, the promise can neither be cancelled by the promisor when it no longer serves the promisee, nor does it then lapse. The normative assurance would have been less secure if the promisor were free to conclude that in the circumstances the promise serves no point and is not (or no longer) binding.

In some cases one can imagine that one's interest in having power over another is not purpose-specific. A hostage taker need not have an idea how to use his power over the hostage before capturing him. Once he has that power he may make the hostage clean his house or aim to secure some political objective by holding him, or releasing him, or just get ransom to release him, etc. With promises this is an implausible account. The power the promisee has is merely to rescind an obligation whose content and creation were not up to him. His interest in it is almost entirely derivative from his interest in the normative assurance of the promised act, and the advantages and opportunities that it serves. Hence the conclusion that the power to rescind is but an ingredient in securing normative assurance, which itself serves the point and purpose of the promise, rather than being an independent interest that promises are there to serve.

One final point before moving on: In asserting that promisees' interests are served by having the power to rescind the promise I was implicitly assuming that the case for that power is analogous to the case for the power to make promises. But there are important differences between them. We all have the power to promise. It merely

depends on basic mental competence. But the power of promisees is had only by promisees, who are invested with it by promisors. Furthermore, in a significant number of cases, keeping promises disadvantages promisees. This need not be by damaging their independent interests. It may be because as things turn out keeping the promise imposes a considerable burden on the promisor, while doing little for the promisee. Promisees may prefer not to be in the situation where they impose the burden of keeping the promise on the promisors. But given that they have the exclusive power to release the promisor from the promise they find themselves with the burden of deciding whether to release the promisor and of communicating their decision to him. Most of the time this is hardly a burden at all, but at times it is. Can we still say that having the power to rescind the promise is of value to promisees? I think that we can. Considerations like the one I mentioned show that it is not an unmixed blessing. But it is of value on balance. Those who deny that do not believe that promises are normatively sound.

6. Promissory reasons

The explanation of the point of promises, the interests they serve, and the way they do so, when applied to each promise, yields an explanation of the reason to keep that promise and of the strength of that reason. The puzzle we started from resulted from the fact that as regards any promised act, the reason to perform it (the reason that applies to each and all of them) is that it was promised, namely the same reason in every case. However, initially we failed to find factors that determine the strength of the reasons and establish how they differ.

Promises are binding because there is normative power to make them, which is grounded in the interest for enhanced control. The question is how can that interest, seemingly affecting all promises uniformly, provide reasons of different strength regarding different promises, or indeed how does it provide any reason to keep promises, given that breaking the promise does not threaten that power?

There is, however, an inevitable and obvious connection between the value of the power to promise and the reasons to keep a promise: to repeat a trivium – the reasons are a result of the use of the power to promise, a result of the making of the

specific promise made. All valid promises change the normative situation because they are the exercise of the same power, but they change it differently because they are different promises. In one regard, promises are analogous to gifts: they give promisees the normative assurance of an action (or omission). Whenever I give a gift I change the normative situation by using the same gift-giving power, yet I change it differently by giving different gifts. My exercise of my power of making the promise changed the situation. Now the promisee has that normative assurance, namely I have a promissory reason to perform the promised act. Of course, gift and promises are fundamentally different in other respects: When giving a gift I give the recipient something I had before. The gift was mine, now it is his. When making a promise I grant the promisee a right that did not exist before to a duty that did not exist before. There is nothing that was mine and is now his.

Promises may, in themselves or in combination with other factors, provide reasons, or affect the strength of reasons, for or against the promised act. But only those that relate to the point of the promise are promissory reasons, and these are the factors that make it a normative assurance meant to be for the promisee.

So that is how we can have our cake and eat it too. Promissory reasons derive from the value of having the power to promise, through its exercise. The exercise of the power introduces variability. All promises are the normative assurance of an act or omission, but the value of that assurance varies.

It is tempting to equate the strength of the reason to keep a promise with the value to the promisee of the promised act. But we already know that that is a mistake. For example, the promisor may perform the promised act anyway, regardless of whether the promise remains binding or whether it is waived by the promisee. The value of the promise is the value of the normative assurance it provides. In a case where the promised act will take place anyway that may be much less than the value to the promisee of the promised act. Besides, the promise is binding even if the promised act is of no value to the promisee. So, where performance of the promised act because it was promised serves the promisee, its value to him is just one consideration that affects the strength of the promissory reason. The opportunity value that the promise

provides, its “invitation” to the promisee to developing interests based on the assurance of the promised act, is an independent consideration that is present in almost all promises, and affects their force. Yet there must be other strength-affecting factors present in all cases in which the promise is binding. This is where the power to terminate the promissory obligation, coupled with the fact that it does not lapse unless waived, are relevant. They exist in all binding promises, and their existence is of benefit to the promisee, enabling him to rescind the promise when it is to his advantage to do so, and disabling the promisor from escaping his promissory obligation without the promisee’s consent.

As was explained, the promisee’s interest in the power to rescind is secondary, being merely protective of the main ways in which the promise is for him. Only in exceptional cases would that be the only aspect of a specific promise that serves his interest, and thereby keeps the promise binding. There is, however, another doubt as to whether that interest can affect the strength of the reason to keep a promise (and if it cannot then in those exceptional cases just mentioned there would be no reason to keep it, it would not be binding). Does breach of the promise deny the promisee the power to terminate the promissory obligation?

I wish to avoid technicalities, and at this point they are hard to ignore altogether. I will simplify. We have to distinguish between a repudiatory breach and a non-repudiatory breach.²⁷ Now consider the difference between a one-shot promise and a continuous one: between promising to water your plants tomorrow and promising to water them once a week for the coming year. Failure to water them once in the second case is a partial breach. Partial failure is possible regarding some one-shot promises as well: for example when time is not of the essence watering them a day late is not a complete breach. A complete breach is always repudiatory whereas a partial breach may or may not be, depending on the circumstances, including the intentions of the promisor. A repudiatory breach terminates the promissory obligation. It may give rise to a new duty,

²⁷ Which can be anticipatory, that is occurring before the time to keep the promise arrives, and can be by declaration: ‘I will not keep this promise’; such declaration deprives the promisee of the assurance that is the point of a promise, and is therefore a breach of the promise.

a duty to compensate for the breach.²⁸ In cases of non-repudiatory partial breach the power to waive or rescind the promissory obligation lapses regarding the partial breach, and in repudiatory breach it lapses with the termination of the promissory duty altogether. Hence, even in the marginal cases where the only promisee interest a promise serves is due to the promisee's power to waive his right and terminate the promissory duty, breach affects that interest, and therefore there is reason to keep the promise.

²⁸ The new duty comes with new powers to the promisee. But while they include a power to waive the duty to compensate that power differs, both in scope (the duty to compensate differs in content from the promissory duty) and in conditions of its exercise (communicating the waiver to the promisor is not constitutive of it). Hence its existence does not undermine the point in the text.