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## BINDING THE WILL: GEORGE ELIOT AND THE PRACTICE OF PROMISING

BY MELISSA J. GANZ

Scholars have long noted George Eliot's interest in the nature and limits of the human will, but they have paid little attention to her treatment of the practice of promising.<sup>1</sup> In *The Mill on the Floss* (1860), *Middlemarch* (1871–1872), and *Daniel Deronda* (1876), promises give rise to repeated conflicts and misunderstandings, crystallizing the tension between freedom and obligation that runs through Eliot's work. The disputes typically occur in one of two ways. Egoists such as Tom Tulliver and Edward Casaubon attempt to pressure others into making promises that require them to act in self-defeating ways. Individuals such as Stephen Guest, Rosamond Vincy, and Gwendolen Harleth, by contrast, refuse to honor their own commitments, evincing a complete disregard for the ways in which other people construe their words and actions. Underlying both of these problems is a profound abuse of will and an unwillingness to consider other people's feelings and perspectives.

Outside the world of Eliot's novels, moral philosophers, jurists, and social thinkers devoted considerable attention to the conflict between the individual will and the claims of others in the formation and interpretation of promises. Philosophers had been debating the nature and source of promissory obligations since at least the seventeenth century. Natural law thinkers such as Hugo Grotius, Samuel Pufendorf, Thomas Hobbes, and John Locke considered promises to be naturally binding; in their view, promises derived their force from people's wills and intentions. In the late eighteenth and early nineteenth centuries, however, philosophers' ideas about promises began to change. Utilitarian thinkers such as William Paley and John Austin now located the source of promissory obligations in people's expectations, privileging the reasonable interpretations of promisees over the actual intentions of promisors.<sup>2</sup>

At about the same time, jurists began to consider the nature of promissory obligations as they reformulated the law of contract. Whereas judges previously interpreted contracts in ways that affirmed communal understandings of fair exchange, now they sought to give effect only to

commitments that people freely and deliberately made. The new “will theory” of contract drew heavily upon natural law philosophy; according to this theory, individual promises, wills, and intentions themselves gave rise to contractual obligations. Judges, in fact, began to speak of a contract as a “meeting of minds.”<sup>3</sup> In practice, however, they found it very difficult to uncover the intentions of contracting parties. By the middle of the nineteenth century, most judges had come to embrace an objective approach to contractual interpretation, relying upon external manifestations of intention as did utilitarian philosophers.<sup>4</sup>

In this essay, I read Eliot’s treatment of promises in the context of these changing ideas about consensual obligations, shedding light on questions that were important in her own time and that remain of deep interest to philosophers and legal scholars today. In doing so, I contribute to a debate among literary critics about the nature of Eliot’s ethical vision. A number of scholars have argued that Eliot’s novels fail to sustain the ideal of sympathetic relationships that the texts ostensibly espouse. These critics highlight the ways in which egoism, gender relations, and the indeterminacy of language undermine the fellow-feeling that Eliot seeks to promote.<sup>5</sup> A close analysis of Eliot’s treatment of promises, however, suggests her strong commitment to an intersubjective model of human relationships. Like Paley, Austin, and Henry Sidgwick, and like a growing number of jurists in the middle of the nineteenth century, Eliot embraces an expansive conception of promises: she suggests that one becomes bound by a promise whenever one knowingly excites another’s expectations concerning the existence of an obligation, even though one does not intend to become bound. The willingness to abide by implicit promises and to honor the expectations that one raises in other minds is a crucial test of moral character in Eliot’s fiction. At the heart of this definition of promises lies Eliot’s belief in the importance of attending to the ways in which one’s words and actions affect other people.

Although Eliot privileges external manifestations of intention over actual intentions in assessing promissory responsibility, she remains committed to the notion that a meeting of minds ought, ideally, to form the basis of agreements and exchanges. As a practical matter, that is, she recognizes the difficulty of discerning others’ intentions, and she shows the need to honor the expectations that one knowingly creates in other minds; but she holds out the possibility that people may achieve a real blending of wills and desires. Eliot articulates this utopian vision of promising in the Jewish plot of her final novel. In the religious visionary Mordecai Cohen’s relationship with the eponymous

Daniel Deronda, she imagines a meeting of minds, highlighting the ways in which promises can both reflect and promote understanding between people. She acknowledges, though, that such a mingling of ideas and intentions is, in the world of nineteenth-century England, limited to men.

## I.

By the late eighteenth century, promises had come to play a crucial role in many areas of social life, from commercial exchanges to conjugal relations. In all of these areas, they raised pressing questions about the nature of intention, interpretation, and obligation. The questions arose most persistently, however, in the law courts. Jurists found themselves grappling with the ethical and epistemological implications of the practice of promising as they developed a new theory of contract.

In the equitable model of contract that prevailed in the seventeenth and eighteenth centuries, the individual will played a fairly small role. Then, as today, courts held people accountable for the performance of their promises only when there was some reason or motivating circumstance for the promise, such as payment or other concrete benefit. In the law's terminology, a promise had to be accompanied by "consideration" in order to give rise to a legal obligation.<sup>6</sup> When judges and juries decided contract disputes during this period, they investigated both whether there was a promise and whether the consideration given in exchange for it was adequate. The consideration provided the primary grounds for the obligation; if juries found the consideration to be insufficient, they could refuse to enforce the agreement. Early contract law thus left an opening for judicial discretion and communal standards of fairness that imposed severe constraints on the kinds of contractual relations that individuals could form.<sup>7</sup>

In the last few decades of the eighteenth century, jurists began to replace this equitable theory of contract with a new theory grounded in principles of individual freedom and autonomy.<sup>8</sup> According to this theory, obligations arose less from the existence of consideration and more from the sheer will of the contracting parties. William Murray, Lord Mansfield played a central role in developing the new doctrine. During his tenure as Chief Justice of the Court of King's Bench from 1756 to 1788, Mansfield issued several controversial rulings about the role of promises in commercial contracts. Most famously, in *Pillans and Rose v. Van Mierop and Hopkins* (1765), he declared that in commercial cases among merchants, written promises could create legally binding obligations without any accompanying consideration. He explained that

“the ancient notion about the [need for] consideration was for the sake of evidence only,” and that when a promise was reduced to writing, “there was no objection to the want of consideration.”<sup>9</sup> Although judges later rejected Mansfield’s extreme approach, they embraced the idea that the basis of contractual liability is the intentions of the parties and that the consideration serves primarily as evidence of those intentions.<sup>10</sup> Over the course of the next hundred years, judges elaborated and developed this idea as they formulated the classical law of contract. The principles of the marketplace provided the model for this new body of law. When courts decided disputes between contracting parties, they refused to consider the justice of the exchanges and refused to alter the terms upon which the parties had agreed. Their role, they insisted, was to enforce individual wills and intentions rather than communal standards of fairness. Instead of scrutinizing a contract to determine whether there was adequate consideration, judges now looked only to see that there was a meeting of minds.<sup>11</sup>

Courts, however, quickly found themselves struggling with the difficult task of discerning subjective intent. By the middle of the nineteenth century, most judges had given up the effort and had adopted an objective approach to contractual interpretation. Although judges continued to view the subjective intentions of the parties as the legitimating basis for contractual obligations, they relied now upon objective measures of those intentions.<sup>12</sup> Much as moral philosophers such as David Hume and Paley had insisted, courts held that an individual could not avoid a duty that would otherwise attach to an external manifestation of intention by pointing to some secret reservation. In cases where the existence or interpretation of a contract was unclear, judges evaluated only the parties’ words and actions.<sup>13</sup>

On occasion, as in the controversial case of *Raffles v. Wichelhaus* (1864), courts relied upon the subjective meeting of minds standard to resolve contract disputes, invalidating contracts when parties did not understand key terms of the agreement in precisely the same way.<sup>14</sup> Some treatise writers, such as Sir Frederick Pollock, also remained committed to the subjective approach, insisting upon the importance of a true consensus theory of liability. In *Principles of Contract at Law and in Equity* (1876), for example, Pollock explained that contracting parties “must be assured by mutual communication that a common intention exists, that they mean the same thing in the same sense.”<sup>15</sup>

In a series of lectures and essays in the 1880s and 1890s, however, the American jurist and philosopher Oliver Wendell Holmes, Jr. dealt the subjective approach a final blow. “[Anglo-American contract] law has

nothing to do with the actual state of the parties' minds," he famously declared in *The Common Law* (1881). "In contract, as elsewhere, it must go by externals and judge parties by their conduct."<sup>16</sup> In Holmes's view, subjective motivation was legally irrelevant; external behavior trumped actual intentions and inner states of mind. Holmes elaborated in "The Path of the Law" (1897):

Morals deal with the actual internal state of the individual's mind, what he actually intends. From the time of the Romans down to now, this mode of dealing has affected the language of the law as to contract, and the language used has reacted upon the thought. We talk about a contract as a meeting of the minds of the parties, and thence it is inferred in various cases that there is no contract because their minds have not met; that is, because they have intended different things or because one party has not known of the assent of the other. Yet nothing is more certain than that parties may be bound by a contract to things which neither of them intended, and when one does not know of the other's assent. . . . In my opinion no one will understand the true theory of contract or be able even to discuss some fundamental questions intelligently until he has understood that all contracts are formal, that the making of a contract depends not on the agreement of two minds in one intention, but on the agreement of two sets of external signs,—not on the parties' having *meant* the same thing but on their having *said* the same thing.<sup>17</sup>

Holmes's account of contract law is both descriptive and prescriptive: he not only reminds jurists that courts have been using an objective approach to contractual interpretation for some time; he also insists that they continue to use this approach. Underlying Holmes's objection to the idea of contract as a meeting of minds was a broader critique of the way in which legal thinkers and laypeople alike "confound[ed] morality with law."<sup>18</sup> A positivist, Holmes sought to keep ethics and law—as well as promises and contracts—separate. In his view, there was nothing morally significant about a contract; everyone had the right "to break [a] contract if he [chose]," as long as he paid damages to the other party for the breach.<sup>19</sup> Holmes's critique of the subjective approach to contractual interpretation, though, ironically contributed to the development of a doctrine that fostered accountability in contractual relations. By the first few decades of the twentieth century, English and American courts had abandoned the attempt to discern the actual intentions of parties in contract disputes. As a result, they often undermined, rather than facilitated, the wishes of contracting parties. Judges held people responsible for what they appeared to be

saying and doing, rather than for what they actually meant to say or do, and they considered what reasonable people would say or do if they were in the same situation as the contracting parties. The formal, external approach to contractual interpretation continues to underlie Anglo-American law today.<sup>20</sup>

## II.

While nineteenth-century jurists worked out rules governing the formation and interpretation of contracts, a diverse group of writers and thinkers considered the implications of the proliferation of consensual agreements in society. The legal historian Sir Henry Sumner Maine offered one of the most optimistic accounts of this change. In his influential study, *Ancient Law* (1861), Maine traced a gradual expansion of individual freedom in Roman civilization, as reflected and furthered by an evolution in the law governing private obligations. Whereas responsibilities initially originated in the family, he explained, individually negotiated promises and contracts eventually came to form the basis of most social relations. This change in Roman law, according to Maine, had far-reaching effects on Western culture. In his famous phrase, “the movement of the progressive societies has hitherto been a movement *from Status to Contract*.”<sup>21</sup>

The sociologist and apostle of Victorian liberalism Herbert Spencer shared Maine’s conviction that this shift signified moral and social improvement, but other observers were less optimistic.<sup>22</sup> Social critics such as John Ruskin and Thomas Carlyle and novelists such as Charles Dickens considered the growth of market culture and the accompanying expansion of the autonomous will as cause for alarm. Rather than celebrate the new opportunities for human agency, they criticized the market’s tendency to encourage impulsive, self-interested behavior and they denounced the lack of constraints that society imposed on the individual will.<sup>23</sup> In a period when many people thought nothing of breaking their promises and contracts, critics worried that consensual ties were too fragile to serve as structures for lasting social relations. In *Our Mutual Friend* (1864–1865), Dickens’s cynical barrister Eugene Wrayburn expresses the spirit of the age when he wryly observes that “people’s breaking promises and contracts and bargains of all sorts, makes good for [his] trade.”<sup>24</sup> In Eugene’s view, breaches are not only routine; they are also desirable. The breaking of agreements in the text serves as a stark reminder of the dangers of the era’s individualistic ethos.

Eliot shared these concerns. Like Dickens, she was keenly interested in the growth of contract and the practice of promising. In fact, she read Maine's *Ancient Law* between 17 November and 1 December 1869, and included summaries of each chapter of the work in a notebook that she kept as she began writing *Middlemarch*.<sup>25</sup> In the late 1860s and 1870s, she also conversed with and read the work of philosophers such as Austin and Sidgwick, who made important contributions to the fields of analytical jurisprudence and the philosophy of mind, and who considered, among other topics, the ethics of promising.<sup>26</sup> Eliot's interest in moral and epistemological questions concerning promises and contracts is also evident, though, a decade earlier, in *The Mill on the Floss*.

Set in the early years of the nineteenth century, *The Mill on the Floss* depicts the growth of the market in general and the proliferation of contractual agreements in particular. From the promissory note that Mr. Tulliver gives his brother-in-law and the loan that Mrs. Glegg gives Mr. Tulliver, to the mortgage that Mr. Tulliver takes out on his mill and the bill of sale that he gives an impatient creditor, contracts form the basis of commercial relations in this novel. But Eliot is most concerned with promises that arise outside the sphere of the market. Through Maggie Tulliver's relations with her father and brother as well as with Philip Wakem and Stephen Guest, Eliot explores two different views of the nature and purpose of promising—a narrow, self-regarding view, embraced by Mr. Tulliver and Tom, and an expansive, other-regarding view, espoused by Maggie. Although Eliot acknowledges the costs of the expansive approach, she ultimately affirms it. She suggests that the basis for promissory liability lies in the expectations that one raises in other minds, and that such expectations trump one's actual intentions.

In the face of bewildering social change and economic loss, the hapless Mr. Tulliver uses promises to impose his will on others and to ensure that they act according to his wishes. When Mr. Wakem obtains possession of the Tullivers' beloved mill, Mr. Tulliver becomes distraught; he declares his everlasting hatred for the lawyer and demands that his son swear that he, too, will never forgive the man:

I won't forgive him! . . . And you mind this, Tom—you never forgive him, neither, if you mean to be my son. There'll maybe come a time when you may make him feel—it'll never come to me—I'n got my head under the yoke. Now write—write it i' the Bible.<sup>27</sup>

Maggie is horrified at the vindictive spirit that underlies her father's request. "It's wicked to curse and bear malice," she exclaims, in an attempt to prevent the recording of this pledge. But Mr. Tulliver remains firm. "[W]rite—write as you'll remember what Wakem's done to your father," he commands his son, "and you'll make him and his feel it, if ever the day comes. And sign your name Thomas Tulliver" (*MF*, 236). By insisting that Tom inscribe this pledge in the Bible, Mr. Tulliver seeks to give it formal, religious sanction; he asks Tom, in effect, not only to promise him but also to promise God. Tom's willingness to comply with this request eases Mr. Tulliver's mind. He takes comfort in knowing that, although he is unable to obtain revenge, his son may do so for him. The pledge thus serves to lessen his feeling of defeat and to bolster his sense of control over others.

Like his father, Tom uses promises to assert his will and to perpetuate conflict. Upon discovering that Maggie has secretly been meeting Wakem's son Philip alone in the Red Deeps, he demands that she promise never to see Philip again:

Now, then, Maggie, there are but two courses for you to take; either you vow solemnly to me, with your hand on my father's Bible, that you will never have another meeting or speak another word in private with Philip Wakem, or you refuse, and I tell my father everything[.] (*MF*, 300)

Tom's request here echoes to that of his father. Like Mr. Tulliver, Tom uses the Bible to shore up a pledge; he asks Maggie not only to promise him but also to vow to God that she will never again meet Philip in private. But where Tom willingly complies with his father's request, Maggie resents her brother's attempt to restrict her actions. She agrees to "promise . . . to give up all intercourse with Philip" but insists that Tom permit her either to see Philip one last time or to write to him so that she can explain the prohibition (*MF*, 300). Unlike her brother and father, moreover, she insists on the binding nature of a bare verbal promise. "If I give you my word, that will be as strong a bond to me as if I laid my hand on the Bible," she explains. "I don't require that to bind me." Tom insists on this condition, however: "Do what *I* require," he orders. "I can't trust you, Maggie. There is no consistency in you" (*MF*, 300). Maggie submits to Tom's demand and lays her hand on the Bible, for she feels that she has no choice in the matter: Tom is more powerful than she is and, in this instance, as in so many others, she is forced to submit to his will. She alters the

terms of the promise slightly, though: she gives her “word not to meet [Philip] or write to him again *without [Tom’s] knowledge*” (*MF*, 301; my emphasis). Still, this restrictive promise compromises Maggie’s happiness, for it prevents her from freely communicating with the one person in her narrow-minded society who shares her artistic, intellectual, and emotional sensibilities. The pledge makes explicit the crushing conflict in Maggie’s life between her loyalty to her father and brother and her affection for Philip.

Maggie’s understanding of the nature and purpose of promising differs sharply from that of Mr. Tulliver and Tom. Whereas the latter think of promises as formal obligations that serve to perpetuate their wills, Maggie possesses a broader conception of promises that includes all signs—written and spoken, witnessed and unwitnessed—that raise others’ expectations concerning the existence of binding commitments. Eliot introduces this broader view of promises early on in the novel, when Maggie first meets Philip as a young child. Maggie admires Philip’s intellectual prowess and artistic talent, and pities his physical deformity. Before she leaves him, she kisses him and tells him, “I shall always remember you, and kiss you when I see you again, if it’s ever so long” (*MF*, 164). The narrator makes clear that Maggie construes this declaration of her intended future conduct as a pledge. Several years later, when she meets Philip again, the narrator explains that Maggie “remember[s] her promise to kiss him, but, as a young lady who ha[s] been at a boarding-school, she [knows] now that such a greeting [is] out of the question, and Philip would not expect it” (*MF*, 165). The narrator’s remark provides important insight into Maggie’s ideas about the practice of promising—ideas that Maggie will soon articulate herself.

When Maggie next encounters Philip, their relationship becomes complicated by the escalation of the dispute between their fathers. During one of their first few meetings in the Red Deeps, Philip declares his love for Maggie and reminds her of her promise to kiss him. Maggie complies, but Philip notes that she does not seem happy. He fears that she has told him that she loves him simply out of pity. Maggie responds:

It is all new and strange to me; but I don’t think I could love any one better than I love you. I should like always to live with you—to make you happy. I have always been happy when I have been with you. There is only one thing I will not do for your sake: I will never do anything to wound my father. You must never ask that from me. (*MF*, 294)

Maggie's uncertain feelings for Philip ("I don't think I could love any one better than I love you") sharply contrast with her absolute devotion to her father ("I will never do anything to wound my father"). Maggie's hesitancy about their relationship troubles Philip. Before they part, he seeks to obtain a more specific commitment from her. Her response, though, remains ambiguous:

"Then my life will be filled with hope, Maggie—and I shall be happier than other men, in spite of all? We *do* belong to each other—for always—whether we are apart or together?"

"Yes, Philip: I should like never to part: I should like to make your life very happy."

"I am waiting for something else—I wonder whether it will come."

Maggie smiled, with glistening tears, and then stooped her tall head to kiss the pale face that was full of pleading, timid love—like a woman's. (*MF*, 294–95)

Whereas Philip expresses his wishes clearly and forcefully, Maggie dodges his attempt to secure a definite obligation. Rather than promise to marry him or assure him that she intends never to part from him, she articulates a series of desires concerning their relationship: "I *should like* always to live with you"; "I *should like* never to part"; "I *should like* to make your life very happy." Philip himself notes the difference between Maggie's statements and the promise that he hopes to hear. But the kiss that Maggie gives Philip at the end of this exchange at once evokes her earlier pledge and suggests further reason for Philip to believe that one day they might marry.

Several years later, after her father's death, Maggie meets Philip again, this time at the home of her cousin Lucy Deane. Philip asks Maggie whether she wishes to forget their prior intimacy. "I desire no future that will break the ties of the past," Maggie replies. "But the tie to my brother is one of the strongest. I can do nothing willingly that will divide me always from him." Philip inquires now, "with a desperate determination to have a definite answer," whether that is the only reason that would keep him apart from her forever. "The only reason," Maggie replies with "calm decision." The narrator explains that, at this moment, Maggie believes that her brother's disapproval is, in fact, the only thing that separates them; when she answers Philip's question, she "look[s] at the future with a sense of calm choice" (*MF*, 389). Yet, as the novel has made clear, Maggie's mind is hardly decided on this question; she is certain neither about her feelings for Philip nor her

intentions concerning marriage, for she finds herself growing attracted to Stephen Guest, her cousin Lucy's fiancé.

Through a series of heated exchanges between Maggie and Stephen, Eliot considers the question of whether Maggie is bound by an implicit promise to marry Philip. The egotistical Stephen attempts to persuade Maggie to forget Philip and to marry him instead, for he cares more about indulging his present desires than honoring his prior obligations. Maggie implores Stephen to "[t]hink of Lucy" (*MF*, 392), adding that there are "other ties . . . even if Lucy did not exist." "I consider myself engaged to [Philip]," she explains, "—I don't mean to marry any one else." Stephen responds by insisting that they are justified in renegeing on unwanted vows: "Maggie, if you loved me as I love you," he implores, "we should throw everything else to the winds for the sake of belonging to each other. We should break all these mistaken ties that were made in blindness, and determine to marry each other" (*MF*, 393). In Stephen's view, he and Maggie may dissolve these other ties because they made them before they met and fell in love. When this argument fails to convince Maggie, Stephen modifies his position and suggests that they are not really bound by any other ties in the first place:

"[A]fter all," he went on, in an impatient tone, trying to defeat his own scruples as well as hers, "I am breaking no positive engagement: if Lucy's affections had been withdrawn from me and given to some one else, I should have felt no right to assert a claim on her. If you are not absolutely pledged to Philip, we are neither of us bound." (*MF*, 393–94)

Here, as throughout the exchange, Stephen raises important questions about the moral claims of explicit and implicit promises and the circumstances under which it is acceptable to break them, at least in the context of marriage.<sup>28</sup> But Maggie does not agree with Stephen's answers to these questions; in her view, both she and Stephen are equally constrained, bound by prior commitments. "[T]he real tie lies in the feelings and expectations we have raised in other minds," she insists. "Else all pledges might be broken, when there [is] no outward penalty. There would be no such thing as faithfulness" (*MF*, 394).

Through Maggie's disagreement with Stephen, Eliot intervenes in a discussion among philosophers and jurists about the nature and extent of promissory obligation. In their treatises and lectures, ethicists such as Paley, Austin, and Sidgwick examined the competing roles of intentions and expectations in promissory obligations and, as we

have seen, judges struggled with the question when deciding contract disputes. The philosophers—who shared a broadly utilitarian frame of mind—privileged the expectations of promisees over the actual intentions of promisors.<sup>29</sup> In *The Principles of Moral and Political Philosophy* (1785), a copy of which Eliot owned, Paley maintained that the obligation to honor promises “depends upon the expectations which we *knowingly* and *voluntarily* excite.”<sup>30</sup> Any action or conduct towards another person that, one is sensible, “excites expectations in that other,” he explained, “is as much a promise, and creates as strict an obligation, as the most express assurances.”<sup>31</sup> Austin, too, emphasized the importance of external manifestations of intention and the expectations that they raise in other minds, although he sought to shift the focus of the inquiry from the apprehension of the promisor to that of both parties.<sup>32</sup> Eliot’s friend Sidgwick similarly made expectations the basis for his theory of promissory obligation. “[T]he essential element of the duty of Good Faith seems to be not conformity to my own statement, but to the expectations that I have intentionally raised in others,” Sidgwick would write in *The Methods of Ethics* (1874).<sup>33</sup> In order to determine whether a person would be obliged to satisfy expectations that he did not intend to create, Sidgwick would explain, “[w]e form the conception of an average or normal man, and consider what expectations he would form under the circumstances, inferring this from the beliefs and expectations which men generally entertain under similar circumstances.”<sup>34</sup> Jurists, we remember, were formulating similar rules in contract cases, albeit largely as a result of practical, as opposed to moral, considerations.

In viewing herself as bound by a tacit engagement to Philip, Maggie embraces the position articulated by Paley, Austin, and Sidgwick and adopted by most jurists in the middle of the century. Maggie feels bound to Philip because she has raised his hopes that she may marry him, even though she is not certain in her own mind that she wishes to do so. Although Maggie succumbs to Stephen’s temptation and permits him to carry her far down the river, alone in his boat, when she realizes what she has done, she insists that Stephen take her back to shore. Stephen declares that their situation proves that their feelings for each other cannot be overcome. Maggie disagrees. “Faithfulness and constancy mean something else besides doing what is easiest and pleasantest to ourselves,” she insists. “They mean renouncing whatever is opposed to the reliance others have in us. . . . I feel no excuse for myself—none. I should never have failed towards Lucy and Philip as I have done, if I had not been weak, selfish, and hard—able to think

of their pain without a pain to myself that would have destroyed all temptation” (*MF*, 417). Maggie here conflates her implicit promise to Philip with Stephen’s explicit promise to Lucy; in her mind, they are equally binding, for both Philip and Lucy rely upon their constancy and suffer as a result of their infidelity. Through Maggie’s agonizing decision to renounce Stephen and return to St. Ogg’s, Eliot underscores the costs involved in privileging Philip’s expectations over her own desires, even as she suggests that Maggie is right to view herself as bound to Philip.<sup>35</sup>

Eliot makes clear, though, that Philip ought to attend to Maggie’s feelings and desires, just as she attends to his. After Philip learns of Maggie’s aborted elopement with Stephen, he begins imaginatively to place himself in Maggie’s position and acknowledges his mistake in attempting to force her into an unwanted engagement. “Let no self-reproach weigh on you because of me,” he writes to Maggie, after she returns to St. Ogg’s. “It is I who should rather reproach myself for having urged my feelings upon you, and hurried you into words that you have felt as fetters.” When she first came back, he explains, he shrank even from writing to her for fear of “thrust[ing]” himself on her and thus “repeating [his] original error” (*MF*, 440). Philip shows signs of an important change here. Unlike both Tom and Stephen, he acknowledges his egotism and shows concern for Maggie’s needs. Although he still affirms his love for her and declares that he is “unchangeably [hers],” he insists that he is hers “not with selfish wishes” (*MF*, 440, 441). In effect, he releases her from her promise. Philip’s letter, though, comes too late. Maggie’s struggle to find a balance between her own will and others’ wishes leaves her emotionally drained.

Eliot is unable to imagine a way out of this impasse. In the last few pages of the novel, she shifts her focus from these agonizing ethical questions concerning the formation and dissolution of promises to other equally troublesome issues concerning non-contractual, familial ties. Throughout the text, Maggie emphasizes her duty to her father and brother, reiterating her desire never to “break the ties of the past” (*MF*, 389). This Burkean nostalgia for the unbreakable bonds of pre-modern society eventually replaces the novel’s concern with the ethical dilemmas created by voluntary obligations. In his passionate response to the destruction wrought by the French Revolution, Edmund Burke used the image of the entailed estate to signify the unbreakable ties between past and present generations.<sup>36</sup> The feudal imagery evoked his longing for the period before the growth of contract—a period

marked by stability, constancy, and relative certainty in human relationships. In many ways, Eliot shares Burke's view of the limits of contractual ties. She alludes to Burke's work in book 4 of the novel, observing that "[t]he days of chivalry are not gone, notwithstanding Burke's grand dirge over them," and, in the final pages of the text, she imaginatively reconstructs Maggie's original bond with her brother (*MF*, 250). Maggie's tragic death underscores Eliot's simultaneous investment in and critique of the indissoluble ties that structured social life in the pre-modern era. Maggie's desire to save Tom from the flood ultimately causes her own demise, but Eliot is not able in this novel to imagine a different solution to the problem of human relationships in modern contractual culture.

### III.

In *Middlemarch*, Eliot revisits the ethics of promising, probing the ways in which promises crystallize the tension between the individual will and responsibilities to others. Eliot, we remember, read Maine's *Ancient Law* in the fall of 1869 during the early stages of her work on this novel; Maine's ideas seem to have left a deep impression on her mind and her writing.<sup>37</sup> She responds in this text with great ambivalence to the changes that Maine described. The egotism that pervades Middlemarch society seriously complicates the practice of promising. Like Mr. Tulliver and his son, Edward Casaubon and Rosamond Lydgate attempt to use promises to impose their wills on others and to restrict others' actions. Rosamond refuses to limit her own freedom, though, by making pledges to other people. Unlike Maggie, she fails to consider the expectations that she creates in other minds and refuses to acknowledge such expectations as binding. Rosamond's brother and parents, by contrast, confuse wishful thinking with legitimate expectations; they read their own desires into others' words and actions and become convinced that others have bound themselves when the latter have given clear indications to the contrary. In spite of these problems, however, Eliot ultimately affirms the value and importance of promissory obligations. Through Mary Garth's relationship with Fred Vincy, she holds out hope that promises can provide the basis for strong human ties.

The difficulty of penetrating other minds becomes a central concern early on in this novel. Although Dorothea Brooke's erudite husband Edward Casaubon cautions, "[w]e must not inquire too curiously into motives," he is obsessed and confounded by his inability to discern

them.<sup>38</sup> In an attempt to alleviate his anxiety about his wife's feelings for his young cousin, the aptly named Will Ladislaw, and in an effort to restrict Dorothea's freedom after he dies, Casaubon asks her to bind herself with a promise. One night, Dorothea awakens to find Casaubon sitting in a chair, eager to talk to her. He explains that he has a "request to make": "It is that you will let me know, deliberately, whether, in case of my death, you will carry out my wishes: whether you will avoid doing what I should deprecate, and apply yourself to do what I should desire" (*M*, 448, 448–49). Dorothea struggles to decide how to respond to this unusual request: "No, I do not yet refuse," said Dorothea, in a clear voice, the need of freedom asserting itself within her; 'but it is too solemn—I think it is not right—to make a promise when I am ignorant what it will bind me to. Whatever affection prompted I would do without promising.'" Casaubon is not satisfied with this answer. "But you would use your own judgment," he objects. "I ask you to obey mine; you refuse." Horrified at the thought of opposing her husband, Dorothea pleads for more time so that she can "reflect a little while." "I desire with my whole soul to do what will comfort you," she tells Casaubon, "but I cannot give any pledge suddenly—still less a pledge to do I know not what" (*M*, 449). The conflict between obeying her husband's wishes and asserting her own will deeply troubles Dorothea. She wishes to comply and yet she wonders whether he "might . . . not mean to demand something more from her than she had been able to imagine, since he wanted her to pledge to carry out his wishes without telling her exactly what they were" (*M*, 451). Dorothea senses, though, that she will not be strong enough to resist and that she will eventually submit to her husband's demand: "she simply felt that she was going to say 'Yes' to her own doom: she was too weak, too full of dread at the thought of inflicting a keen-edged blow on her husband, to do anything but submit completely" (*M*, 452). Fortunately for Dorothea, Casaubon dies before she is able to give her word.

By killing Casaubon before Dorothea can submit to his will, Eliot makes clear that an "indefinite promise of devotion to the dead" is too broad and exacting (*M*, 451). Like Tom Tulliver, Casaubon does not know what it means to trust another human being; hence, he attempts to control all of his wife's future actions. The promise that Casaubon seeks to secure from Dorothea would leave her frozen in the past. After his death, Dorothea acknowledges that this would have been the case. She places his unfinished "Synoptical Tabulation"—which he wanted her to complete—in a sealed envelope in her desk drawer, along with

a note. “*I could not use it,*” she writes to her dead husband. “*Do you not see now that I could not submit my soul to yours, by working hopelessly at what I have no belief in?*” (*M*, 506–7). In finally rejecting Casaubon’s request that she bind herself to his wishes and carry out his fruitless work, Dorothea frees herself from the restrictive hold of her husband’s “dead hand” (*M*, 403). Unlike Maggie, who submits to her brother’s demands and binds herself with a promise that she does not wish to make, Dorothea now asserts her own will. Through Casaubon’s death, Eliot thus shows the importance of resisting others’ efforts completely to restrict one’s actions, highlighting the need to retain the freedom to shape one’s own future.

Eliot suggests, however, that narrowly conceived promises can improve relationships by fostering accountability and limiting boundless desire. Unlike Dorothea, Rosamond Vincy refuses to bind herself even when she ought to do so. Instead, she repeatedly attempts to secure promises from other people. When her husband, Tertius Lydgate, discovers that she has gone horseback riding with his cousin, Captain Lydgate, even though she is pregnant, he orders her to refrain from riding again and declares that he will speak to his cousin about it. Rosamond begs him not to talk to the captain. “It will be treating me as if I were a child,” she objects. “Promise that you will leave the subject to me.” As there “[does] seem to be some truth in her objection,” Lydgate begrudgingly complies with her request, and “thus the discussion end[s] with his promising Rosamond, and not with her promising him.”<sup>39</sup> Lydgate’s willingness to consider Rosamond’s concern contrasts with her refusal to look at the situation from his point of view. Rosamond, the narrator tells us, “[is] determined not to promise.” In her mind, what she “like[s] to do” is the “right thing” to do, and she directs all of her energy to “getting the means of doing it” (*M*, 549). Her love of horseback riding itself, of course, points to her desire for freedom and mastery; her willingness to ride while she is pregnant suggests her insensitivity to the wellbeing of anyone besides herself. When she goes riding again, however, her horse takes fright at the crash of a tree, and the resulting accident leads to the loss of Rosamond’s baby. The death of the unborn child vividly underscores the dangers that stem from her refusal to rein in her will.

Not surprisingly, Rosamond’s refusal to bind herself with promises also contributes to the deterioration of her marriage. Rosamond becomes sullen and angry when Lydgate tells her that they will need to cut back their expenses and move to a smaller house. Rosamond, in fact, secretly contradicts Lydgate’s instructions and tells the auctioneer

to take their house off of the market. Not only does Rosamond refuse to give her word to Lydgate that she will never take such an action again in the future, but she asks him to promise her not to put the house back up for sale without telling her. "I think it is I who should exact a promise that you will do nothing without telling me," Lydgate rejoins (*M*, 621). When he discovers, shortly afterwards, that she has also secretly written to his uncle, asking for financial assistance on his behalf, he becomes furious: "Can you not see . . . that nothing can be so fatal as a want of openness and confidence between us?" he asks her. "It has happened again and again that I have expressed a decided wish, and you have seemed to assent, yet after that you have secretly disobeyed my wish. In that way I can never know what I have to trust to" (*M*, 626). Although Lydgate does not treat Rosamond as an equal partner in their relationship—he believes that it is "for [him] to judge" how they are to live, and for her simply to accept his decisions—he shows a much greater willingness to consider her perspective than she does his (*M*, 611). Lydgate's inability to discern his wife's intentions or to rely upon her words and actions lies at the root of their disagreements. When Lydgate asks Rosamond to tell him that he can depend upon her not acting secretly in the future, she replies that she "cannot possibly make admissions or promises in answer to such words as [he] [has] used towards [her]" (*M*, 626). Unlike Casaubon's demand to Dorothea, the novel suggests, Lydgate's plea to his wife is entirely reasonable. Rosamond does not perceive the justness of Lydgate's request, for she refuses to step outside her own mental space and view the world through others' eyes. Rosamond repeatedly attempts to use promises to restrict Lydgate's actions even though, Eliot shows, Rosamond ought instead to rein in her own desire.

Rosamond's brother and parents evince a similar self-absorption. Their unwillingness to consider other perspectives creates an additional problem concerning the practice of promising: they read into others' words and actions promissory intentions when the latter are not warranted, seeing what they wish to see and hearing what they want to hear. Early on in the novel, a dispute arises when Peter Featherstone hears a rumor that his nephew, Rosamond's indolent brother Fred, has been "speculating" on his "expectations" from his wealthy uncle (*M*, 98). Most people in Middlemarch treat Fred as if he is special because of his "tacit expectations" from Featherstone, and Fred's parents are no exception (*M*, 220); they assume that Featherstone will eventually leave his property to their son. Mr. Vincy explains to his brother-in-law that Featherstone "has as good as told Fred he

means to leave him his land” (*M*, 119). Mrs. Vincy calls it a “robbery” when Featherstone subsequently fails to act as they all expect him to do. “[I]t was like giving him the land, to promise it,” she bitterly declares, “and what is promising, if making everybody believe is not promising?” (*M*, 322).

In this account of Fred’s anticipated inheritance, Eliot revisits the question of the role of expectations in the formation of promissory obligations, although this time she examines the problem from the perspective of a potential promisee rather than a promisor. Fred’s ideas about implied promises appear to be similar to those of Maggie Tulliver. Maggie, we remember, insists that if people do not honor the “feelings and expectations [that they have] raised in other minds . . . all pledges might be broken” (*MF*, 394). Yet, whereas Maggie considers how Philip construes her words and actions, Fred never removes his metaphorical blinders. Fred should know better; when he brings Featherstone a letter written by the banker, Nicholas Bulstrode, stating the latter’s conviction that Fred “*has not obtained any advance of money on bequests promised by Mr. Featherstone,*” Featherstone bursts out, “promised? who said I ever promised? I promise nothing—I shall make codicils as long as I like” (*M*, 124). Fred receives this explicit warning that he should not expect to receive a bequest. Yet, instead of heeding this notice, he continues to believe what he wants to believe, ignoring Featherstone’s clearly articulated intentions. In this case, as in so many others in the novel, Fred simply assumes that the outer world correlates perfectly with his inner desires.

Mrs. Vincy’s ideas about Fred’s entitlement to the property are similarly founded upon selfish desires rather than legitimate expectations. Her understanding of promissory obligations has the ring of morality in it; it sounds like Paley’s definition of implied promises.<sup>40</sup> But Mrs. Vincy’s expectations concerning Fred’s inheritance have no more foundation than Fred’s do. Mrs. Vincy attempts to give moral weight to wishful thinking, transforming unwarranted expectations into binding obligations. Here again, the novel highlights the tendency for people to see what they wish to see and to conflate their own desires with others’ intentions, complicating the practice of promising.<sup>41</sup>

In the figure of Mary Garth, however, the novel holds out hope that promises—even implicit ones—can provide the basis for strong social ties. Fred has loved the daughter of the kind and humble Caleb Garth ever since he was a child, and he desperately wishes to marry her. She tells him, though, that she will never do so if he becomes a clergyman, for she feels that he is singularly unsuited to that vocation. She makes

Fred promise not to raise this subject with her again. Pressured by his father to enter the church, Fred asks his friend and mentor, the Reverend Camden Farebrother, to speak to Mary for him and to try and determine whether he has any reason to hope that she will, in fact, marry him if he gives up the profession for which he has been educated. Fred's appeal places Mr. Farebrother in an awkward position, for he loves Mary himself. She perceives his feelings for her when he implores her to tell him whether she could ever consider forming an attachment with someone other than Fred. Her reply is decisive:

I have too strong a feeling for Fred to give him up for any one else. I should never be quite happy if I thought he was unhappy for the loss of me. It has taken such deep root in me—my gratitude to him for always loving me best, and minding so much if I hurt myself, from the time when we were very little. I cannot imagine any new feeling coming to make that weaker. I should like better than anything to see him worthy of every one's respect. But please tell him I will not promise to marry him till then: I should shame and grieve my father and mother. He is free to choose some one else. (*M*, 486–87)

Mary here explicitly declares that she will not promise to marry Fred until he makes himself worthy of others' respect. In doing so, she raises his expectations that she will marry him if and when he earns that respect. As Mr. Garth puts it, Mary "has given [Fred] a sort of promise according to what he turns out" (*M*, 531). In Mary's relationship with Fred, then, Eliot rewrites the plot of *The Mill on the Floss*. Unlike Maggie, Mary does not let her lover pressure her into forming an engagement when she is not ready to enter it; she sets the terms of their connection through her implied and conditional pledge.<sup>42</sup> But she knows that she has raised Fred's expectations, and she is true to them. Fred, in fact, relies upon her "sort of promise"; it inspires him to work hard and to avoid diversions such as hunting and gambling. Mary becomes, as it were, his conscience—the "impartial spectator" within his breast.<sup>43</sup> When Fred thinks of her and of her opinion of him, he reins in his erring passion. Mary's conditional pledge thus affects an important change in Fred: it gives him a reason to consider someone's perspective other than his own. At the end of the novel, when Fred learns that his aunt has asked him to live at Stone Court and to manage the land there for her, he tells Mary that he could be "a tremendously good fellow . . . and [they] could be married directly." Aware of Fred's failings, Mary coyly replies, "Not so fast sir; how do you know that I would not rather defer our marriage for some years?"

That would leave you time to misbehave, and then if I liked some one else better, I should have an excuse for jilting you” (*M*, 778). There is, however, no real threat of such infidelity in this text. Unlike both Maggie and Philip, and Lucy and Stephen, these lovers do indeed marry and achieve “a solid mutual happiness” (*M*, 779).

#### IV.

In *Daniel Deronda*, Eliot develops and extends this optimistic portrait of promising. As in *The Mill on the Floss* and *Middlemarch*, in this text, she expands the definition of promises to include all words and actions that, one knows, raise others’ expectations concerning the existence of binding obligations. Through her willful heroine, Gwendolen Harleth, Eliot holds out hope that even egoists can come to perceive the justice of this view of promising: Gwendolen eventually acknowledges the importance of attending to others’ perspectives and accepts responsibility for breaking an implicit pledge. Eliot’s most optimistic account of promising, though, appears in the novel’s Jewish plot. In Daniel Charisi’s relationship with Joseph Kalonymos and in the eponymous hero’s relationship with Mordecai Cohen, Eliot affirms promises’ ability to provide continuity and stability in human relationships, and suggests that promises can both reflect and promote a true meeting of minds.

Like Eliot’s other headstrong heroines, Gwendolen puts her own needs above everyone else’s. Not surprisingly, she becomes fascinated by the wealthy and imperious Henleigh Grandcourt. Unbeknownst to Gwendolen, though, Grandcourt has already had an affair with a married woman, Lydia Glasher. The death of Lydia’s husband, three years earlier, prompted in Grandcourt “a vacillating notion of marrying her, in accordance with the understanding often expressed between them during the days of his first ardour.”<sup>44</sup> However, Grandcourt grew weary of her and refused to make her his wife. When Lydia learns of Gwendolen’s intimacy with Grandcourt, she asks Gwendolen to meet her in private. “I have promised to tell you something,” Lydia explains when Gwendolen arrives. “And you will promise to keep my secret”:

My name is Lydia Glasher. Mr. Grandcourt ought not to marry any one but me. I left my husband and child for him nine years ago. Those two children are his, and we have two others—girls—who are older. My husband is dead now, and Mr. Grandcourt ought to marry me. He ought to make that boy his heir. (*D*, 189)

Although Lydia insists that Grandcourt “ought to marry [her],” she does not suggest that he promised to do so. She is more interested in securing a pledge from her rival than in establishing the existence of Grandcourt’s own vow. Horrified by the spectacle of this discarded mistress and her young children, Gwendolen replies that she “will not interfere with [Lydia’s] wishes” (*D*, 189). Gwendolen leaves her mother and her uncle in Offendene and travels to Dover that afternoon to avoid further temptation from Grandcourt. When Mrs. Harleth sends her word that her bank has failed and that she and her daughters are ruined, Gwendolen rushes back to Offendene, only to realize that she will need either to marry Grandcourt or to become a governess in order to help support her mother and her young siblings.

At the center of the novel is the question of whether Gwendolen is morally bound by a promise to Lydia not to marry Grandcourt. The question troubles Gwendolen. When Grandcourt sends her a letter, expressing his desire to see her again, she knows that a “moment of choice [has] come”:

[W]as it triumph she felt most or terror? Impossible for Gwendolen not to feel some triumph in a tribute to her power at a time when she was first tasting the bitterness of insignificance: again she seemed to be getting a sort of empire over her own life. But how to use it? Here came the terror. Quick, quick, like pictures in a book beaten open with a sense of hurry, came back vividly, yet in fragments, all that she had gone through in relation to Grandcourt—the allurements, the vacillations, the resolve to accede, the final repulsion; the incisive face of that dark-eyed lady with the lovely boy: her own pledge (was it a pledge not to marry him?)—the new disbelief in the worth of men and things for which that scene of disclosure had become a symbol. (*D*, 337)

Overcome by conflicting feelings and desires, Gwendolen at once acknowledges and questions her promise to Lydia. Gwendolen is similarly conflicted about her intentions concerning Grandcourt. She “means” to refuse him and yet she gives him permission to visit her, knowing that, as her mother puts it, he “will consider that [she has] already accepted him, in allowing him to come” (*D*, 340). Although Gwendolen is willful and selfish, she is not completely immoral. She recoils from the idea of deliberately injuring anyone and has a “dread of wrongdoing, which,” the narrator explains, “was vague, it is true, and aloof from the daily details of her life, but not the less strong” (*D*, 342). Gwendolen struggles to take hold of the situation in her mind:

[D]id she know exactly what was the state of the case with regard to Mrs. Glasher and her children? She had given a sort of promise—had said, “I will not interfere with your wishes.” But would another woman who married Grandcourt be in fact the decisive obstacle to her wishes, or be doing her and her boy any real injury? Might it not be just as well, nay better, that Grandcourt should marry? For what could not a woman do when she was married, if she knew how to assert herself? (*D*, 342)

Gwendolen here briefly considers the moral obligation—the “sort of promise”—that she is under. She shows some concern for Lydia’s welfare; she pauses to think about whether her own marriage to Grandcourt would injure Lydia and her boy. But, unlike Maggie Tulliver and Mary Garth, Gwendolen looks at the injury that would result from her breach only from her own perspective. Lydia has already told Gwendolen that she would feel deeply harmed if Gwendolen marries the man who ought to become her husband; Gwendolen substitutes her own ideas about the breach for Lydia’s clearly articulated feelings.

As Gwendolen continues to consider this question, she assumes a different perspective. This time, she considers what a hypothetical “anybody” would say” (*D*, 342). This hypothetical “anybody,” however, proves to be very different from the “average or normal” person to whom philosophers and jurists alluded when deciding cases of ambiguous promises and contracts.<sup>45</sup> Gwendolen’s “anybody” simply reflects back her own desires. In Gwendolen’s view, “[t]he verdict of ‘anybody’ seem[s] to be that she had no reason to concern herself greatly on behalf of Mrs. Glasher and her children.” Still, Gwendolen intends to refuse Grandcourt’s proposal, for she feels great “indignation and loathing that she should have been expected to unite herself with an outworn life, full of backward secrets” (*D*, 343). But “[a]lmost to her own astonishment,” she feels a “sudden alarm at the image of Grandcourt finally riding away”: “What would be left her then? Nothing but the former dreariness. She liked him to be there” (*D*, 346). When he asks her to become his wife, she is unable to let him go. After a considerable pause, she accepts his proposal, the word “yes” coming “as gravely from [her] lips as if she had been answering to her name in a court of justice” (*D*, 348). The legal rhetoric here conveys the solemnity and certainty with which Gwendolen responds to Grandcourt’s proposal; Eliot suggests that Gwendolen knows what she is doing when she accepts this offer of marriage and knows that her decision will have serious moral consequences. The simile also suggests that Gwendolen will be held accountable for her choice. Eliot imagines Gwendolen

answering to her name in a court of law at the very moment that she agrees to become Mrs. Grandcourt. The novel, in fact, hands down a verdict that differs sharply from the one that Gwendolen hears in her own mind: Eliot finds Gwendolen to have broken a binding vow.

Unlike Mr. Featherstone, who specifically tells his greedy nephew that he does not promise to leave him any property, but like Maggie Tulliver and Mary Garth, who knowingly raise their lovers' hopes that they will marry no one but them, Gwendolen is aware that she has led Lydia to believe that she will refrain from marrying Grandcourt. Although Gwendolen does not specifically use the word "promise" when she assures Lydia that she will "not interfere" with her wishes, Lydia herself uses the word twice at the beginning of their brief meeting, suggesting that she understands the statements that they will exchange to be similarly binding: "I have promised to tell you something. And you will promise to keep my secret," she declares when Gwendolen arrives. Gwendolen agrees not to tell anyone about the meeting. When Lydia prompts, "However you may decide, you will not tell Mr. Grandcourt, or any one else, that you have seen me?" Gwendolen significantly replies, "I promise" (*D*, 189). Unlike in Maggie's discussions with Philip, then, the language of promising permeates this encounter. Gwendolen herself, as we have seen, initially feels constrained by the exchange; she considers herself under a "sort of promise," even though she proceeds to wriggle out of it (*D*, 342).

In the poetic justice that the novel metes out, Gwendolen suffers for breaking her word. At Grandcourt's request that Lydia return a diamond necklace that he once gave her so that he may bestow it upon his wife, Lydia tells him that she will send the diamonds directly to Gwendolen. She encloses with them an angry and ominous note:

These diamonds, which were once given with ardent love to Lydia Glasher, she passes on to you. You have broken your word to her, that you might possess what was hers. Perhaps you think of being happy, as she once was, and of having beautiful children such as hers, who will thrust hers aside. God is too just for that. The man you have married has a withered heart. . . . You will have your punishment. (*D*, 406)

As Lydia predicts, Gwendolen does indeed "have [her] punishment" for breaking her word. Fittingly, as Gwendolen disregards Lydia's feelings when she accepts Grandcourt's proposal, she soon finds herself married to a man who completely ignores her feelings. Although during their courtship, Gwendolen thinks that Grandcourt will be "less disagreeable as a husband than other men, and not likely to interfere

with [her] preferences,” he turns out to be even more willful and imperious than she is (*D*, 147). Her determination to command him proves futile; Grandcourt pays no heed to her wishes. In fact, early on in their marriage, he breaks “the first promise [he] made [her],” a promise never to bring his disturbing friend Lush into her presence again (*D*, 626).

Through Gwendolen’s painful experience as well as through the relationship that she forms with the novel’s eponymous hero, she comes to understand the immorality of her action. As critics have long noted, Deronda experiences a very different trajectory than Gwendolen does. Deronda’s “conscience include[s] sensibilities beyond the common, enlarged by his early habit of thinking himself imaginatively into the experience of others” (*D*, 570). Deronda articulates Eliot’s central message: “Look on other lives besides your own,” he advises Gwendolen. “See what their troubles are, and how they are borne. Try to care about something in this vast world besides the gratification of small selfish desires” (*D*, 501–2). Gwendolen eventually recognizes the value of this advice. Through her conversations with Deronda, she comes to understand the importance of trusting other people and respecting their feelings and desires. Most significant, she admits that when she married Grandcourt, she broke a promise to Lydia. Near the end of the novel, after her husband drowns in a boating accident for which she (wrongly) feels responsible, Gwendolen admits her guilt to Deronda in a scene that reads as if she were speaking under oath in a court of law:

I will tell you everything as God knows it. I will tell you no falsehood; I will tell you the exact truth. What should I do else? I used to think I could never be wicked. I thought of wicked people as if they were a long way off me. Since then I have been wicked. I have felt wicked. And everything has been a punishment to me. . . . Because—you know—I ought not to have married. That was the beginning of it. I wronged some one else. I broke my promise. I meant to get pleasure for myself, and it all turned to misery. I wanted to make my gain out of another’s loss[.] (*D*, 757)<sup>46</sup>

Gwendolen assumes the posture of defendant here, acknowledging her culpability and accepting, as it were, a different verdict from the one that she imagines earlier in the novel. Her candor and honesty now contrast with her previous carelessness about the words that she speaks and the impressions that she leaves upon other minds. She finally understands the importance of attending to other people’s

feelings and expectations, and recognizes the relationship between her desires and others' pain.

In the case of Gwendolen's broken pledge, then, Eliot develops the idea that she introduces in *The Mill on the Floss* and *Middlemarch*. For Eliot, as for Paley, Austin, and Sidgwick in her own day and for Stanley Cavell and Jan Narveson in our own, there is no clear distinction between a statement of intention and a promise. Statements of intention can raise expectations and thus create binding obligations just as explicit promises do.<sup>47</sup> Eliot embraces this expansive definition of promises because it straddles the internal and the external realms; it gives weight to others' expectations—but only those expectations that one knowingly and voluntarily excites. Through this theory of promising, Eliot seeks to foster an awareness of the ways in which one's words and actions affect other people.

v.

Although Eliot suggests that, in cases of conflict, the reasonable expectations of promisees ought to take precedence over the actual intentions of promisors, in Daniel Charisi's relationship with Joseph Kalonymos and in Deronda's relationship with Mordecai, she affirms that promissory obligations ought, ideally, to be marked by mutual understanding and agreement. When people acknowledge and respect each others' feelings and needs, the novel suggests, promises can create strong bonds, adding stability and continuity to relationships.<sup>48</sup>

The "solemn vow" that Deronda's grandfather, Daniel Charisi, exchanges with Joseph Kalonymos as a young boy creates precisely such a bond, at once reflecting and bolstering their friendship and loyalty to each other (*D*, 788). Kalonymos explains that he and Charisi "solemnly pledged . . . to help and defend each other to the last." Although they remained apart in later years, he tells Deronda, they never broke this bond. Kalonymos eventually "fulfil[s] [his] pledge" by passing on to Deronda a chest containing Charisi's family records and religious writings (*D*, 791). The chest becomes a literal embodiment not only of the bond between the two friends but also of the link between the living and the dead. The promise thus works to dissolve the physical gulf between Charisi and Kalonymos, while enabling Charisi to convey his legacy to his grandson.

Promises serve to bolster the loyalty and friendship between Deronda and Mordecai, too. In fact, they play an even greater role in this relationship than in that between Charisi and Kalonymos. Mordecai

admittedly overlooks Deronda's feelings and wishes when they initially meet, so absorbed is he in carrying out his own plans and goals. "You must be not only a hand to me, but a soul—believing my belief—being moved by my reasons—hoping my hope—seeing the vision I point to—beholding a glory where I behold it!" Mordecai exclaims when he first sees Deronda (*D*, 557). Eliot emphasizes, however, that Deronda chooses, of his own will, to embrace the role that Mordecai assigns to him. After listening to and then participating in a debate about Jewish nationalism at The Philosophers' Club, Deronda realizes that they share the same views on this question; only then does he begin to feel "at one with this man who ha[s] made a visionary selection of him" (*D*, 605). Eliot further signals the importance of Deronda's assent to Mordecai's ideas through the handshakes that figure prominently in their encounters. At the end of their first meeting, after Deronda assures Mordecai that he will return at his first opportunity, Deronda and Mordecai shake hands. This pact becomes the model for their future encounters: their relationship builds around a series of implicit promises, sealed with handshakes, signaling their trust in and fidelity to each other.<sup>49</sup> The promises underscore the importance of Deronda's consent; far from being a passive recipient of Mordecai's commands, Deronda is an equal partner in the relationship.

Like Gwendolen's promise to Lydia, Deronda's pledge to carry out Mordecai's work remains implicit. Yet, though Deronda never uses the words, "I promise," he makes it clear that he agrees with Mordecai's ideas and that he intends to devote his life to the cause of Zionism. After Deronda discovers his own Jewish heritage, he explains to Mordecai:

If this revelation had been made to me before I knew you . . . , I think my mind would have rebelled against it. Perhaps I should have felt then—"If I could have chosen, I would not have been a Jew." What I feel now is—that my whole being is a consent to the fact. But it has been the gradual accord between your mind and mine which has brought about that full consent. . . . Since I began to read and know, I have always longed for some ideal task, in which I might feel myself the heart and brain of a multitude—some social captainship, which would come to me as a duty, and not be striven for as a personal prize. You have raised the image of such a task for me—to bind our race together in spite of heresy. . . . I mean to work in your spirit. (*D*, 819–20)

This statement of Deronda's intended future action functions like a promise; the narrator explains that Deronda's "careful avoidance of premature assent" gives to this "decided pledge of himself a sacramental

solemnity, both for his own mind and Mordecai's" (*D*, 820). Deronda refrains from promising that he will embrace all of Mordecai's ideas, reserving, in particular, the right to think further about the kabbalah's doctrine of the merging of souls. "You must not ask me to promise that. . . . I must be convinced first of special reasons for it in the writings themselves," Deronda explains. "And I am too backward a pupil yet. That blent transmission must go on without any choice of ours; but what we can't hinder must not make our rule for what we ought to choose" (*D*, 820–21). In his reply, Mordecai signals his understanding of Deronda's position and his recognition of the importance of Deronda's consent to this point. "I will ask for no promise till you see the reason," he declares. "[Y]ou shall judge" (*D*, 821).<sup>50</sup> They have, though, already reached an "accord" on other important points; both Mordecai and Deronda are committed to creating a separate Jewish nation, and Deronda pledges to carry on Mordecai's work until he achieves this end. Through her portrait of the promises that structure the relationship between these two men, Eliot suggests the importance of a true meeting of minds.

Not all late nineteenth-century thinkers shared Eliot's optimism about the ability of promises to connect individual consciousnesses and to provide stability and continuity in relationships. Like Ruskin and Carlyle earlier in the century, the French sociologist Emile Durkheim viewed the growth of consensual agreements with chagrin. In *The Division of Labour* (1893), he would emphasize the limits of "contractual solidarity" in modern society:

[I]f mutual interest draws men closer, it is never more than for a few moments. It can only create between them an external bond. In the fact of exchange the various agents involved remain apart from one another and once the operation is over, each one finds himself again "reassuming his self" in its entirety. The different consciousnesses are only superficially in contact: they neither inter-penetrate nor do they cleave closely to one another. Indeed, if we look to the heart of the matter we shall see that every harmony of interests conceals a latent conflict, or one that is simply deferred. For where interest alone reigns, as nothing arises to check the egoisms confronting one another, each self finds itself in relation to the other on a war footing, and any truce in this perpetual antagonism cannot be of long duration. Self-interest is, in fact, the least constant thing in the world. . . . Thus such a cause can give rise only to transitory links and associations of a fleeting kind.<sup>51</sup>

This passage vividly conveys the selfishness and anomie that permeate market society, while underscoring the ways in which contractual

exchanges foster these feelings of disconnection. Deronda's relationship with Mordecai provides a sharp contrast to this bleak picture of self-interested agreements. Far from being locked in conflict, Deronda and Mordecai lovingly embrace each other; their consciousnesses interpenetrate, as they articulate and agree upon the same ideas and goals. The differences between Eliot's and Durkheim's portraits of consensual agreements should not surprise us when we consider that, unlike Durkheim, Eliot depicts relationships that arise outside the realm of the market. Eliot agrees with the jurists who consolidated classical contract law in this period insofar as she affirms the importance of a meeting of minds. Yet, unlike the jurists, who embraced the values of the marketplace and celebrated individual freedom even—and, in fact, precisely—when it resulted in unequal bargains, Eliot endorses relationships that are founded upon real trust and consent. By contrast with the tenuous and self-interested ties that Ruskin, Carlyle, and Durkheim perceive at the heart of commercial exchanges, and by contrast with the coercive bonds that Eliot's egoists attempt to impose on others in *The Mill on the Floss* and *Middlemarch*, the promises that bind Deronda and Mordecai are marked by mutual concern and respect. Each person shares the other's goals and values the other's feelings and wishes. In the bond between these friends, Eliot offers a utopian vision of the practice of promising.<sup>52</sup>

In Eliot's utopian vision, promises also serve as the basis for national communities. Deronda and Mordecai seek to bring together the Jewish people who are currently "scattered over the face of the globe" (*D*, 875) in order to give them a sense of "hearty kindred and fellowship" (*D*, 587). At the center of their vision lies a "national covenant" (*D*, 591) that will bind "[the] race and its families in dutiful love" (*D*, 590). This covenant fuses the best aspects of pre-modern bonds with those of modern, contractual obligations. As in *The Mill on the Floss*, Eliot emphasizes the importance of stability, cohesion, and kinship; but now she suggests that these goals can be achieved through voluntary ties.<sup>53</sup>

Eliot's most hopeful and vivid portraits of promising, however, are limited in an important respect: they depict only pledges between men. For men alone—deeply sensitive and devout men, in particular—promises serve to reflect and promote a meeting of minds. The novel itself calls attention to the contrast between Deronda's bond with Mordecai and his pledges to Mirah and Gwendolen. Compared to Deronda's lengthy and passionate discussions with Mordecai, his exchanges with Mirah are brief and reserved. Whereas Deronda and

Mordecai openly share their feelings and aspirations, Deronda remains emotionally distant from Mirah, uncertain of her feelings for him. "Say you will not reject me," he implores her at last. "Say you will promise to be my wife—say it now. I have been in doubt so long—I have had to hide my love so long" (*D*, 863). Tellingly, we do not hear Mirah's reply, for she is not an equal partner to this contract. The promises that Deronda exchanges with Mordecai create a bond that does not threaten either of their separate identities. The veil that covers Mirah's face when she exchanges her "mutual pledge" with Deronda, by contrast, calls attention to the way in which her identity becomes covered over and absorbed into that of her husband (*D*, 880).

Deronda's pledge to Mordecai similarly differs from his promise to Gwendolen. After Gwendolen confesses to Deronda her guilty feelings about her husband's death, Deronda attempts to comfort her, prompting Gwendolen to declare her need for and dependence upon him. "You must not forsake me," she insists. "I will bear any penance. I will lead any life you tell me. But you must not forsake me. You must be near. If you had been near me—if I could have said everything to you, I should have been different. You will not forsake me?" Gwendolen here attempts to impose a capacious obligation on Deronda. He hedges his reply, indirectly expressing his desire to comply with her request: "It could never be my impulse to forsake you," he assures her. Deronda, of course, knows that he will not be able to remain near Gwendolen much longer; he perceives that "to her ear his words might carry a promise which one day would seem unfulfilled: he was making an indefinite promise to an indefinite hope" (*D*, 765). Still, Deronda intends to honor his pledge. When he tells Gwendolen of his imminent journey east, he explains, "We shall not be quite parted. . . . I will write to you always, when I can, and you will answer?" (*D*, 878). Deronda's promise never to forsake Gwendolen—shored up by this additional, more specific pledge to write to her whenever he can—provides some security and stability in their relationship; it ensures that they will remain in contact in spite of the great distance that will separate them.

This pledge, though, neither reflects nor promotes a meeting of Deronda's and Gwendolen's minds. Eliot takes pains to emphasize the miscommunication that marks the making of the promise: Deronda's "voice, like his eyes," we learn, "ha[s] the unintentional effect of making his ready sympathy seem more personal and special than it really [is]" (*D*, 765). Gwendolen, in short, reads more into this pledge than Deronda intends. Later on, when Deronda tells Gwendolen of his

imminent departure, he attempts to comfort her by suggesting that, through their correspondence, he will “be more with [her] than [he] used to be.” Similarly, he holds out the hope that, though they may never see each other again, their “minds may get nearer” (*D*, 878). These possibilities, though, seem rather remote, given the disparate spheres that they occupy and the different lenses through which they view the world.<sup>54</sup> Up until the final pages of the text, Gwendolen, in fact, remains completely ignorant of the “separateness of [Deronda’s] life” (*D*, 867). When she, at last, gains a glimpse of it, she experiences a profound change in perspective: she “feel[s] the pressure of a vast mysterious movement . . . and get[s] a sense that her horizon [is] but a dipping onward of an existence with which her own [is] revolving” (*D*, 876). Yet Gwendolen’s mental world nonetheless remains distant from Deronda’s. Gwendolen possesses little knowledge of Deronda’s feelings and needs; nor does she understand his intellectual and spiritual commitments. Unlike Deronda’s pledge to Mordecai, which reflects and promotes their shared ideas and goals, Deronda’s promise to Gwendolen does not foster real understanding between them. In this novel, Eliot ultimately holds up a genuine accord as central to the practice of promising and yet suggests that such an accord is, in practice, limited to the minds of men.

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#### NOTES

For helpful conversations and careful readings of earlier versions of this essay, I thank Sarah Abramowicz, Tanya Agathocleous, Jill Campbell, Janice Carlisle, and Linda Peterson. This work also benefited from lively discussions at the Fifth Annual Law and Humanities Junior Scholar Workshop held at USC Law School in June 2006; I thank all of the participants in the workshop—especially Nan Goodman, Mark Kelman, and Hilary Schor—for their thoughtful comments and suggestions.

<sup>1</sup> For some of the many studies of the human will and the problem of egotism in Eliot’s fiction, see Felicia Bonaparte, *Will and Destiny: Morality and Tragedy in George Eliot’s Novels* (New York: New York Univ. Press, 1975); Peter Garrett, *The Victorian Multiplot Novel: Studies in Dialogical Form* (New Haven: Yale Univ. Press, 1980), 135–79; John Kucich, *Repression in Victorian Fiction: Charlotte Brontë, George Eliot, and Charles Dickens* (Berkeley: Univ. of California Press, 1987), 114–200; D. A. Miller, *Narrative and its Discontents: Problems of Closure in the Traditional Novel* (Princeton: Princeton Univ. Press, 1981), 107–94; K. M. Newton, *George Eliot: Romantic Humanist: A Study of the Philosophical Structure of Her Novels* (London: MacMillan Press, 1981); and John R. Reed, *Victorian Will* (Athens: Ohio Univ. Press, 1989), 309–27. Suzanne Graver approaches the question from a sociological perspective, insightfully exploring Eliot’s ideas about community and the tension between individualism and social ties that runs through her work. See Graver, *George Eliot and Community: A Study in Social Theory and Fictional Form* (Berkeley: Univ. of California Press, 1984).

In interesting essays, Richard D. Mallen and Simon Petch examine Eliot's ideas about trust and equity in the context of the development of contract law and the expansion of the commercial economy, but they do not consider her treatment of the practice of promising. See Mallen, "George Eliot and the Precious Mettle of Trust," *Victorian Studies* 44 (2001): 41–75; and Petch, "Law, Equity, and Conscience in Victorian England," *Victorian Literature and Culture* 25 (1997): 123–39.

Randall Craig and William Vitek, by contrast, offer brief but astute analyses of some of the promises in *The Mill on the Floss*. See Craig, *Promising Language: Betrothal in Victorian Law and Fiction* (Albany: State Univ. of New York Press, 2000), 43–46, 69–75; and Vitek, *Promising* (Philadelphia: Temple Univ. Press, 1993), 23–26, 61–62, 99, 197, 230–32. Vitek notes that the novel is "one of the best examples of Victorian literature that treats promise as one of its central themes" (241 n.30). My essay pursues some of the questions that Craig and Vitek raise, but develops them in relation to Eliot's work as a whole.

<sup>2</sup> For an overview of these changes, see P. S. Atiyah, *Promises, Morals, and Law* (Oxford: Clarendon Press, 1981), 9–16, 29–33, 42–48.

<sup>3</sup> On the development of the will theory of contract, see Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford: Clarendon Press, 1979), 139–42, 212–16, 405–8.

<sup>4</sup> See Atiyah, *Promises, Morals, and Law*, 15–16, and *Rise and Fall*, 407–8.

<sup>5</sup> See Ann Cvetkovich, *Mixed Feelings: Feminism, Mass Culture, and Victorian Sensationalism* (New Brunswick: Rutgers Univ. Press, 1992), 128–64; Garrett, 135–79; Kuchic, 114–200; and Miller, 107–94. Amanda Anderson suggests that Eliot distances herself from the intersubjective ideal—the "mind-meld"—that Mordecai articulates in *Daniel Deronda*, and holds up, instead, a dialogical model of human relations (*The Powers of Distance: Cosmopolitanism and the Cultivation of Detachment* [Princeton: Princeton Univ. Press, 2001], 24). In a similar vein, Audrey Jaffe argues that Eliot "rejects, or at least severely qualifies, the intersubjective ideal her novels have come to represent" (*Scenes of Sympathy: Identity and Representation in Victorian Fiction* [Ithaca: Cornell Univ. Press, 2000], 131), and Rachel Ablow contends that "sympathy consistently threatens to become part of the larger problem [Eliot] seeks to resolve: that of how to eradicate selfishness while maintaining the self-consciousness necessary for ethical relationships" (*The Marriage of Minds: Reading Sympathy in the Victorian Marriage Plot* [Stanford: Stanford Univ. Press, 2007], 72). Ellen Argyros and Felicia Bonaparte also argue that Eliot perceives the limits of the sympathetic imagination; yet, they maintain that Eliot nonetheless remains invested in it. See Argyros, "Without Any Check of Proud Reserve": *Sympathy and its Limits in George Eliot's Novels* (New York: Peter Lang, 1999); and Bonaparte, 102–8, 160–80. For an astute analysis demonstrating Eliot's commitment to the intersubjective ideal, see Hina Nazar, "Philosophy in the Bedroom: *Middlemarch* and the Scandal of Sympathy," *Yale Journal of Criticism* 15 (2002): 293–314.

<sup>6</sup> Although courts had long required parties to show evidence of an exchange or *quid pro quo* in order to turn a promise into a binding contract, the term "consideration" did not appear in common law pleadings in connection with this idea until the 1530s. For discussions of the origin and development of this doctrine, see A. W. B. Simpson, *A History of the Common Law of Contract: The Rise of the Action of Assumpsit* (Oxford: Clarendon Press, 1975), 316–26; J. H. Baker, "Origins of the 'Doctrine' of Consideration, 1535–1585," in *The Legal Profession and the Common Law: Historical Essays* (London: Hambledon Press, 1986), 369–91 404–5; and David Harris Sacks, "The Promise and the Contract in Early Modern England: Slade's Case in Perspective,"

in *Rhetoric and Law in Early Modern Europe*, ed. Victoria Kahn and Lorna Hutson (New Haven: Yale Univ. Press, 2001), 28–53.

<sup>7</sup> See Atiyah, *Rise and Fall*, 139–212.

<sup>8</sup> There is some disagreement among historians about the precise timing of these changes. I follow Atiyah and Morton J. Horwitz in tracing the crux of these changes to the late eighteenth century. See Atiyah, *Rise and Fall*; and Horwitz, “The Triumph of Contract,” in *The Transformation of American Law, 1780–1860* (Cambridge: Harvard Univ. Press, 1977), 160–85. Simpson, by contrast, argues that elements of a capitalistic contract law began to emerge much earlier, in the sixteenth and seventeenth centuries. See Simpson, “The Horowitz Thesis and the History of Contracts,” in *Legal Theory and Legal History: Essays on the Common Law* (London: Hambledon Press, 1987), 203–72.

<sup>9</sup> *Pillans and Rose v. Van Mierop and Hopkins*, in vol. 97, *The English Reports* (London: Stevens & Sons, 1909), 1038.

<sup>10</sup> See Atiyah, *Rise and Fall*, 216. For other discussions of Mansfield’s role in the development of modern contract law, see James Oldham, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*, 2 vol. (Chapel Hill: Univ. of North Carolina Press, 1992), 1:213–44; and Martin Kayman, “The Reader and the Jury: Legal Fictions and the Making of Commercial Law in Eighteenth-Century England,” *Eighteenth-Century Fiction* 9 (1997): 384–94. Kayman interestingly suggests that Mansfield’s jurisprudence was more realistic than that of his predecessors, and that the legal shift that he initiated paralleled the emergence of modern, realist fiction from the old romances with formulaic characters and plots.

<sup>11</sup> On the development of classical contract law between 1770 and 1870, see Atiyah, *Rise and Fall*, 388–454, 681. For jurists’ articulations of the will theory, see *Cooke v. Oxley* (1790), in vol. 100, *The English Reports* (London: Stevens & Sons, 1909), 786; *Adams v. Lindsell* (1818), in vol. 106, *The English Reports* (London: Stevens & Sons, 1910), 251; and *Haynes v. Haynes* (1861), in vol. 62, *The English Reports* (London: Stevens & Sons, 1906), 445.

<sup>12</sup> For an account of this development and an astute analysis of the tension between objective and subjective standards in modern contract law, see Claire Dalton, “An Essay in the Deconstruction of Contract Doctrine,” *Yale Law Journal* 94 (1985): 1039–65. See also Atiyah, *Promises, Morals, and Law*, 15.

<sup>13</sup> See Atiyah, *Promises, Morals, and Law*, 15 and *Rise and Fall*, 407 n31, 459. Philosophers’ discussions about the nature and extent of promissory liability was closely in accord with the ideas prevailing in the courts during this period; judges cited Paley a number of times and largely adopted his views on the effect of ambiguous promises. See Atiyah, *Promises, Morals, and Law*, 4; *Smith v. Hughes* (1871), in vol. 6, *The Law Reports* (London: William Clowes and Sons, 1871), 597–611. Natural law philosophers such as Grotius and Pufendorf had been troubled by the gap between subjective intention and objective meaning, too. As Victoria Kahn explains, Grotius departed from the “widespread medieval view that internal acts are perceivable by God and morally binding for that reason. . . . Confronting the ever-present possibility of deception and equivocation, he asserted a public standard of meaning and accountability: words should be understood ‘according to current usage’” (*Wayward Contracts: The Crisis of Political Obligation in England, 1640–1674* [Princeton: Princeton Univ. Press, 2004], 39).

<sup>14</sup> In *Raffles*, the defendant agreed to purchase a shipment of cotton that was due to arrive from Bombay on a ship called “The Peerless.” There were, however, two ships with that name sailing from Bombay: one in October, the other in December. The defendant refused to accept the cotton when it arrived in December and the plaintiff

brought suit against him. The court ruled in favor of the defendant, holding that the parties had not entered into a valid contract because they had had different ships in mind: the plaintiff was thinking of the ship that was due to arrive in December, while the defendant had in mind the ship that was due to arrive in October. See *Raffles v. Wichelhaus*, in vol. 159, *The English Reports* (London: Stevens & Sons, 1916), 375–76. For an analysis of this case and an overview of the debates about its meaning, see Simpson, *Leading Cases in the Common Law* (Oxford: Clarendon Press, 1995), 135–62. For a discussion of *Raffles* and the epistemological problems it raises in relation to nineteenth-century realist fiction, see Irene Tucker, “What Maisie Promised: Liberalism, Realism, and the Ends of Contract,” *Yale Journal of Criticism* 11 (1998): 335–64. Grant Gilmore points to other similar cases from the 1870s, explaining that *Raffles* is not the “only exhibit to prove that the courts, well past the mid-point of the nineteenth century, were approaching the problem of formation of contract from a purely subjectivist point of view” (*The Death of Contract*, ed. Ronald K. L. Collins [Columbus: Ohio State Univ. Press, 1995], 44).

<sup>15</sup> Frederick Pollock, *Principles of Contract at Law and in Equity* (Cincinnati: Robert Clarke & Co., 1881), 5.

<sup>16</sup> Oliver Wendell Holmes, Jr., *The Common Law* (1881; repr., New York: Dover Publications, 1991), 309.

<sup>17</sup> Holmes, “The Path of the Law,” *Harvard Law Review* 10 (1897): 463–64. See also Holmes, “The Theory of Legal Interpretation,” *Harvard Law Review* 12 (1899): 417–20. For an insightful, revisionist interpretation of Holmes, claiming for him a romantic side, and arguing that he privileged the external over the internal realm precisely because he was aware of the difficulties involved in accessing the ever-shifting, messy sphere of motives and intentions, see Anne C. Dailey, “Holmes and the Romantic Mind,” *Duke Law Journal* 48 (1998): 429–510. On Holmes’s interpretation of *Raffles*, see Gilmore, 39–47.

<sup>18</sup> Holmes, “The Path of the Law,” 464.

<sup>19</sup> Holmes, *The Common Law*, 301.

<sup>20</sup> On the shift in the courts in the early twentieth century, see Dalton, 1043–45. In a recent treatise on English contract law, Kim Lewison cautions that “[i]t is commonly, though inaccurately, thought that the purpose of interpreting a contract is to discover the actual intentions of the contracting parties” (*The Interpretation of Contracts* [London: Sweet & Maxwell, 2004], 19). She explains that “[w]hen one speaks of the intention of the parties to the contract one speaks objectively—the parties cannot themselves give direct evidence of what their intention was—and what must be ascertained is *what is to be taken as the intention which reasonable people would have had if placed in the situation of the parties*” (*Reardon-Smith Line Ltd. v. Hansen-Tangen* [1976], quoted in Lewison, 19; my emphasis).

As Atiyah has shown, in recent years courts have largely rejected the will theory and have moved back to a more equitable and paternalistic model of contract. See Atiyah, *Rise and Fall*, 660–779. Atiyah approves of this change, arguing that the conferral of some benefit upon the promisor or the fact of some reliance by the promisee, rather than the notion of a will or intention, properly provides the basis for contractual obligation. See Atiyah, *Promises, Morals, and Law*, 1–8, 138–76. Charles Fried, by contrast, defends the “promise principle” as the appropriate ground for both moral and legal obligation, arguing for a return to the will theory. See Fried, *Contract as Promise: A Theory of Contractual Obligation* (Cambridge: Harvard Univ. Press, 1981); and Atiyah’s review of Fried’s book in *Harvard Law Review* 95 (1981): 509–28. For an overview of

these theories of promissory and contractual obligation, see “The Nature of Contracts and the Value of Freedom,” in *The Nature and Process of Law: An Introduction to Legal Philosophy*, ed. Patricia Smith (New York: Oxford Univ. Press, 1993), 293–345. For an insightful, alternative approach that emphasizes the communal, rather than individualistic, function of promises and contracts, see Daniel Markovits, “Contract and Collaboration,” *Yale Law Journal* 113 (2004): 1417–518.

<sup>21</sup> Henry Maine, *Ancient Law: Its Connection with the Early History of Society and its Relation to Modern Ideas* (London: J. M. Dent & Sons, 1866), 100. For discussions of Maine’s work and its impact on later thinkers, see George Feaver, *From Status to Contract: A Biography of Sir Henry Maine, 1822–1888* (London: Longmans, Green, & Co., 1969), 41–64; and Alan Diamond, ed., *The Victorian Achievement of Sir Henry Maine* (New York: Cambridge Univ. Press, 1991).

<sup>22</sup> Herbert Spencer insisted that “[e]very man is free to do that which he wills, provided he infringes not the equal freedom of any other man” (*The Principles of Ethics*, 2 vol. [New York: D. Appleton & Co., 1898], 2:46); see also his *Social Statics* (New York: D. Appleton & Co., 1865), 92–100, 164–66. The law of equal freedom is, for Spencer, the ultimate ethical principle. Yet, while he celebrated the right of free exchange, he acknowledged that the growth of contract brought problems as well as benefits. In particular, he felt the need for stronger moral ties and greater expressions of fellow-feeling. See *Principles of Ethics*, 2:268–97, 2:335–94.

<sup>23</sup> See Thomas Carlyle, *Past and Present*, ed. Richard D. Altick (New York: New York Univ. Press, 1965); and John Ruskin, *Munera Pulveris: Six Essays on the Elements of Political Economy* (London: Smith, Elder & Co., 1872). For discussions of Victorian anxieties about impulsive, willful behavior fostered by market culture, see Graver, 1–27; and Martin J. Wiener, “Market Culture, Reckless Passion, and the Victorian Reconstruction of Punishment,” in *The Culture of the Market: Historical Essays*, ed. Thomas L. Haskell and Richard F. Teichgraber III (New York: Cambridge Univ. Press, 1993), 136–62. The historian Thomas L. Haskell, by contrast, argues for a connection between the development of contract law and the emergence of humanitarianism in the late eighteenth and early nineteenth centuries. In his view, “the new stress on promise keeping contributed to the emergence of the humanitarian sensibility by encouraging new levels of scrupulosity in the fulfillment of ethical maxims” (“Capitalism and the Origins of the Humanitarian Sensibility, Part 2,” in *The Antislavery Debate: Capitalism and Abolitionism as a Problem in Historical Interpretation*, ed. Thomas Bender [Berkeley: Univ. of California Press, 1992], 146). On Victorian ideas about will more generally, see Reed, 3–154.

<sup>24</sup> Charles Dickens, *Our Mutual Friend*, ed. Joel J. Brattin (J. M. Dent: London, 2000), 251. For a discussion of Dickens’s treatment of contract in this novel, see Simon Petch, “The Sovereign Self: Identity and Responsibility in Victorian England,” in *Law and Literature*, ed. Michael Freeman and Andrew D. E. Lewis (Oxford: Oxford Univ. Press, 1999), 405–10.

<sup>25</sup> See George Eliot, *George Eliot’s Middlemarch Notebooks*, ed. John Clark Pratt and Victor A. Neufeldt (Berkeley: Univ. of California Press, 1979), xlii, 202–7, 259–64. Graver and Paul Milton note Maine’s influence on Eliot’s fiction, but they do not consider the specific connections that I am exploring here. Graver discusses the larger tension between freedom and community in Maine’s and Eliot’s work. See Graver, 161–67. Milton brings Maine’s ideas to bear on Eliot’s treatment of wills and inheritance. See Milton, “Inheritance as the Key to all Mythologies: George Eliot and Legal Practice,” *Mosaic* 28 (1995): 49–68.

<sup>26</sup> Eliot owned a copy of Austin's *Lectures on Jurisprudence*, dated 1875, and she included excerpts from his writings in her notebooks. See Eliot, *Some George Eliot Notebooks*, ed. William Baker, 4 vol. (Salzburg: Institut für Englische Sprache und Literatur, 1976–95), 1:198, 1:200, 1:303–4, 1:326. Eliot became friends with Sidgwick in the late 1860s and, in 1873, described him as “a chief favourite of [hers]” (quoted in “Henry Sidgwick,” *Oxford Reader's Companion to George Eliot*, ed. John Rignall [New York: Oxford Univ. Press, 2000], 380–81). She also owned a copy of the first edition of his *Methods of Ethics*; the title page is inscribed, “With the Author's Kind regards” (William Baker, ed., *The George Eliot-George Henry Lewes Library: An Annotated Catalogue of their Books at Dr. William's Library* [New York: Garland, 1977], 186). On Eliot's knowledge of Austin's and Sidgwick's writings, see also Lisa Rodensky, *The Crime in Mind: Criminal Responsibility and the Victorian Novel* (New York: Oxford Univ. Press, 2003), 86–87, 95.

<sup>27</sup> Eliot, *The Mill on the Floss*, ed. Gordon S. Haight (Boston: Houghton Mifflin, 1961), 236. Hereafter abbreviated MF and cited parenthetically by page number.

<sup>28</sup> In her recent study of the nature and role of sympathy in the Victorian marriage plot, Ablow astutely situates these moral questions in the context of mid-century debates about English marriage law. She draws connections between Stephen's claims and those of reformers who sought to ease restrictions on divorce, and between Maggie's understanding of marriage and that of conservatives who opposed the efforts to enable spouses freely to dissolve the conjugal tie. See Ablow, 74–75.

<sup>29</sup> For an overview of this broadly utilitarian approach to promising, see Atiyah, *Promises, Morals, Law*, 29–34, 42–48.

<sup>30</sup> William Paley, *The Principles of Moral and Political Philosophy* (1785; repr., New York: Garland Publishing, 1978), 108. Eliot owned a copy of Paley's *Moral Philosophy, with Additional Dissertations and Notes by Alexander Bain* (Edinburgh, W. & R. Chambers, 1852). See *The George Eliot-George Henry Lewes Library*, 153.

<sup>31</sup> Paley, *Principles of Moral and Political Philosophy*, 108.

<sup>32</sup> Austin noted that “Paley's rule would lead to this: that a mistaken apprehension of the apprehension in which the promisee received, would exonerate the promisor. This would be to disappoint the promisee” (*Lectures on Jurisprudence, or the Philosophy of Positive Law*, 4th ed., ed. Robert Campbell, 2 vol. [1879; repr., Holmes Beach, FL: Gaunt, 1998], 1:456 n.89). In his view, “[t]he true rule is the understanding of both parties” (1:456 n.89). For Austin's views of the nature of and justifications for promissory obligation, see also his *The Province of Jurisprudence Determined*, ed. Wilfrid E. Rumble (New York: Cambridge Univ. Press, 1995), 269–71, and *Lectures on Jurisprudence*, 2:939–40.

<sup>33</sup> Henry Sidgwick, *The Methods of Ethics* (London: Macmillan & Co., 1874), 279.

<sup>34</sup> Sidgwick, *Methods of Ethics*, 285.

<sup>35</sup> Craig discusses Maggie's ambiguous promise to Philip and similarly concludes that “[w]hatever [Maggie] may have consciously intended concerning Philip, she is bound by the expectations and hopes raised in him by her behavior” (74). However, he does not situate this pledge in the context of changing philosophical ideas about promises or note Eliot's implicit agreement with utilitarian thinkers such as Paley, Austin, and Sidgwick. Vitek, by contrast, brings Eliot's novel into dialogue with Sidgwick. See Vitek, 61–64, 69–70. But Vitek is more interested in working out his own theory of promising than in offering a full analysis of Eliot's text. He insists that Maggie's “expression of love to Philip, though clearly raising his hopes, was not . . . a promise of engagement,” for she “pitied Philip more than she loved him” (Vitek, 232). Vitek objects to Sidgwick's idea

of a promise as “raised expectations” because it “relies on a conception of promissory obligation that seemingly gives the promisee the sole power to relieve a promisor of his or her obligation and hence ignores the relational features of promising” (69). As I argue below, although Eliot privileges Philip’s expectations over Maggie’s intentions, she recognizes and affirms the relational features of promising.

<sup>36</sup> See Edmund Burke, *Reflections on the Revolution in France*, ed. Conor Cruise O’Brien (New York: Penguin, 1986), 192–93.

<sup>37</sup> See Eliot, *George Eliot’s Middlemarch Notebooks*, xlii, 202–7, 259–64. Eliot and George Henry Lewes were friends with Maine. Maine, in fact, visited them while Eliot was working on *Middlemarch* and asked about her progress on the novel. See Eliot, *The George Eliot Letters*, ed. Gordon S. Haight, 9 vol. (New Haven: Yale Univ. Press, 1955), 5:237.

<sup>38</sup> Eliot, *Middlemarch*, ed. David Carroll (New York: Oxford Univ. Press, 1998), 21. Hereafter abbreviated *M* and cited parenthetically by page number.

<sup>39</sup> This pattern is first established when Mr. Vincy tells Rosamond that she must give up her engagement to Lydgate and she implores, “Promise me, papa, that you will consent to what we wish” (*Middlemarch*, 332). The conversation ends with Mr. Vincy implicitly doing just that. He tells her that Lydgate must write to him before he can answer him; the narrator explains that Rosamond feels “certain that she ha[s] gained her point” (*Middlemarch*, 333).

<sup>40</sup> See Paley, *Principles of Moral and Political Philosophy*, 108. Mrs. Vincy’s theory goes even further than Paley’s does; Mrs. Vincy blurs the distinction between a promise and an outright gift. She suggests that because Featherstone has raised her son’s expectations, Featherstone’s property now belongs to Fred and that Featherstone, in fact, steals it from Fred when he fails to leave it to him. In her mind, the property is already her son’s.

<sup>41</sup> In *The Pickwick Papers* (1836–1837), Dickens takes up a similar question relating to the practice of promising, although he treats it in a much less serious way than Eliot does. The comedy of the novel’s breach of promise trial turns on whether evidence such as a note that the amiable Mr. Pickwick sends to his landlady Mrs. Bardell, indicating his preferences for his evening meal, can be construed as an intention to wed the widow. The novel suggests that Mrs. Bardell’s interpretation of the note is unwarranted and that her expectations are unfounded; it satirizes the jurors for finding Mr. Pickwick guilty of breaching a promise to marry her. See Dickens, *The Posthumous Papers of the Pickwick Club*, ed. Robert L. Patten (New York: Penguin, 1972), 552–77.

<sup>42</sup> The narrator reminds us, on several occasions, that Fred “espoused [Mary] with [an] umbrella ring, when she wore socks and little strapped shoes” (*Middlemarch*, 486; see also 217). Although Mary is grateful for Fred’s early love for her, she does not let it overwhelm her better judgment now that she is of age. She substitutes this new provisional promise for her earlier unconditional pledge.

<sup>43</sup> For Adam Smith’s discussion of the “impartial spectator,” see *The Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. Macfie (1759; repr., Indianapolis: Liberty Fund, 1982), 128–31. Although Fred returns to the gambling hall when Mary leaves home to visit Lowick Parsonage, Mr. Farebrother pulls Fred aside and reminds him that Mary “is only conditionally bound to [him]”; after this reminder, Fred stays away from the hall and remains true to Mary’s best opinion of him (Eliot, *Middlemarch*, 635).

<sup>44</sup> Eliot, *Daniel Deronda*, ed. Barbara Hardy (New York: Penguin, 1986), 386. Hereafter abbreviated *D* and cited parenthetically by page number.

<sup>45</sup> Regarding the interpretation of a contract, Holmes explained, “[w]e ask, not what [the writer] meant, but what th[e] words would mean in the mouth of a normal speaker of English, using them in the circumstances in which they were used. . . . [T]he normal speaker of English is . . . external to the particular writer” (“The Theory of Legal Interpretation,” *Harvard Law Review* 12 [1899]: 417–18). See also Sidgwick, *Methods of Ethics*, 285.

<sup>46</sup> For an insightful analysis of legal and moral questions raised by Gwendolen’s failure to save her drowning husband, see Rodensky, 160–70. Rodensky examines the complex relationship between the inner, subjective realm—that of actual knowledge and intention—and the external, objective realm—that of actions and consequences from which knowledge and intention may be presumed—as it affects criminal responsibility. She traces a shift over the course of Eliot’s novels “from the external to the internal, from the objective to the subjective in assessing accountability” (85).

<sup>47</sup> Like Paley, John Austin, and Sidgwick, philosophers such as Stanley Cavell and Jan Narveson maintain that the essence of a promise is raised expectations, thus accommodating a range of ways in which people make promises. See Cavell, *The Claim of Reason: Wittgenstein, Skepticism, Morality, and Tragedy* (Oxford: Clarendon Press, 1979), 298; and Narveson, *Morality and Utility* (Baltimore: Johns Hopkins Univ. Press, 1967), 185–200. Speech act theorists such as J. L. Austin and John R. Searle, by contrast, emphasize the performative nature of promises. On this view, promises do things rather than assert things. Hence speech act theory distinguishes between promises and statements of intention. Although J. L. Austin and Searle acknowledge that statements of intention can create obligations in some circumstances, they do not consider such obligations to be promises. In specifying the context that must exist for the smooth or “happy” functioning of a promissory utterance, moreover, they give more weight to the actual intentions of promisors than Cavell and Narveson do. Searle, for example, explains that the “essential condition” of a promise is that the speaker “intends that [his] utterance . . . will place him under an obligation to do [what he says that he will do]” (*Speech Acts: An Essay in the Philosophy of Language* [New York: Cambridge Univ. Press, 1969], 60). See also J. L. Austin, *How to Do Things with Words*, 2nd ed., ed. J. O. Urmson and Marina Sbisa (Cambridge: Harvard Univ. Press, 1975), 1–11, 14–17, 39–41, 69, 89, 151–52, 157–58. Annette Baier similarly distinguishes between promises and other obligations such as “the commitment of a serious avowal of intention to another,” but she invokes Hume’s account of promising in order to explain “the special force of the words ‘I promise’” (*Postures of the Mind: Essays on Mind and Morals* [Minneapolis: Univ. of Minnesota Press, 1985], 197). For an overview of these different theories of promising, see Atiyah, *Promises, Morals, and Law*, 47–48, 99–103, 165–69; and Vitek, 61–70.

<sup>48</sup> Hannah Arendt articulates this hopeful view of promising in *The Human Condition*, 2nd ed. (Chicago: Univ. of Chicago Press, 1998), 237, 243–44. In Arendt’s words, binding oneself through promises “serves to set up in the ocean of uncertainty, which the future is by definition, islands of security without which not even continuity, let alone durability of any kind, would be possible in the relationships between men” (237).

<sup>49</sup> For some of these implicit promises, see Eliot, *Daniel Deronda*, 564, 600, 603, 638, and 816.

<sup>50</sup> Anderson, by contrast, perceives an underlying disagreement between Mordecai and Deronda. In her view, Mordecai “does not believe that the merging of souls depends upon reciprocal consent . . . . Deronda avoids a direct clash by minimizing the ramifications of his refusal, but his equanimity masks a profound rejection of Mordecai’s

disregard for his informed consent” (135). Although Kucich—unlike Anderson—takes the idea of intersubjective fusion that Mordecai articulates to be Eliot’s ideal, he argues that the novel repeatedly undermines this idea, and that Eliot fails to offer “the truly social, interdependent vision she tried so hard to create” (181). For similar arguments concerning the limits of the sympathetic ideal in this novel, see Cvetkovich, 128–64; Garrett, 67–79; and Jaffe, 121–57.

<sup>51</sup> Emile Durkheim, *The Division of Labour in Society*, trans. W. D. Halls (New York: The Free Press, 1997), 152. Durkheim argues that the division of labor itself provides the ties that hold people together in modern societies.

<sup>52</sup> On the utopian possibilities of contract that are evoked, although not realized, in nineteenth-century American fiction, see Brook Thomas, *American Literary Realism and the Failed Promise of Contract* (Berkeley: Univ. of California Press, 1997), 286–88. Thomas argues that the “interpersonal activity of promising” is crucial to the utopian possibilities of contract (18).

<sup>53</sup> Graver similarly argues that Eliot combines features of pre-modern and modern societies in her portrait of the ideal community. See Graver, 15–16, 24–25.

<sup>54</sup> In *Tradition, Counter Tradition: Love and the Form of Fiction* (Chicago: Univ. of Chicago Press, 1987), 172–87, Joseph Allan Boone insightfully discusses the ways in which the end of the novel calls attention to the different trajectories of Gwendolen’s and Deronda’s lives.