ABSTRACT. Professor White maintains that claims neither imply nor are implied by rights. Substantially the opposite may be shown to be the case—that, very briefly, to make a claim implies some sort of right while to have a right always involves something at least claimable or, more usually, actually claimed.

Professor A. R. White’s recent contribution on rights and claims deserves a good deal of further probing, original and stimulating as his paper is.1 Many of his views seem in the end highly vulnerable, rather more so perhaps than previous criticism has let on.2 White’s central thesis fundamentally affects the whole connection between rights and claims since, he argues, claims neither imply nor are implied by rights. I shall separate the two limbs of his thesis to discuss them in turn.

I.

White repeatedly insists that making or having claims does not imply having rights because of various instances in which this implication does not hold. Of course we can and do claim rights, but there is nothing special about this. Claiming a right is, for White, no different from claiming anything else, whether claiming knowledge or ability or some other thing. No different because to claim a thing or a right to a thing are not different kinds of

claims, only different ‘things’ we claim. No different, again, because any claim we make, including a claim to a right, may in fact collapse. If, to pursue first the latter point, the claim is what White calls an ‘indicative’ claim, i.e. a claim that so and so is (or will be) the case, that claim may turn out to be, on the evidence, unfounded or untrue. If it is a so-called ‘subjunctive’ claim, i.e. a claim that something should be the case, this claim can be rejected because regarded as unjustified. So a person (indicatively) claiming first prize may have no right to it, not having won the race, while one (subjunctively) claiming better protection may equally fail to establish his right if his claim appears too extravagant.

Though all this is true, a related aspect of claiming is not being given sufficient emphasis by White. Not only is making an indicative claim (postponing for the moment subjunctive claims) a call, as he says, for the acceptability of a supposed fact; it is, more importantly, a way of asserting that what one claims is true or well-founded according to the procedures or criteria by which we confirm assertions of a propositional sort. The claim, admittedly, may turn out to be implausible or even false, but in claiming a supposed fact I do claim that my claim has at the very least some foundation in truth. Even where I make a knowingly false or fraudulent claim, I am still pretending that my claim is true, for my fraud would be far too transparent if those to whom my claim is addressed already knew it to be false. In making a claim, in other words, I am not merely issuing a call for the acceptability of a contested fact, I am, no less significantly, issuing a call directed, in particular, at those prone to doubt or dispute my assertions that I am prepared to support what I claim with appropriate validating or confirming grounds. I am, so to speak, making a call for the right to be believed.

This particular feature is better displayed by contrasting claims with other ‘calls’, that is, with allegations or suggestions on the

3 White, Rights and Claims, 316–319. White also distinguishes a third (‘possessive’) use of claim which we consider below.