Let us then focus the contrast between the new rights and the old on that justification. I shall begin with the argument for Uncle Sam.

Responsibility and the Old Rights

The argument I present is not taken from one source, though clearly John Locke and the American founders are its principal authors. The old rights are the rights of man—meaning human beings, one is obliged to say today. They are the rights of certain beings with a fixed nature and with alterable laws and customs. Since men have from nature the power to alter laws and customs, one can also say that their nature is partly fixed, partly alterable. The rights pertain to the fixed part, so they are inalienable. Rights cannot be taken away by bad laws and customs, because they are not granted by good ones. If there were no fixed human nature, there could be no inalienable rights.

Before considering what these rights may be we must know what a right is. A right is permission to do a range of things that an individual is able to do. He may exercise the right in company with others; indeed, as in the right to consent, there are occasions when he must act with others. But a right belongs to the individual to exercise at his discretion and at his initiative on his own behalf.

A right to do something is also a right not to do it. So although the right is granted by nature, it is actuated by self-permission. Such a right presupposes the competence of an individual to judge for himself whether to exercise the right, as well as a certain assertiveness in making his right respected. It also presumes that the thing to which one has a right is possible to do. One cannot have a right to an impossible condition, such as immortality, for rights are about actions, not wishes. Rights are rights against the interference of other human beings, not against the motions of nature. There is no right not to have rain on the Fourth of July.

What are the rights of man? By imagining how men would be in a state of nature prior to the establishment of laws and customs, one can see what one’s rights are. One uses a hypothesis to establish a nonhypothetical truth. Having individual bodies and sharing a specifically human faculty of reason, men would have equal rights at least to the extent—and this is sufficient—that no one or group of them would have a clear title to rule other men. And since prior to laws and customs men would live in penury and mutual distrust, their first concern would be for their lives. Rights are given to men by nature, but they are needed because men are also subject to nature’s improvidence. Since life is in danger, men’s equal rights would be to
life, to the liberty that protects life, and to the pursuit of the happiness with which life, or a tenuous life, is occupied.

**Natural and Civil Rights.** In practice, the pursuit of happiness will be the pursuit of property, for even though property is less valuable than life or liberty, it serves as guard for them. Quite apart from the pleasures of being rich, having secure property shows that one has liberty secure from invasion either by the government or by others; and secure liberty is the best sign of a secure life. Secure property is security in general. And this is all the more true because an invasion of property does not immediately endanger one’s life and liberty, whereas a direct test obviously puts them at risk. Property is an early warning system, an alarm protecting life and liberty.

Secure property requires laws and customs; to get it men must leave the state of nature and form civil society. When they do this, they exchange natural rights for civil rights. Natural rights are the rights on which civil society is founded; civil rights are the ones it secures. Natural rights belong to natural man—that is, man in the state of nature. They are the rights to life, liberty, and the pursuit of happiness in the Declaration of Independence. They are the rights for the sake of which Americans established a Constitution.

But the rights actually secured under the Constitution are civil rights, such as those in the Bill of Rights. They are more specific than natural rights, but they are therefore also more limited. In entering civil society we deprive ourselves of the exercise of natural rights in order to establish a Constitution that will secure civil rights. Natural rights are unlimited but useless, because there is no one except ourselves to enforce them; civil rights are effectual but limited, because they are defined by law.

The exchange of natural for civil rights is accomplished by consent and protected by the right of consent—the right of consent to a government with the power to make and enforce laws. The right of consent is both natural and civil, and it is *between* natural and civil rights: natural insofar as it is prior to civil rights, civil insofar as consent establishes civil rights under government. One such civil right is the right to vote, which is the civil version of the right of consent. The right of consent is the key right; it makes all other rights effectual by joining them to government, and at the same time it makes clear that although rights are secured by government they are not granted by government.

The people use their right of consent to establish a constitution that secures—and thereby limits—their rights. The constitution will specify certain civil rights as in our Bill of Rights, but the principal security it offers, more than the naming of those rights, is the form of government it constructs. A well-formed constitutional government gives effect to the right of consent, which would otherwise remain abstract. In such a government the majority rules, but not a factious, willful majority. With such constitutional provisions as the separation of powers and federalism, the ruling majority should be a *constitutional* majority. Though of course partisan, it should be respectful of the rights of minorities and mindful of the common good. Without a working constitutional government a list of rights is of little account, even if all agree on their desirability. Not merely the judiciary but the whole government serves to secure rights; and this means that prompt executive action is as necessary as careful legislation and wise adjudication.

**Equal Rights and Unequal Exercise.** Rights in the older conception have two other, opposite qualities. They are formal, and they are connected to interests. The formality of rights refers to the difference between the formal possession of a right and its actual exercise. The difference is necessary because it is the business of government to secure only the former and not the latter. If the government exercises our rights for us—for example, our right of free speech by telling us what to read or our right of private property by commanding us how to live—then we no longer have the right.

But the formality of rights leads to a difficulty. Though rights are equal formally, they are in practice necessarily unequal. Natural differences in human nature, combined with the variance of luck, will cause some to exercise the right of free speech or the right of acquiring property more successfully than others. A gap between the ideal of equal rights and the reality of unequal exercise will appear.

How to deal with this gap cannot, perhaps, be prescribed in theory, except to say that it is an inevitable feature of any society based on rights. Any attempt to close it completely would require such much force and regulation that the rights intended to be secured would in fact be suffocated. Any such attempt would inevitably contravene the right of consent or the right to vote. For this right is quintessentially formal; it allows the people to vote in accordance with their prejudice as much as with their enlightened judgment. To close the gap between the ideal and the reality, a government would have to deny the right of consent to prejudiced voters. But that, we have seen, is the key right.

Some help for this difficulty can be obtained from the notion of interests, an eighteenth-century feature added to the Lockeian conception of rights. Interests are opposite to the formality of rights,
since they describe how one can expect rights actually to be exercised. Because of interests, one can have a certain confidence that the formal establishment of rights will not encourage whimsicality, weirdness, insobriety, nastiness, criminality, or crazy behavior in general.

Although rights are formally open-ended, their actual exercise is disciplined by the consideration of what it is in our interest to do. Our interest derives from our human nature, but it is not confined, like natural rights, to the state of nature; it continues with equal or heightened alertness into civil society. Just as the natural right to life is sustained by the natural desire for self-preservation, so the civil right to acquire property is activated by our interest in an improved standard of living; and the right to free speech is used to satisfy our interest in reputation or celebrity.

Through the connection to interests, rights gain not only sobriety but also many supporters, whose interest lies in the maintenance of the rights by which they profit. Since interests derive from human nature, they are active in all human societies. Even a traditional economy obeys economic “incentives,” as interests are sometimes called, to some extent. But giving greater freedom to the play—or the work—of interests can transform a society from bemusedness to enlightenment. The appeal of interests is independent of “values,” although values—that is, opinions—favorable to the pursuit of interests can allow interests greater scope.

Did I forget to say what interests consist of? Not really. They are an average reason joined—and confined—to an impersonal self. But you already knew that.

**Responsibility and Rights.** We have now come a certain distance, but we are not yet in sight of Uncle Sam, who relies on a sense of responsibility. Responsibility is the rights-based transformation of what used to be called duty or virtue. Duty implies devotion to something higher than oneself, and virtue implies a concern with the perfection of one’s soul. Both can be found in a society of rights, but they are not truly consistent with its emphasis on the self-preservation of individuals.

Rights seem to say that human beings are sovereign and that devotion to a higher being or a larger whole is a matter of choice, not duty. Virtue is self-assumed, as one cannot be fully virtuous without an awareness of the worth of virtue. But virtue, in calling for perfection, seems to be confined in its full extent to a few, and it seems to require us to admire, perhaps obey, those few. Virtue does not seem consistent with the equality of rights.

Responsibility is of human origin and democratic. Let us define responsibility as the act of voluntarily taking charge of a situation in order to improve it. Responsibility is exercised in the context of rights and interests, the two beacons of our moral life, but it is not identical to them. My right is wider than my responsibility, and my interest is narrower. My right of free speech includes, some (wrongly) say culminates in, a right to speak irresponsibly. And it is not clear that my interest is best served by a responsible action that may involve some risk to myself.

But although responsibility is not identical to rights and interests, it is not antithetical either. My right includes, if it does not require, responsibility; so the responsible person has, compared with the irresponsible, at least equal justification, if no more. This equality may sound like a joke, and it is; yet it is a genuine advantage to the responsible to have a basis for intervention that the irresponsible cannot easily deny.

Similarly, although one’s interest may counsel abstractly against exposing oneself to risk, one’s concrete interest may be attached to a position in which he is made responsible for certain actions, because enough people will believe that reputation or fame are in their interest. They may then believe that responsibility is their duty, in a sense not requiring devotion to something higher.

In this way responsibility is linked to interest even if it is not the same. We are reminded of the “interest of the office”: Publius, the author of *The Federalist*, argued that it would encourage responsible behavior in officers of the American Constitution. It is interesting that our notion of responsibility does not occur in Locke, the founder of liberalism, who speaks ambiguously of duties, either to God or to one’s interest. Our notion seems to begin in *The Federalist*, in which one sees liberalism no longer merely in theory but at work in the framing of a new constitution. Liberalism at work is in need of responsibility; rights and interests are too theoretical to suffice by themselves. Many people have to be willing to take actions for which, in rights theory at least, they lack sufficient reason.

As we have seen, however, the old rights are grounded in the human nature that gives men certain abilities. Thus one does not truly have a right without at least the ability to claim it, and the best evidence for the ability is the actual claiming of one’s rights. One must, as we say, “stand up for” one’s rights. When one stands up for his own rights, he also stands up for others in a like situation. He renounces inactivity; he refuses to “take this sitting down.” Perhaps a certain aristocratic sense of honor and generosity is at the origin of the democratic notion of responsibility. Through the notion of responsibility liberal democracies recapture the love of the noble and
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the concern for the whole that seem so foreign to them and yet so ineradicably human. That achievement is the basis for Uncle Sam.

To summarize the old rights, then: they are derived from a fixed human nature; they belong to competent individuals; they are equal; they are protected by private property; they are divided into natural and civil rights; their key is the right of consent; they are constitutional; they are formal; they are connected to interests; and they are responsible. Every one of these qualities is denied or radically modified in the new rights that are claimed today.

Self-Expression and the New Rights

Let us begin with the irresponsibility of the new rights. My examples now will not appear to be politically neutral, though in a sense they are. I remark that the present budget crisis is due in great part to new rights, known as entitlements, that generate expenditures described as “uncontrollable.” They have been granted in a way that deliberately avoids responsible control, including actuarial calculation, so as to make them firm commitments.

The idea is that rights are not secure unless they are entitlements, protected from the common good. Judges have expanded the rights of defendants without regard to the effect on crime. The women’s movement has gained equal rights for women without considering, or in some cases caring, for the consequences to the family. In particular, the right of abortion releases fathers from responsibility for children because it necessarily implies that every child is born through the sole decision of the mother not to abort.

Whether these new rights actually have bad consequences I do not inquire here. Most fathers may overlook the implication of a right of abortion. Thus the examples do not require conservative fears; it is enough to observe that the rights were conceived and established without regard for, and even in defiance of, their effect on responsibility. The new rights are irresponsible not so much because they are careless of the cost-benefit equation, or because they are insufficiently utilitarian, as because they make people irresponsible: “I have my right; it’s up to you to adjust.”

Origins of the New Rights. Authorities differ as to when the new rights first came upon the American moral landscape. Obviously the 1960s saw a vociferous attack from the New Left on Uncle Sam’s patriotism. Patriotism understood as “My country right or wrong” was replaced by the moralism of “My country only when it’s right.” The responsible questions of how to make a wrong country right and how far any country can be right were ignored or shouted down.

In the 1960s the irresponsible self paraded—“demonstrated”—in broad daylight. But some say that the new rights bad their origin in the New Deal, when government took over responsibility to secure “freedom from want,” as Franklin Roosevelt put it. That such a course might prove harmful to individual responsibility was denied or ridiculed, perhaps wrongly. But government’s new responsibility was not intended to liberate the individual from his responsibilities. The New Deal is part of the prehistory of the irresponsible self that appeared thirty years later.

As theory the new rights were born in Friedrich Nietzsche’s doctrine of the creative self. How that doctrine came from Nietzsche’s books of the late 1880s to American politics in the 1960s is a story that has not yet been fully told. One essential in the course of events is the historicism taken from German philosophy that was decisive in American pragmatism, for the pragmatists influenced the progressives and the progressives were predecessors of the New Deal. Pragmatism is not as American as apple pie. It denies the fixity of human nature and thus subjects rights to the contingency of circumstances. That historical circumstances could be harnessed under democratic control was the reformist faith of the pragmatists, the progressives, and the New Dealers. But with the abandonment of human nature, they lost the rational ground of rights and launched themselves, to some extent unwittingly, toward Nietzsche’s unfixed self, the self that has to create itself.

The Equalizing Self. This new self, lacking any natural definition, is obliged to define itself by self-expression. It is obliged, that is, only to the extent of its energy. Those selves who are content with convention—or too weak to oppose it—will allow themselves to be defined, passively and inauthentically. The creative ones will lead them, not by seeking their counsel but by pushing them aside. The creatives are not obliged to respect the rights of other selves that lack a natural definition requiring respect, that are inchoate, malleable, or conformist. Equal respect goes to those equal in nature; if there are no natures, men are equal only at their unformed origins. As they “find their identities” and acquire qualities, they become unequal.

Nonetheless, for no better reason than an inconsistent regard for fellow humans or because they have read Karl Marx as well as Nietzsche, the creatives may decide to devote themselves to equal rights. They become equalizers of those whose rights are equalized. Instead of the strong and the weak we have the equalizers and the equalized—called by John Rawls the “least advantaged.” Since no
natural basis for equality exists, all equality depends on public recognition and comes to mean "equal in public esteem."

This development greatly affects the lives of women. Heretofore women were largely excluded from "responsible positions"—that is, jobs from which one gains public reputation. But they took quiet satisfaction and pride instead from doing family tasks that are usually taken for granted. Women understood, or had an inkling, that the highest responsibility is perhaps to be found in taking charge of problems so ordinary that no one notices them. Someone must be responsible for what responsible people overlook—for what is private and nonpolitical. Now women may still feel drawn to the woman's job that is never done, but because their identities must be created by public esteem, they have no justification for doing what they very well see still needs doing. Their new rights of equality do not put supper on the table. They only make women who do cook feel like fools.

Creative beings are open-ended. They are open-ended in fact and not merely in their formal potentialities. Such beings do not have interests; for who can say what is in the interest of a being that is becoming something unknown? Thus the society of new rights is characterized by a loss of predictability and normality: no one knows what to expect, even from his closest companions.

Under the old rights the notion of interest was used as a lever to pry individuals and groups out of the fate destined for them by tradition: it was in one's interest to get ahead. But now those interests are seen as confining; instead of liberating they imprison their victims in stultifying "roles." A role is where one has been put by a malignant oppressor, anxious to take away in fact every formal promise of liberty. In the case of women, the system of new rights does not permit one to consult women's interests to see whether they are likely to benefit from equalized rights. No are women given any guide except the trend of fashion, which is ambivalent between work and home. What remains is choice, unguided and untended by society, as if it did not matter whether women like to have children and whether society needs them. To put it mildly, the element of sobriety supplied by the notion of interest to a rights-based society is forgone.

**Spurious Beneficiaries.** Competence is no longer a requirement for rights, as we see in the new rights accorded to the disabled not despite but because of their disabilities. Instead of having a right to do something with one's own abilities one has a right to have something done by others about one's disabilities. The disabled acquire a right not to be disabled, not merely when the disability results from the irresponsible human action of others but also, and especially, when it is just bad luck. The rights of the disabled are a kind of tort against nature, and it becomes the business of the equalizers to make them whole.

The disabled are induced to dwell on their disabilities rather than encouraged to make do with their abilities, for no one who is not comatose is completely disabled. At the same time, no one has all the abilities he would like; so all of us are in a sense disabled and might seem eligible for a new right of imperfect creatures to have perfection—in the sense of perfect health—here on earth. To make sure that no one is excluded, the ranks of the disabled can be expanded to include criminals and drug addicts, as in recent legislation, on the ground that their behavior is not their fault but rather is due to natural causes.

With the old rights nature's improvidence is a sort of bounty, because it leaves us free; under the new dispensation we become nature's victims and lose sight of our freedom. The shift from competence to disability transforms a right from a permission requiring other people's respect into a duty to be fulfilled by others. It mandates charity and thus overrides the true charity that comes freely from the heart.

Other beneficiaries of the new rights are animals and trees. Promoters of the new rights take umbrage at the despoiling of nature justified by the old rights. The old rights were rights of man, giving him sovereignty over the rest of nature because of the superiority of human nature. The consequences have been depletion, pollution, and the potentiality of nuclear catastrophe. To meet these perils, the new rights' promoters maintain, man must surrender his sovereignty over nature and the rights of animals must be recognized. In their view it is not enough to appeal to the rights of future generations of human beings, because they too might despoil the environment.

The rights of animals, implying the perfection of nature when left intact, might seem inconsistent with the rights of the handicapped as nature's victims. Is nature to be respected or corrected by human beings? How to reconcile the integrity of nature's species with the superiority of the human species is a question as old as Aristotle and never better understood than by him.

The philosophy of the rights of man does homogenize nature and leave it utterly subject to human technology as mere undifferentiated material. But environmentalism does not succeed in establishing, or reestablishing, human responsibility for nature. Environmentalism is rather the same, strange patronizing we have already seen,
in which the patrons confess themselves to be no better than the patronized. Animals and even trees are awarded rights that they have no earthly possibility of claiming on their own, yet cannot be denied by humans. These humans have lost the confidence to claim their rights, but they retain the authority to proclaim the rights of other species. Here is equality gone mad among Nietzsche’s last men, who have lost the will to assert their own humanity.

Yet of course the very term “environment” is anthropocentric, and one infers that nature’s rights are intended mainly, or entirely, for human benefit. But human benefit is understood as whatever advances human creativity. The idea of hierarchy in nature and the human virtue of moderation, both of which are necessary to responsibility in this matter, are not consistent with untrammeled creativity. So environmentalism descends to extremism. Instead of enlarging responsibility, its advocates issue proposals and undertake demonstrations so outlandish as to depend for any good effects on the responsibility of those whom they insult.

**Private Property under the New Rights.** Environmental rights are often asserted against holders of private property. So, in general, are the other new rights, which do not include the right of private property. Under the old rights, private property is the guardian of a self whose individuality is already secure. But in the new view the acquisition of property appears to give identity to the self, and the new identity is rapacity. That identity is not so new in theory; it goes back to the discovery of the bourgeois by Rousseau. But only recently has holding property in America provided the owner with less and less security, and exposed him to more and more litigation.

One main target of the attack on property has been the corporation and its basis in the concept of limited liability. Limited liability permits cooperation in an enterprise without engaging one’s whole self or all of one’s resources. Proponents of the new rights, concerned to equalize the selves they are creating, denounce the arrangement as an evasion of responsibility. The shareholder and the corporate officer should not be allowed to hide behind the corporate shell but should be held fully responsible for the corporation’s misdeeds.

Here again, an expansive responsibility is the enemy of a prudent responsibility that is tied to one’s interest rather than expressive of one’s whole self. One’s interest is an objective self, imposed as it were by the necessities of the situation and of human nature. To the extent that interest is objective—that is, represents what any normal person would do in the situation—one can have interests in the plural, none of them constituting a full commitment. Limited liability protects this possibility, on the one hand; on the other, the replacement of interests by created “values” expressing the whole self attacks it.

**The Attack on Formality.** The right of private property depends on the formality of rights. When Marx sought to oppose bourgeois property, he first took aim at the formality of rights. A right is only as good as one’s capacity to exercise it, he argued; so the equal right to acquire property is a mere formality, of which the effectual truth is the endorsement of very unequal properties actually gained through this right. Thus the rights of man are in fact rights of the bourgeoisie.

Promoters of the new rights generalize the objection to denounce any discrepancy between the formal right and its actual exercise. Only if the exercise is equal are the rights equal; if not, then we are not really serious about rights. Affirmative action is a program to make formally equal rights equal in their exercise, thus guaranteeing equality. Under affirmative action it is the legally imposed responsibility of an employer, public or private, not merely not to discriminate unjustly but to take positive or affirmative action to see that potential beneficiaries of nondiscrimination become actual, equally paid employees.

That responsibility overrides the responsibility of the employees, and in general of citizens, to exercise their own rights. Free rights requiring action on one’s own behalf become guaranteed entitlements, in principle requiring little or nothing. This result follows from intolerance of a gap between the right—protected by the government—and its exercise by citizens.

Another result of that intolerance is the loss of the distinction between natural and civil rights. We now speak of human rights, which as such have no necessary relationship to civil society. Human rights become civil or constitutional rights immediately, with no sense of having to pass through a form of government for their securing and specification. Thus they owe nothing to a free government and are indifferent to its survival. The only business of any government is to guarantee rights that are justly expressed as relentless and peremptory demands. The spirit is, Freedom now!

The “perfect freedom” that John Locke thought to be characteristic of the state of nature is carried over into civil society as a demand that has lost none of its force through the necessity of forming and obeying a government. The new rights have the security of civil rights and the amplitude of natural rights, as if we could have our cake and eat it too. All the realism of the early liberals disappears beneath a foolish confidence that war should be over with, that crime is on the
from wants; even “needs” come to mean “felt needs.” These wants alternate in status between posited rights whose positing is not necessary but is merely asserted—the deontological view, according to contemporary philosophy—and preferences, capable of being “traded off” for one another—the utilitarian view. Their status alternates because, in practice, proponents find the first view too absolute and the second too relative. They have abandoned the distinction between natural and civil rights, by which the absoluteness and the relativity of rights are reconciled through the right of consent. They have substituted for it two partisan views that cannot be reconciled and hence must be alternated.

When rights are wants, those who have the wants are no longer required to claim their rights, to fight for them, or to defend them once gained. Elite groups can make the necessary claims on behalf of those who want, since the latter are regarded as too weak actually to enjoy the rights they have had until now in a merely formal sense. In the postconstitutional understanding one does not have a right or choice unless it is an equal right or choice. If one shows by inactivity that he is too weak to exercise his rights, then the government, prompted by elite groups, will step in to guarantee those rights, in effect exercising them better than oneself. When government intervenes, it does not by right have to seek someone’s consent or the consent of his fellow-citizens, because he may feel too weak to consent and his fellow-citizens may be overlooking his wants when they consent.

Under these circumstances the new rights become “entitlements,” originally a technical term for claims on a budget that must be paid out regardless of how many claim them. Entitlements are thus secure from responsibility to what the common good may require. They resemble pensions in their security, but they differ in not being funded. Entitlements also do not result from a potential or actual contribution of the entitled to the community: not requiring any prior or subsequent action, they do not reward rights responsibly exercised. We can certainly get someone else to demand our entitlements for us, and we can even get someone else to apply for them on our behalf. We do not have to answer for how we spend our entitlements, since any failure, for example, to find decent housing is accounted to society, and the remedy is to extend its responsibility to equalize.

Equalizing proceeds by denigrating past progress in rights as merely formal and lacking in seriousness, while looking forward to an equalized society in infinite approximation. Despite its dissatisfaction with itself, however, a society of entitlements is a static society...
of defensive special interests. The new rights transform citizens into government dependents—restless, suspicious, ungrateful, passive, and incompetent.

Right of Privacy. The new right of privacy might seem to offer a refuge from government dependency, but in fact it only increases irresponsibility. The old rights were all private rights in the sense of rights belonging to private individuals, but as civil rights they were limited for the sake of others' rights and the common good. The creation of a special right of privacy attempts to define a sphere into which others' rights and the common good cannot enter—a couple's use of contraceptives, a woman's choice of abortion. The attempt has three bad effects apart from these specific matters. First, it detracts from the privacy of rights not subsumed under the right of privacy—as if voting, for example, were not private by right. Second, it misrepresents privacy as absolute, although in fact privacy is most valuable when shared with one's friends and family. After all, absolute privacy is available in solitary confinement in prison if the jailer stays away.

Third, the fact that the Supreme Court seized on the right of privacy to defend a married couple's use of contraceptives (the Griswold case) and then used it to deny any family interference in the individual choice of abortion (Roe v. Wade) should give pause. The right of privacy actually reflects the government's decision to define the private and to make it subsist by the government's definition.

Because the government defines the private, it intrudes on the private. When the government forbids contraceptives and abortion in the belief that they are contrary to the common good, it may be wrong but it is not on the wrong track. It tells citizens that private actions have public consequences, yet it does not deprive itself of their willing support. A civil right comes with a reminder in its very name of the public good of a free society; though its source and immediate end are private, the manner of exercise and the ultimate end promote a civil society. A right of privacy seals itself off from any such accomplishment and encourages citizens to forget their citizenship and to tell the government where it can stuff any notion of civility. At the same time it makes privacy an entitlement requiring free contraceptives and abortions, since these are the devices of privacy and everyone must be rendered equally private.

Dependency is the probable effect on the equalized of equalizing rights. But their patrons, the equalizers, have an attitude of mind that in the scheme of new rights is the functional equivalent of the patriotism demanded by Uncle Sam. This attitude, best seen in the American Civil Liberties Union, is a moralizing extremism reflecting the principle that no right is safe unless it can be carried to an extreme. Rights, as we have seen, are equalized at the extreme. The least limitation on a right weakens it and invites its abolition by government at the urging of prejudiced citizens. A prohibition of child pornography, for example, immediately subtracts from free speech and will eventually undermine it as a whole.

To this extremist attitude, rights are always in peril. They are endangered by the desire to practice moderation in exercising them, for moderation makes it seem that rights are confined to the moderate and intended for routine actions. So a truly disgusting instance of self-expression, when it comes under attack, gives the equalizers a thrill comparable to a call from Uncle Sam. The extreme exercise of a right comes to be the only true exercise, because the best test of devotion to a principle is thought to occur at its furthest reach. Anyone devoted to protecting rights is held to be responsible for guaranteeing the whole range of behavior associated with a right, and without passing adverse value judgments. That is why the right to decent, "affordable" housing—which might seem to imply that being housed is a good thing—is accompanied by the right to be homeless. Thus responsibility is disjoined from moderation.

I do not claim that the old rights are perfect. They have weaknesses that invite the reproaches of proponents of the new rights. The gap between the right and its exercise, in particular, seems to be an inherent defect. Nor do I say that it is possible simply to return to the old rights. Women believe themselves to be beneficiaries of the new rights, and they are not going to be forced back into the kitchen. But we need to become aware of the discontinuity between the old rights and the new, and to beware of the package of bad consequences that comes with the seemingly innocent slogan, "Be all that you can be."