

The Virtues of Employment at Will

Instructions

When doing the reading for this class, there are the two basic kinds of information you need to understand:

1. What are the main points or conclusions that an author accepts with respect to a particular issue?
2. What are the reasons, important considerations, and evidence that lead the author to accept that conclusion?

For our purposes, it is *information of the second sort that will be our primary concern* since our most basic task is to *evaluate the reasons and evidence* that are offered to support accepting one possible position on an issue, rather than another.

Reading

Epstein, R. A. (1984, Autumn). In defense of the contract at will. *University of Chicago Law Review*, 51(4), 947-982.

Comment

Throughout his article, Richard Epstein refers to “contract at will”. Following more current terminology, I will instead call this “employment at will” (EAW).

Questions

As you read, keep these questions in mind:

1. What is meant by EAW?
2. Epstein provides two arguments in favor of EAW. The first argument is about the *intrinsic* value of EAW. In this context, something has intrinsic value when it is valuable “in itself” or “for its own sake”, independent of other things.
What is Epstein’s argument that EAW is intrinsically valuable? (Hint: he actually proposes two distinct ways in which it has such value.)
3. Epstein’s second argument concerns the *instrumental* value of EAW. In this context, something has instrumental value simply because it is a means for achieving something else of value.
What is Epstein’s argument that EAW is instrumentally valuable as a means for providing employers and employees with further benefits?

To answer these questions you will have to reflect critically on what you have read and possibly re-read important passages.

Although I strongly suggest that you write out brief answers to these questions, you do not have to turn in written responses. You do, however, need to be prepared to speak intelligently about these issues at our next class meeting.