

Cambridge University Press

978-0-521-73208-6 - Constitutional Illusions and Anchoring Truths: The Touchstone of the Natural Law

Hadley Arkes

Frontmatter

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## Advance praise for *Constitutional Illusions and Anchoring Truths*

“Hadley Arkes’s *Constitutional Illusions and Anchoring Truths* clearly illustrates the value, famously emphasized by John Stuart Mill, of attending to important, carefully considered – if also unconventional, unsettling, or contrarian – arguments. Professor Arkes remains one of the law’s most gifted and rewarding prose stylists.”

– R. George Wright, Indiana University School of Law, Indianapolis

“Hadley Arkes is a well-known scholar, a superb stylist, and perpetual gadfly disturbing the peace of scholars on both the right and the left. *Constitutional Illusions and Anchoring Truths* continues his project of elaborating a ‘natural law’ approach to jurisprudence, which argues that implicit in widely accepted forms of legal reasoning is a commitment to certain principles of reason that transcend the text itself. He develops his argument through discussions of ex post facto laws, the Eleventh Amendment, substantive due process, prior restraint, and the Bob Jones case, and nothing indicates Arkes’s skill as a writer and thinker better than his ability to find novel and fascinating perspectives on cases talked about endlessly by others. Constantly thought-provoking, chock-full of original insights, and elegantly written, this book is a powerful reminder to everyone that written law cannot be interpreted without reference to the fundamental moral understandings within which it is embedded.”

– Christopher Wolfe, Marquette University

“In his extraordinary book, Arkes’s powerful intellect, wit, encyclopedic knowledge, and grace are all on full display as he takes us through a number of landmark cases that we thought we knew – cases whose meaning, we thought, was firmly settled – only to have him show us that we do not know them as we thought we did. He shows us what a difference it makes if we read these cases with more attentiveness to their reasoning and a clearer sense of the logical properties of their propositions. In short, he shows us by his example how we, too, can be freed from the tyranny of understanding landmark cases through the eyes of others.”

– Ralph Rossum, Claremont McKenna College

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### *Constitutional Illusions and Anchoring Truths*

This book stands against the current of judgments long settled in the schools of law in regard to classic cases such as *Lochner v. New York*, *Near v. Minnesota*, the Pentagon Papers case, and *Bob Jones University v. United States*. Professor Hadley Arkes takes as his subject concepts long regarded as familiar, settled principles in our law – “prior restraints,” ex post facto laws – and he shows that there is actually a mystery about them, that their meaning is not as settled or clear as we have supposed. Those mysteries have often given rise to illusions or at least a series of puzzles in our law. They have at times acted as a lens through which we view the landscape of the law. We often see what the lens has made us used to seeing, instead of seeing what is actually there. Arkes tries to show, in this text, that the logic of the natural law provides the key to this chain of puzzles.

Hadley Arkes is Edward Ney Professor of American Institutions and Jurisprudence in the Department of Political Science at Amherst College. He is the author of six books, most notably *First Things* (1986), *Beyond the Constitution* (1990), and *Natural Rights and the Right to Choose* (Cambridge University Press, 2002). His articles have appeared in professional journals as well as the *Wall Street Journal*, the *Weekly Standard*, *National Review*, and *First Things*, a journal that took its name from his book of that title.

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*For Michael Petrino '68 and Michael Petrino '03,*

*Jay Beech '67 and Scott Beech '99,*

*Doug Neff '70 and John Neff '09*

*Kevin Conway '80 and Jack '10 and Ryan '12*

*From the professor blessed by their presence in class,*

*And by their counsel in later years*

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