

1. Record Nr.	UNINA9910790870203321
Autore	Barnett Randy E
Titolo	Restoring the lost constitution : the presumption of liberty // Randy E. Barnett
Pubbl/distr/stampa	Princeton, New Jersey : , : Princeton University Press, , 2014
ISBN	0-691-11585-0 1-4008-4813-X
Edizione	[Revised edition.]
Descrizione fisica	1 online resource (449 p.)
Disciplina	342.73029
Soggetti	Constitutional history - United States Constitutional law - United States Judicial review - United States
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	"Updated edition"--Cover.
Nota di bibliografia	Includes bibliographical references and indexes.
Nota di contenuto	part I. Constitutional legitimacy -- part II. Constitutional method -- part III. Constitutional limits -- part IV. Constitutional powers.
Sommario/riassunto	The U.S. Constitution found in school textbooks and under glass in Washington is not the one enforced today by the Supreme Court. In Restoring the Lost Constitution, Randy Barnett argues that since the nation's founding, but especially since the 1930's, the courts have been cutting holes in the original Constitution and its amendments to eliminate the parts that protect liberty from the power of government. From the Commerce Clause, to the Necessary and Proper Clause, to the Ninth and Tenth Amendments, to the Privileges or Immunities Clause of the Fourteenth Amendment, the Supreme Court has rendered each of these provisions toothless. In the process, the written Constitution has been lost. Barnett establishes the original meaning of these lost clauses and offers a practical way to restore them to their central role in constraining government: adopting a "presumption of liberty" to give the benefit of the doubt to citizens when laws restrict their rightful exercises of liberty. He also provides a new, realistic and philosophically rigorous theory of constitutional legitimacy that justifies both interpreting the Constitution according to its original meaning and, where that meaning is vague or open-ended, construing it so as to

better protect the rights retained by the people. As clearly argued as it is insightful and provocative, *Restoring the Lost Constitution* forcefully disputes the conventional wisdom, posing a powerful challenge to which others must now respond. This updated edition features an afterword with further reflections on individual popular sovereignty, originalist interpretation, judicial engagement, and the gravitational force that original meaning has exerted on the Supreme Court in several recent cases.

---