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Autore	Hallett Brien
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Nota di contenuto	Preface -- Acknowledgments -- List of Illustrations -- 1 The Moral and Procedural Structure of Declarations of War -- An Introduction -- 1 A Brief Overview of the Theory of Speech Acts 5 -- 2 Charles v of France, the Wise, and the Congress of the United States -- 3 Perceptual Issues: Legislative Capacities and Incapacities -- 4 Definitional Issues: a Lexical vs. a Performative Definition -- 4.1 War as a Performative Speech Act -- 5&eem;The Four and a Half Lexical Declarations of War in American History -- 5.1 Absolute vs. Conditional Declarations of War -- 5.2 Reasoned vs. Unreasoned Declarations of War -- 5.3 The Organizational Capacity and Incapacity for Declaring War -- 2 Executive War Making from George H. W. Bush to Gilgamesh -- Invariant State Practice -- 1 An Elected Constitutional Monarch -- 2 An Invariant State Practice -- 3 Explaining the Rise of Elected Constitutional Monarchies: the "Power of the Purse" -- 4 From Majesty to Sovereignty -- 5 Primus Inter Pars -- 6 Parsing Sovereignty -- 7 Conclusion: Imagining an Alternative after Five Thousand Years -- 3 The Congressional Incapacity to Declare War -- Legislative Sins of Omission vs. Executive Sins of Commission -- 1 Two Examples of War Making Procedures in Kingless Assemblies -- 1.1 The Second Continental Congress -- 1.2 The Security Council -- 2 War and Non-War: Two Examples of Congressional Incapacity -- 2.1 Non-Authorization by the 112th Congress -- 2.2 Authorization by the 107th Congress -- 3 James

Madison and the Power to Declare War -- 3.1 The War of 1812: Sins of Commission and Sins of Omission -- 4 Conclusion -- 4 Defining War and the Declaring of War -- Performative Speech Acts and Ontological Guillotines -- 1 Part 1: Declarations as Performative Speech Acts -- 1.1 Defining the Indefinable -- 1.1.1 Defining "Armed Conflict"? -- 1.2 Codependency: the Speech Act Character of War -- 1.2.1 Three Thought Experiments -- 1.2.2 Rule of Law and the Outlawing of War -- 1.2.3 Erasing the Codependent Relationship -- 1.2.4 An Imperfect "Perfect" -- 2 Part 2: Declarations as Ontological Guillotines: Transforming the Subjective into the Objective -- 2.1 Functional Equivalent Ways to Declare War -- 2.1.1 Positively Missing the Point -- 5 The Declaring of War as a Conflict Resolution Strategy -- 1 The Shortcomings of Hague Convention III -- 2 Unconditional Cynicism and Bad Faith -- 3 Parliamentary vs. Executive Decision-Making: the Decision Is the Declaration vs. the Decision Is Not the Declaration -- 4 The Jus Fetiale : Procedural Justice Sustains Substantive Justice -- 6 The United Nation's Security Council -- >An "Original Understanding" vs. "Original Intentions" -- 1 Original Irrelevance: Perceiving a Separation of Powers -- 1.1 John Yoo's "Original Understanding" -- 1.2 Arthur Schlesinger, "Original Intent," and "Collective Judgment" -- 2 Searching for Suitable Textual Models -- 2.1 The Security Council and the Exercise of a Functionally Equivalent Power to Declare War -- 3 Conclusion -- 7 A Monarchical vs. a Republican Constitution -- Misplacing Ends and Means -- 1 Constitutional Symmetry: the Road Not Taken -- 2 Procedural Legitimacy and the Ontology of Policy Ends and Means -- 2.1 The Ontology of a Procedurally Legitimate Declaration of Policy Ends in a Republic -- 2.2 The Ontology of a Procedurally Legitimate Ordering of Policy Means in a Republic -- 3 Conclusion -- 8 Ends and Means or Checks and Balance? -- Obscuring Agency by Authorizing War in the United States and Europe -- 1 Clausewitz on War -- 2 The Just-Interaction Criteria -- 3 The Federal Convention of 1787 -- 4 Obscuring Agency by Authorizing War in the United States and Europe -- Appendices -- Appendix A The Declaration of Independence and Twelve Congressional Declarations of War -- Appendix B British Declaration of War against France, 7 May 1689 -- Appendix C Two Modern, Procedurally Imperfect Declarations of War -- Appendix D A Model Constitutional Amendment -- Appendix E A Joint Resolution to Establish a Joint Congressional Drafting Committee of 20xx -- Appendix F Re-evaluating the Traditional Just- War Criteria -- Bibliography -- Index.

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## Sommario/riassunto

Wishing to be helpful, Nurturing the Imperial Presidency by Brien Hallett illuminates the 5,000-year-old invariant practice of executive war-making. Why has the nation's war leader always decided and declared war? Substituting a speech act approach for the traditional "separation of powers" approach, Hallett argues that he who controls the drafting of the declaration of war also controls the decision to go to war. Since legislated "authorization to use force" are based upon "a collective judgement and agreement" between executive and legislative branches, such legislative vetoes in no way hinder executive control of either the drafting of the declaration or the decision. Innovative ways to deny the executive its ability to draft the declaration and, hence, to decide are proposed.

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