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# Law in War, Law as War: Brigadier General Joseph Holt and the Judge Advocate General's Department in the Civil War and Early Reconstruction, 1861-1865

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# **Law in War, War as Law**

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in the Civil War and Early Reconstruction, 1861–1865*

Joshua E. Kastenberg

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# Law in War, War as Law

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the Civil War and Early Reconstruction,  
1861–1865**

**Joshua E. Kastenberg**

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# Preface

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Few authors successfully conclude a project without substantial help from their friends and this author is no exception. Cheryl Chasin a student of the Civil War par excellence, and two of my judge advocate brethren, Eric Merriam and Robert Preston provided their encouragement, insight, and proof-reading skills over a period of several years. In the aftermath of the attacks on September 11, 2001 the Civil War experiences of the Judge Advocate General's Department—now in the United States Air Force called the Judge Advocate General's Corps—were studied not for trivial interest or merely to capture heritage, but rather because many of the arguments in Congress and in the federal courts were made with the idea that much of what was lawful in the Civil War should be lawful today. Seldom, however, did those arguments detail or analyze what actually occurred, or did the people doing the debating and advising conduct significant historic research. Some diligent attorneys and scholars succeeded in doing this, but most did not. To the extent time permitted, several career judge advocates and civil service attorneys did try to uncover the historic record beyond the generalities often presented by political appointees. This book benefitted from hundreds of those discussions, as it did from my discussions with the then Deputy Judge Advocate General of the United States Air Force Judge Advocate General's Corps, Major General Charles Dunlap. It also could not have been completed without the extraordinary help of the staff at the Manuscripts Reading Room of the Library of Congress.

I have been lucky in my military career to have served alongside of conscientious professional officers and non-commissioned officers in each of the service Judge Advocate General's Corps, and in particular those who answered the call and deployed to Iraq and Afghanistan. I am thinking of six captains and non-commissioned officer paralegals in particular, who spent part of a year with me in Iraq. Each of them in their own way inspired me to complete this book. That said, the mistakes in this book are mine, and mine alone. And while I truly thank them, I dedicate this book to my daughter Elinor, who is now nearing three, for the simple reason that I love her.





# Abbreviations

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JSMP	John McAlister Schofield
MDHS	Maryland Historical Society
MoHS	Missouri Historical Society
OR	The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies
PAL	Papers of Abraham Lincoln
PDWL	Papers of Daniel Webster Whittle
PEB	Papers of Edward Bates
PES	Papers of Edwin Stanton
PFJP	Papers of Fitz John Porter
PJH	Papers of Joseph Holt
PNPB	Papers of Nathaniel Prentiss Banks
PRJ	Papers of Reverdy Johnson
PWHS	Papers of William Henry Seward
PWTS	Papers of William T. Sherman