Introduction

The Contested Terms of Manhood

Abraham Lincoln once termed the American Civil War “a people’s contest.” In contrast to European wars of empire waged by kings and aristocrats, Lincoln believed, it was the northern people who fought the war through democratic institutions to save the world’s only true republic. The most important institution that fought Lincoln’s “people’s contest” was the Union Army, a citizen army composed of millions of volunteers and draftees whose numbers dwarfed the small band of regular soldiers and West Point–trained officers. The Union Army in the Civil War was northern society in miniature, reflecting its culture and values and imbued with its strengths and weaknesses.

The Union Army, like the society from which it sprang, was cohesive enough to face many desperate hours and to emerge triumphant after four long years of war. But social divisions rent the army just as they did the republic for which it was fighting. Conflicts related to class differences and to competing conceptions of manhood pervaded its institutional life and the daily interactions of its officers and privates. In the Union Army, an educated, refined, morally sensitive, and wealthy twenty-year-old lieutenant could find himself commanding a hard-drinking group of prizefighters from the north’s lowest social class. For the army to fight effectively, it had to overcome tensions in the ranks born out of the many cleavages within northern society—tensions that often erupted into violence and threatened to destroy the basic discipline necessary for fighting. Sometimes, the shared experience of war brought men together. Sometimes, men found that army life revealed differences, exacerbated distinctions, and created conflicts among the very “people” engaged in the great contest for national unity.

When Thomas P. Southwick, an employee of the Third Avenue Railway Company in New York City, decided to volunteer for the Union Army, he sought a regiment “composed entirely of gentleman’s sons.” To his disappoint-
ment, none matched that description. First he tried Company C of the 10th New York. When the men of the prospective regiment assembled, Southwick was horrified. “There were about eight hundred in the room, rough, hearty looking fellows, the very best material for soldiers, but not good for companions, especially when under the influence of John Barleycorn,” he recalled. Southwick refused to join up with men whose “tastes and inclinations were so different.”

Southwick eventually enlisted in the 5th New York, also known as Duryée’s Zouaves. Gentlemen of high social standing recruited and served as the officers of this regiment. Nevertheless, it still contained its share of men that Southwick labeled “roughs.” One of Southwick’s companions in Company F was the Irishman Sullivan, “a noisy, turbulent and blustering little bully.” Sullivan fit the description of many other men in the Fifth—“strong, active and formidable with a very quarrelsome disposition.” The short and stout Irishman was “rough and rude in speech, but plucky as a game rooster and ready to fight with anybody.” Sullivan tried to engage every man in a physical tussle and judged each man by the result. He soon tested Southwick.

One day the company captain placed Southwick at the extreme left of the line during drill. This had been Sullivan’s place. During the exercises, Sullivan attempted several times to pass around Southwick to get to his left. Every time Sullivan did, Southwick would slide left and block the attempt. Eventually the two of them ended up some distance from the rest of the company. The captain ordered them to dress the line. Once again, Sullivan sought to move left. The exasperated Southwick grabbed Sullivan by the collar and hurled him out of the line. Rather than angering the Irishman, Southwick won his respect. Over time and shared hardship, the two men became friends. “Away down in the depths of Sullivan’s turbulent nature there was a current of affectionate kindness, a little bubbling fountain of tenderness, unperceived except by those for whom he expressed regard,” Southwick fondly recalled after the war. “I have occupied the same tent, drank from the same cup, and slept under the same blanket and underneath the roughness of the surface I found all the tenderness of a woman.”

Southwick and Sullivan were from different social classes and seemingly embraced different ideals of manly behavior. Southwick valued gentility; Sullivan sought to prove his manhood through physical prowess and domination. Eventually the two men discovered that their conceptions of manliness had elements in common. Southwick violated the genteel code according to some of his contemporaries when he lost his cool and manhandled the Irishman. His response to a rough was roughness. Sullivan, for his part, revealed
to those he knew well the same tenderness—that of a woman—which some genteel men proudly displayed. Southwick’s short reminiscence about his Irish companion in arms demonstrates the complexities of mid-nineteenth-century gender assumptions.

Northern men, to a greater extent than their southern counterparts, did not conform to a singular understanding of manhood or to a uniform ideal of what constituted manly behavior. Although recent scholars are beginning to explore the diversity in the ideals and practices of southern manhood, particularly for men outside the planter class, they acknowledge that a dominant manly ideal of honor and mastery pervaded the south. Men in the south engaged in acknowledged public rituals to establish a reputation sanctioned by the community; they acquired personal manliness through mastery of a set of dependents located in the household. The relatively coherent manhood ideal of southern men for the most part stemmed from the centrality of slavery to southern society and reflected the south’s more rural and traditional nature. Northerners, who experienced transformative social and economic changes during the antebellum era, developed a variety of manly ideals that reflected both the social diversity of the region and the new class structures that accompanied modern life.

Manhood in the mid-nineteenth century indicated an achievement rather than an innate nature that all biological males possessed. As one Union soldier aptly put it: “I see some men that are men in mind and body and a great many that are only men in body.” The generation who fought the Civil War thought of manhood in terms of the attributes a man displayed that marked him as worthy of the designation. While this conception appears to assign a moral component to manhood, this was not necessarily the case. Men sought to prove their manhood in a variety of ways: some through physical domination, some through the acquisition of an upright and self-controlled character, some through economic success, and some through a combination of attributes. What a man needed to achieve in his quest for manhood was a central question that received many different answers in the Civil War era.

Historians who study gender in the nineteenth century have identified and attempted to define the various ways that men practiced manhood, although they admit that all men cannot fit into the neat categories they have devised. Scholars have employed a variety of labels in their attempts to describe broad patterns of behavior and shared assumptions about manhood among subsets of men. Most recently, Amy Greenberg has argued that amid the cacophony of options, two were preeminent and competed for dominance: the “restrained man,” who centered his identity on the practice
of evangelical Christianity, his family, and his success in the business world; and the “martial man,” who rejected the moral standards of restrained men, placed little value on domesticity, and proved his manhood through physical domination rather than economic success.6

There is an alternative way to think about manhood in the nineteenth century other than creating artificial types and attempting to reduce men to categories. A man’s underlying values and the attributes that he sought to acquire and display informed his conception of manhood. As gender scholars, including Greenberg, already know, men of the Civil War era combined values and attributes in a variety of ways; there was a diversity of models and patterns. Whether the process occurred consciously or subconsciously, men chose from a spectrum of options when they pieced together the component parts of their manly identities. At the same time, men shared a common goal or expectation: others would recognize and respect their manhood.

The volunteers and conscripts in the Union Army, who reflected the socioeconomic diversity of the northern population, represented the full spectrum of choices available to men in the mid-nineteenth century. During the war they lived (and often died) together on terms of enforced intimacy under intense circumstances when the fate of the nation hung in the balance. Americans had always believed that the survival of the republic depended on the manhood of its citizens, and now the Civil War presented a critical test. Northerners assumed that manliness in civilian life should naturally produce model citizen-soldiers whose manhood would carry northern armies to victory. At a time when it seemed so important that northern men be manly, however, it became clear that no consensus existed as to what that meant. As the soldiers and officers of the Union Army looked around them, they were able to articulate the differences between their understanding of manhood and the competing versions they saw all around them. Indeed, during the war men were able to define manliness by pointing to their comrades as good examples of what it was not. Army life exposed in a very unsettling fashion the conflicts between northern men over how to define and measure manliness that centered on the attributes essential to manhood and how to recognize manliness in other men.

This study’s contribution to the scholarship on gender lies not in its description of different “types” of manhood practiced during the Civil War. Rather, it emphasizes the contested terms of manhood in the nineteenth-century north. Men’s experience in the army—particularly the close living quarters in camp, the importance of reputation, the need for discipline, and the authority of officers—exposed conflict over how to define and measure manliness that centered on the attributes of moral character, gentility,
physical prowess, honor, and social status. The attributes some men deemed essential to manhood—such as moral character or physical prowess—others disdained. Words that were widely used when men defined manhood—such as honor—had different meanings to different men. Men whose manhood was respected among their peers in civilian life, whether through displays of physical domination or mastery of refinement, failed to earn recognition of their manhood when confronted with those who adhered to different standards of manliness.

The army’s apparatus of discipline and justice became the battleground on which the war for manhood was fought. Tensions in northern men’s conception of manhood affected how officers used their authority and tried to lead, how men responded to their officers, and how military courts made decisions. Some officers used army discipline as a tool to promote the values and attributes they deemed essential for manhood; for other officers and enlisted men, army discipline impinged on some elements of their manly identities and they sought ways to resist. The ongoing battle over manhood within the larger society was intricately related to a conflict over the particular practices of manhood that were best suited for war.

This study utilizes extensive research into primary source materials that previous scholars of Civil War soldiers have virtually ignored: courts-martial records and regimental order books (for an explanation of methodology, see the appendix). Building their evidence base around the letters soldiers sent home and the diaries they used to record their experiences, historians have focused almost exclusively on the ideology of northern soldiers and what motivated them to fight. While these sources are useful, and form an important component of this study, they have limitations when used alone. Soldiers may have filtered their letters when writing to wives and family; nineteenth-century men used diaries not only to record events but also to self-consciously construct an identity and impose order on their experiences. Courts-martial records—the verbatim testimony of thousands of officers and privates—allows us to hear the voice of the illiterate for the first time, witness the interactions among men that they did not always describe in letters home, and uncover how men actually spoke to one another. Regimental order books, previously the exclusive province of regimental historians, contain trials and orders generated within the volunteer regiments that address the daily concerns and experiences of officers and soldiers. Through these records, we see what soldiers actually did and said. This book moves us past the well-worn ground covered in most studies of Civil War soldiers and into different fields of inquiry. By using new sources, this book captures a
side of the war that soldiers rarely wrote about in their letters home, and calls into question what we thought we knew about life in the ranks of the Union Army.

The central contribution of this book may be its recovery of the place honor held in northern men’s conception of manhood and in their daily interactions with one another. Honor, simply put, is when a man’s self-worth is based on public reputation and the respect of others. An insult to such a man is a shaming that requires a public vindication of worth. The current literature confines honor in the United States during the mid-nineteenth century almost exclusively to southerners. Most historians assume that honor had waned in the modernizing north by the time of the Civil War, yet this study demonstrates that honor thrived to a degree scholars have not recognized. Men in the Union Army spoke to one another using the language of honor, they engaged in affairs of honor (including issuing verbal and written challenges to duels), and they fought and killed men who had insulted them, often with the open or tacit approval of their comrades and military authorities. Honor was a contested term of manhood, however, and the reaction to these affairs within the ranks and within the system of military justice revealed a divided opinion about the definition of honor and its claims over a man.

This book exposes other holes in our understanding of Civil War soldiers and the social landscape of the Civil War north. One of the most glaring is the influence of class, a topic obscured by historians’ reliance on the letters and diaries of elite and middle-class soldiers. While class tensions were manifest in the records consulted for this project, the sources shed little new light on issues of race, which have been well treated in recent articles and full-length monographs of black soldiers in the Union Army. The final chapter provides a discussion of how race compounded the tensions between officers and privates that existed in white regiments as well, but class is the theme that runs throughout the book.

Perceptions of manliness were deeply intertwined with perceptions of social status, particularly with a distinct class of men labeled “roughs”: those from the very bottom of the economic ladder whose manly identities seemed to be centered on violence and drink. Men from all social classes participated in a culture of boisterous and aggressive male camaraderie, but the behavior of the roughs, in combination with their low social status, raised doubts about their manliness. Officers believed that roughs lacked the manly qualities necessary to be effective soldiers, and were convinced that it would take force to induce such men to do their duty and fight.
The intersection of social status—and race—with perceptions of manhood had serious ramifications for discipline in the Union Army. By using untapped courts-martial records and regimental order books, this study presents a portrait of how discipline was actually wielded in the Union Army. For the first time, through their words and actions, we see how Civil War officers governed the rank and file. The explosive issue of social status and its relation to manhood exacerbated the practical problems officers faced. Assumptions about social status shaped officers’ use of authority and methods of discipline, just as the reactions to those assumptions shaped how enlisted men responded to the efforts of their officers.

Historians who rely on letters home or memoirs written long after the war tend to overemphasize the esprit de corps of Civil War regiments and its ability to transcend differences in the ranks. Comradeship, as practiced in day-to-day army life, was complicated. The war generated intense bonds and intense friction between men. We know enough about the bonds between northern soldiers; it is time to balance that perspective with a discussion of the endemic nature of conflict and violence among the men of the Union Army. Union soldiers engaged in regular fistfights with each other, talked back to superiors, refused orders, and hit officers who tried to assert authority. Without a combined use of regimental order books, courts-martial records, and letters and diaries, historians have lost the extent to which officers employed violence as they exerted authority and led men into battle. Although this study moves away from questions about why men fought in the Union Army, it highlights what other scholars overlook: the brute force that kept so many soldiers in the ranks.

The topic of violence brings us back to northern conceptions of manhood and two common misconceptions among scholars who study manhood in the nineteenth century. Northerners who proclaimed the superiority of self-control often branded passion and violence as negative, particularly southern traits, and some historians have likewise tended to emphasize the contrast between self-controlled northern manhood and passionate southern manhood. This characterization has masked both the ambiguities in men’s understanding of self-control and the widespread presence of northern men who shared much in common with their southern counterparts when it came to unleashing violence. On the other hand, other scholars have overemphasized the extent to which the Civil War temporarily promoted a type of “hypermasculinity” over the other manly practices that northern men had embraced in the antebellum period. The demands of the march and battle, the all-male environment, and the violent nature of warfare, they argue,
encouraged men to cultivate manly prowess rather than refined delicacy. But this study found that men who valued gentility and domestic morality, no less than tougher and rougher men, found ample support for the values they cherished. Army rules and regulations usually reinforced rather than challenged their standards and gave such officers an opportunity to demand good morals and good manners. It was the hard-drinking, cursing, and fighting men of the army who were on the defensive in the military justice system when they faced prosecution for conduct unbecoming a gentleman.

Army experience taught an outspoken group of Union soldiers that an underclass of undesirable men existed in northern society: men whose violence and disorder threatened the discipline of the army and undermined its success on the battlefield. Many northern officers and soldiers left the army with a clear mental image of the “rough” and the danger he posed to society. The men who had truly saved the Union, they believed, were its gentlemen, men with domestic virtues, moral character, and proper manners. They had needed no discipline and they fought out of courage rather than coercion, unlike their baser opposites. This simplistic but widespread perception of the component parts of the Union Army served as a counterpoint to any “hyper-masculinity” that the aggression and violence of the war promoted. The war energized rather than muted genteel values and served to separate further the different types of men in the Union Army who lived and fought together.

This study is about manhood in the north as it played out in the specific context of the Union Army. The term “north” as employed in this book, therefore, encompasses several regions of the United States, since the men of the Union Army hailed from states as distant as Maine, Kentucky, and California. This approach recognizes that it is impossible to fix rigid lines around the cultural regions of the United States that neatly correspond to political or geographic boundaries. The men from Kentucky shared much in common with their southern neighbors in seceded Tennessee and with their northern neighbors in Indiana. Soldiers from Illinois were different from their Vermont compatriots, yet in other ways they were much alike. While some military historians emphasize the difference between “western” and “eastern” soldiers, the contested terms of manhood cut across regions and divided men who hailed from the same locales. Men in the Union Army who followed the code of honor came from Massachusetts and Kentucky. Soldiers and officers who were moral and genteel could be found in rural and urban units from every state. Hard-fighting, hard-drinking, and boisterous men showed up in the Army of the Cumberland and the Army of the Potomac. Different companies in the same regiment fought the battle for manhood: while the slov-
enly men from Company B beat one another senseless in a drunken melee, the men of Company K attended a weekly temperance meeting in their neat uniforms with polished buttons.

While the insights of this study apply to a broadly conceived “north,” the conclusions that follow also address questions about the self-contained world of the army. All the chapters include a simultaneous discussion of manhood and discipline/military justice; the last two chapters differ somewhat in tone from the rest and particularly focus on an extended analysis of discipline and military leadership in the Union Army. A quick summary of the basic structure of the army, military discipline, and military justice is therefore necessary to provide the background for readers to understand the chapters that follow.

The Union Army during the Civil War was a citizen army, built around a very small cadre of regular (professional) soldiers and a very large group of volunteers. It was sustained later in the war with volunteers who reenlisted and with conscripts and substitutes (men who were paid to serve in the place of a man who had been drafted). The bulk of the substitutes and conscripts were immigrants and men from the north’s lowest socioeconomic classes; volunteers generally viewed these men as quite different from themselves. But volunteers and conscripts did share a lack of military experience.

Since the American Revolution, Americans had struggled to reconcile the authoritarian and hierarchical nature of an army with the republican foundational principles of their Union. In each of its previous wars, the United States had relied heavily on volunteers, who refused for the most part to adopt the discipline of the regular army. In 1861, the United States fielded the largest army in its history and faced the monumental task of transforming over two million citizens into soldiers.

This process was complicated by how the Union chose to raise, train, and equip its regiments. Previous historians have amply demonstrated how the Union’s state-centered efforts created a myriad of problems for the army. States raised the regiments and commissioned the officers who were mustered into the federal service. State and local politics dominated the process of selecting officers to staff regiments, either because companies of recruits from the same area elected their officers or because governors made many of the appointments. Although governors appointed some qualified men, other commands went to grossly incompetent officers who received their position through political influence or the need to appease a certain constituency. The short term of initial enlistments (only three months) and the political nature of the inexperienced volunteer officers in state regiments combined to create
a notable lack of training and discipline among Union regiments in the first few months of the war.

After the fall of 1861, the picture changed mainly as a result of lessons learned at the disastrous First Bull Run. The federal government called for two- and three-year volunteers. The fall and winter of 1861–1862 provided an opportunity for officers and regiments to receive extensive training once their units were assigned to a brigade in the federal army. Army commanders implemented orders that began the process of disciplining recruits and weeding out incompetent volunteer officers through officers’ schools and exams.16

It mattered whether regimental officers were competent and well trained because throughout the war, the regiment remained the basic unit of command, organization, and administration for the Union Army. Soldiers were loyal to their company and regiment, which were small communities of men usually from the same geographic areas, and often with the same cultural and economic background. Some regiments, especially those recruited in major cities, contained companies of men from more divergent social and economic classes than were represented in other companies in the regiment. The bonds of unity and the forces of conflict from civilian life were transferred directly into the volunteer regiments. Federal armies experienced frequent reorganization and changes of command at the brigade, division, and army level, a factor that tended to reinforce the regimental orientation of the Union Army, which did not have enough competent brigadier generals to go around. Training, drill, and discipline remained for the most part in the hands of regimental officers. For this reason, the quality of training and discipline varied widely across the regiments composing the Union Army.17

Military discipline was a shock to many Union soldiers, most of whom had no prior military service. Civilians were nourished on ideals of independence and equality; military discipline required unquestioned obedience to the commands of officers who were to be treated as superiors. The most individualistic society on earth now demanded that its free men submit to the control of others and subsume themselves into units that acted with the efficiency and precision of a machine.

The army provided a remedy for those who were not disciplined and for those who violated the rules under which the military was governed. Every volunteer and conscript experienced the army’s system of discipline simply by being present. Although there are holes in the record, it is reasonable to estimate that approximately 75,000–100,000 men were subject to military justice during the war. Discipline and justice operated on several planes in
the Union Army: on a personal level between regimental officers and the men they commanded, and through various levels of courts-martial.

Officers in a regiment, from lieutenants to the colonel, could punish infractions of military discipline on the spot. Custom sanctioned this use of an officer’s authority. The decisions to inflict summary punishment rather than prefer formal charges, as well as the extent of the punishment imposed, were entirely in the hands of individual officers. An officer could assign a soldier extra duty, confine him to the guardhouse, or choose from a host of other punishments, most of which imposed either physical chastisement or shame on the offender. Officers in the Civil War ordered men to stand at attention on a barrel, hung men from trees by the thumbs, and tied soldiers in uncomfortable positions with gags in their mouths. John D. Billings, who served in the Army of the Potomac, recalled that the methods of punishment in his army were as “diverse as the dispositions of the officers.”

Military justice officially began when officers formally charged offenders and brought them before courts-martial. According to the Articles of War, the commanding officer of a regiment or garrison could appoint three commissioned officers (those with the rank of 2nd lieutenant or above) to try cases and sentence those found guilty. A regimental court-martial had its limits: it could not try commissioned officers or capital cases. Its officers could not impose a fine that exceeded one month’s pay or sentence an offender to more than one month’s hard labor or imprisonment. The commanding officer of a regiment had to approve the proceedings, findings, and sentence of regimental courts-martial and had the power to pardon or mitigate any punishment. Probably tens of thousands of soldiers experienced military justice at the regimental level.

The results of regimental courts-martial were published in regimental order books, but the records, unlike those of the general courts-martial, provide very little information about the offense of the soldier or the proceedings of the trial. Generally regiments only listed the charge (without specifications), the plea, the finding of the court, and the sentence. A survey of regimental order books conducted for this study demonstrates anecdotally that nearly all the accused at this level of trial pled guilty. The vast majority of those who did not plead guilty were found guilty. Regiments generally held the trial within a few days of the incident and tried several men before the same court. The officers presiding over the court usually inflicted similar punishments on all the men tried, regardless of the offense. The officers of the 23rd Ohio, for example, sentenced nearly every man to hard labor. Officers in regimental courts-martial distinguished between the severity of the offense
through differences in the duration or amount of punishment. In the 33rd Wisconsin, a man who missed roll call was fined one dollar, a man who was absent for a day paid four dollars, and a private who was missing for thirteen days forfeited one month’s pay and spent three days confined to his barracks with a ball and chain. Men from different regiments experienced widely differing punishments for similar offenses. Soldiers in the 33rd Wisconsin were fined for being absent without leave; men who did the same thing in the 23rd Ohio performed days of hard labor.21

Regimental courts-martial could try a wide range of offenses. According to the 99th Article of War, “all crimes not capital,” “all disorders and neglects,” anything, in short, that fell under the catchall phrase “to the prejudice of good order and military discipline” could be tried by either a regimental or general courts-martial, “according to the nature and degree of the offence.” Officers had a wide degree of latitude in deciding what behavior fell under this category and where it merited trial. An officer’s conclusion had serious consequences, since regimental courts-martial were limited in the punishments they could inflict, but general courts-martial were not limited. Other Articles of War gave officers some discretion in choosing where to prefer charges. The 6th Article of War, for example, stated that any soldier who behaved with “contempt or disrespect” toward a commanding officer should be punished “by the judgment of a court-martial.” Since this article did not specify that disrespect was a capital crime, officers frequently used regimental courts-martial to try such cases.22

Very early into the conflict, the exigencies of civil war made the use of regimental courts-martial problematic for units that experienced heavy attrition of officers. It was difficult to find enough officers to serve on court-martial without placing an undue burden on the regiment. To remedy this problem, Congress in July 1862 established field officer courts. Under the provisions of the congressional act, a regimental commander could designate a field officer to hear and determine all charges against enlisted men. Scholars who study discipline and military justice have all but ignored this type of court. Joseph Fitzharris examined field officer courts in his study of the 3rd Minnesota, but suggested that since other historians do not mention them, much of the army must not have followed the 1862 act.23 While units continued to use regimental courts-martial after 1862, I have found that implementation of field officer courts was in fact widespread in the Union Army and was enforced through orders descending from the War Department and issued through brigade and division headquarters. Inspectors in the Army of the Potomac investigated compliance and reported that
field officer courts were established in every regiment in accordance with the orders of the War Department.24

Justice under field officer courts was similar to that of the regimental courts-martial. The field officer tried several cases in one sitting, usually within a few days of the alleged incidents, and dispensed the same category of punishments to all offenders. Nearly all the accused pled guilty. Soldiers were not completely at the mercy of the field officer trying their cases. Regimental records of field officer courts indicate that commanding officers and brigade commanders reviewed the findings and sentences of field officer courts. Occasionally they reduced or remitted the sentences.25

It is impossible to estimate the number of regimental and field officer courts held during the war. General courts-martial, bodies appointed by the president or the commander of an army or military division, tried over 75,961 cases. A general court-martial consisted of thirteen commissioned officers, unless that number could not be assembled without “manifest injury to the service.” Under the circumstances of the Civil War, many courts had fewer than thirteen members, but no court could have fewer than five. Usually the officers constituting the court represented several different regiments from the same brigade. Often members of a court tried men from their own regiments; sometimes no members came from the same regiment as the accused. Thousands of volunteer officers, many of whom had no legal experience before the war, were members of general courts-martial. A ubiquitous part of a volunteer officer’s Civil War experience was dispensing military justice.26

General courts-martial had jurisdiction over any category of offense: violations of specific Articles of War and any case that fell under the 99th Article of War’s catchall provision for conduct “to the prejudice of good order and military discipline.” Only general courts-martial could try commissioned officers and capital cases. These courts could impose a wide variety of punishments, although the Articles of War prescribed punishments for some offenses. Only a majority was needed to convict in cases that were not capital, which meant that court members who had voted to acquit a defendant voted on the type and extent of punishment the court assigned. In capital cases, two-thirds of the officers had to concur in order to impose the death penalty. The general officer who appointed the court reviewed all proceedings before any sentence was carried out. Any sentence that involved the dismissal of a general officer had to be sent to the president via the secretary of war for confirmation or disapproval. In times of war, the death penalty could be executed without confirmation from the president, and this was done during the
Civil War. In January 1864, however, Lincoln issued orders that suspended execution in all capital cases because he wanted to review the proceedings before the sentence was carried out.27

Officers who sent men before general courts-martial wrote the charges and specifications on which the accused was tried. Henry Coppée, one contemporary expert on courts-martial, explained that the charge “should be a general statement of the crime or offense against the articles of war,” and the specification “points out in detail the act committed.” The sample he provided exemplifies the general form that was used consistently throughout the Union Army during the Civil War:

Charge 1st: Disobedience of Orders

Specification: In this, that he, private ———, of company A, 1st artillery, being ordered by his commanding officer, Lieutenant — — — , of the 1st artillery, to proceed to the guard-house, and report himself to the sergeant of the guard, did fail to obey said order. This at Fort Columbus, New York harbor, on or about the 11th day of December, 1861.

Officers in the Union Army, most of whom had no legal training in civilian life, had to write specifications that succinctly and accurately described the criminal actions of the accused and had to place the specifications under the appropriate charge. The decisions officers made when they specified and classified the crime were vital to the subsequent trial. The evidence had to prove the specifications, and the specifications had to support the charge. An appointed judge advocate served as the prosecutor during the court-martial, but he had not written the charges.28

The most important single figure in the proceedings of a general court-martial was the judge advocate. This was an officer appointed in the order convening the court to prosecute in the name of the United States. As writers on military law pointed out with disgust, there were few regulations in the legislation establishing military justice that touched on the position of judge advocate. Most judge advocates in the Civil War had no previous military experience, although some of them probably had legal experience in civilian life. The judge advocate advised the court in matters of form and law and was charged to protect the rights of the prisoner. Although he was the prosecutor, military law and custom required the judge advocate to identify himself with the interest of the prisoner to a certain extent, regardless of whether the prisoner had counsel. The 69th Article of War specifically instructed the judge
advocate to “so far consider himself as counsel for the prisoner, after the said prisoner has made his plea, as to object to any leading question to any of the witnesses, or any question to the prisoner, the answer to which might tend to incriminate himself.”

When the courts closed for deliberation of the verdict, the judge advocate remained present to advise the court on legal points if they asked for his opinion. He was not permitted to urge a verdict of guilty or to present any argument to the court. This feature of military justice was in some measure a necessity; officers who served as members of the court were supposed to have studied the laws and practices of courts-martial, but in reality many officers did not have the time or the ability to become experts in military justice. Most courts needed the sound advice of a competent legal adviser. But this necessity gave the prosecution an unfair advantage if the judge advocate was not an impartial man.

The Articles of War and army regulations provided some protection of the rights of the accused who were brought before general courts-martial. They received a copy of the charges against them before the trial, could secure counsel, challenge members of the court (as could the prosecution), question witnesses, and call defense witnesses. The accused could object to questions posed by the judge advocate, although only another court member could object to a question posed by the court. The prisoner also had the right to address the court with a summary of his defense and to impeach with evidence the character of the witnesses brought against him.

Some protection was afforded the accused through the power of reviewing authorities to overturn the findings and sentence of general courts-martial where courts violated procedures or made errors in law. Through this procedure, the army bureaucracy tried to ensure that justice was done in cases where the original court had erred. In the courts-martial records examined for this study, reviewing generals regularly overturned convictions because they believed that the evidence had not sustained the charge. In many instances soldiers were returned to duty because of minor technicalities.

Military justice was a pervasive feature of the Civil War experience for Union volunteers—the majority of commissioned officers likely served on a regimental or general court-martial and enlisted men from nearly every regiment in the army were tried for military crimes. Discipline was a daily part of army life for all officers and soldiers. The rest of this book reveals how the contested terms of manhood affected the discipline of men at the regimental level and the implementation of all levels of military justice. At times
men in the Union Army were self-conscious; some officers openly advocated
different treatment for the men they labeled “roughs” and framed their argu-
ments around the inferior manhood of such men. Everyone knew that ideals
of manhood were at stake when officers were tried in general courts-martial
under charges that they had behaved in ways unbecoming a gentleman. At
other times the officers and soldiers of the Union Army seemed unaware that
the actions they took reflected deeply held beliefs about what constituted
manly behavior. Through their experience of discipline and military justice,
however, northern men from all ranks of life became more aware of the dif-
ferences between them.