Daniel Read Anthony, Jayhawker and Leavenworth editor.
On July 6, 1862, Lieutenant Colonel Daniel Read Anthony of the Union Army arrived at the Tishomingo Hotel in Corinth, Mississippi. Here he awaited court-martial on charges of disobedience and conduct unbecoming of an officer. Anthony was the commander of the Seventh Kansas Volunteer Cavalry Regiment, one of a group of notorious Kansas regiments known as “Jayhawkers.” The nickname originated between 1854 and 1860 during the struggle to determine Kansas’s status as a slave or free state. “Jayhawkers” were men from Kansas who opposed the spread of slavery and engaged in violent confrontations with proslavery men from Missouri. During the Civil War many of these men joined units such as the Seventh Kansas and continued to aggressively pursue Missouri slaveholders. Anthony found himself in the Tishomingo Hotel because of those practices.

Born in Adams, Massachusetts, in 1824, Daniel Read Anthony was brought up in an abolitionist family. His older sister was social reformer and women’s rights advocate Susan B. Anthony. The two were close and wrote one another frequently. Their father, also named Daniel Anthony, was a Quaker and a personal friend of the abolitionists William Lloyd Garrison and Frederick Douglass.1 The Anthony family also included three other siblings, and their mother, Lucy Read. The family moved to New York in the late 1820s, eventually settling in Rochester. Daniel Read Anthony first visited Kansas in 1854 and lived in Leavenworth from 1857 until his death in 1904. During his life, he was among the most influential newspaper editors in Kansas. He founded the Leavenworth Conservative in 1861 and later bought the Leavenworth Times. From October 1861 until September 1862, he left the newspaper business to serve in the Union Army, bringing his abolitionist ideals with him.

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Examining Anthony’s brief and tumultuous military career provides insight into the Union Army’s internal struggle over the character of the war it was fighting. At the heart of this struggle was what to do about slavery, which Southerners were trying to protect by seceding. When the war began, Union Army forces immediately began encountering slaves. In many cases, slaves ran away to Union lines, believing they would be safe there. Union soldiers also came into contact with slaves and slaveholders while on patrol or in battle. Finally, Confederate slaveholders employed their slaves to help build fortifications and move war materials. During 1861 and much of 1862, Union leaders were divided on how to respond to disloyal slaveholders and whether the military should emancipate slaves. As the war developed, policies regarding this issue were introduced to guide officers and soldiers. These policies were particularly important in the occupied slave states of Missouri, Kentucky, and Tennessee, where the Union had to effectively wage war and also maintain civilians’ loyalty. Anthony is a useful example because he served in those states.

Unit commanders such as Anthony were responsible for making day-to-day decisions on issues such as runaway slaves. Anthony believed he was fighting a war against slavery. He applied that logic to his interpretation of the policies and orders he was responsible for carrying out as a regimental commander. He repeatedly clashed with colleagues and superiors who had different interpretations of the same orders and policies. His story shows how malleable Union emancipation policies were, how rapidly those policies were evolving, and how officers’ preexisting motivations and ideas could dramatically influence the actions they took toward soldiers, enemy combatants, slaves, and civilians.

Historians have traditionally included Anthony as a member of a specific group of abolitionists who served in Kansas, including Brigadier General Jim Lane, Major General John Fremont, Major General David Hunter, and Colonel James Montgomery. Abolitionists were undoubtedly a minority in the Union army, and their beliefs are already well known. However, they are also significant because as for all officers, their decisions turned orders into actions felt by slaves, soldiers, and civilians. Recent interpretations of the Civil War in Missouri by Joseph Beilein, Sharon Romeo, Christopher Phillips, and others have shown how different groups “felt” or experienced the war. Phillips, along with James Oakes, has also argued that the fate of fugitive slaves was a core issue hotly debated within the Union Army and inseparable from the character of the war itself. Anthony’s abolitionist beliefs were the product of a particular experience. During the war these beliefs influenced his actions. His actions in turn affected the wartime experience for the civilians and slaves with whom his unit came into contact.

The most detailed discussion of Daniel R. Anthony’s military service is in Stephen Starr’s Jennison’s Jayhawkers (1973). Starr interprets Anthony as a reckless radical out of touch with the conservative federal government and the rest of the army. However, Anthony does not appear to be as reckless as Starr’s characterization of him, nor is the Union government as cautious. Certainly Anthony was a radical, but the narrative of Anthony vs. mainstream Unionists is flawed. Instead of outright rejection of Union policy, Anthony applied his own twists to them. He bent, and sometimes broke the rules, yet he generally believed his methods were appropriate. He disagreed not with the Union government or policy but with his peers and superiors’ implementation of that policy. This is why Anthony’s actions provoked so much dialogue within the Union Army about what kind of war it was collectively fighting; there was not one agreed upon policy to begin with. While Starr does acknowledge how Anthony provoked dispute, he does not capture the fine distinctions between how different officers interpreted military policy.

This article traces Anthony’s actions through his personal correspondence, firsthand accounts from members of the regiment, newspaper accounts, and official Union sources. Much of Anthony’s personal correspondence has not yet been published, and it offers important insights into how he conceived of the war. Official Union records reveal the responses to Anthony’s actions. This article offers an updated account of Anthony’s wartime actions, using only those incidents confirmed by firsthand accounts from the regiment or other official Union sources. The analysis of events is followed by a side-by-side comparison of Anthony’s actions with those of his peers and superiors with whom he clashed.


Missouri is often included in the list of “border states,” along with Kentucky, Maryland, and Delaware. All were slave states that did not secede. However, that list is inadequate. Recently, Christopher Phillips and Adam Arenson have argued that a much larger group of states, including Missouri, Kentucky, Illinois, Indiana, Iowa, Ohio, and to a lesser extent Kansas, formed a region distinct from either North or South. They call this region the “West.” For the purposes of this article, Tennessee is added to this border region because during the war it was part of the same military department as Missouri; therefore, Union military policy and practice in Missouri carried over into Tennessee. Despite being in a Kansas regiment, the men who served under Anthony had ties across the region. When this article refers to “border states” or “border region,” it is referring primarily to Missouri, Kentucky, and Tennessee and secondarily to a larger surrounding region.4

Congress opened Kansas for settlement by passing the Kansas-Nebraska Act in 1854. The act specified that the status of slavery in Kansas and Nebraska would be decided by the vote of the settlers, a doctrine known as “popular sovereignty.” The possibility of Kansas becoming a slave state precipitated a settlement race between free-state and proslavery factions. Each side’s objective was to gain a majority of voters. Organizations such as the New England Emigrant Aid Company and the New York State Kansas Committee were formed to help get to Kansas settlers who would vote against slavery.5 In 1854 Anthony arrived in Kansas as a member of the very first party of settlers organized by the New England Emigrant Aid Company. After helping to establish the town of Lawrence, Anthony returned to Rochester, New York, that same year. In 1855 the proslavery party tried to counter the abolitionists by rigging the territorial election. Hundreds of people came into Kansas from Missouri to vote illegally, causing the election of what became known as the “bogus legislature.” This legislature promptly enacted a strict code of laws, one of which made speech against slavery illegal.6

4. Phillips also calls it the “Middle Border.” This article uses this definition of what constitutes the “border states.” For more, see Phillips, The Rivers Ran Backward; and Adam Arenson, The Great Heart of the Republic: St. Louis and the Cultural Civil War (Cambridge, MA: Harvard University Press, 2011). I include Tennessee in the border region not only because Anthony served there but also because it was part of the same military department as Missouri and therefore was subject to the same policies. Union forces occupied it early, and eastern Tennessee was home to a large pro-Union population. Maryland and Delaware, though border states in the traditional sense, are beyond the scope of this article and may not so readily belong to the same cultural region.


In June 1857 Anthony returned to Kansas Territory. In his letters home, he maintained his certainty that “time will tell the story and Kansas will be Free.” Like many, Anthony believed that the political and economic interests behind slavery were trying to restrict rights to the ballot and free speech. When his older sister Susan B. Anthony queried him about supporting the women’s movement, Anthony replied “we have enough to attend too [sic] besides Women’s Rights just now—would like to cultivate our people so that they will allow white men to live and breathe first.” When Missourians kidnapped Leavenworth barber Charlie Fisher for allegedly being a fugitive slave, Anthony helped Fisher escape. Of “border ruffians” like the ones who took Fisher, Anthony said that they “should be shot as mad dogs.” When John Brown was captured after the raid on Harpers Ferry, Anthony put up $150 to help fund efforts to free him and later wrote, “Old Brown died like a hero as he was.” Anthony’s hostility toward slaveholders was shaped during Bleeding Kansas and later guided his practices as commander of the Seventh Kansas.

Kansas was finally admitted to the Union as a free state on January 29, 1861. In April 1861 Fort Sumter was attacked, and the Civil War began. When Kansas began forming regiments, some men volunteered because they believed the war was a chance to settle the score with Missourians and strike another blow at slavery. As historian Mark Lause explained, “the friends and admirers of John Brown from across the country . . . knew to go to Kansas and enlist under Gen. [Jim] Lane or Col. [James] Montgomery, because no fugitive slaves would be returned by them.” The men who joined Kansas’s regiments were noteworthy because they believed they were fighting to end slavery from the outset. They were a distinct minority in the border region, where most were content with restoring the Union and maintaining slavery. The entire economic and social system of the region, including both free and slave states, was built on the slave hierarchy. The federal government understood these conditions, and its policies were designed to protect the rights of loyal families to own slaves in order to keep Kentucky and Missouri in the Union. However, men who joined regiments such as the Seventh Kansas saw all slaveholders as the enemy.

The Seventh Kansas Volunteer Cavalry Regiment was organized at Fort Leavenworth on October 28, 1861. Despite being designated as a Kansas unit, its ranks...
included men from Illinois, Ohio, and elsewhere. John Brown Jr., Samuel Ayers, Charles Lovejoy, George Hoyt, and the other men who joined the regiment were “abolitionists of the intense sort.” Anthony played a pivotal role in the organization of the regiment. Although Colonel Charles R. Jennison was listed as the regiment’s senior officer, it was Anthony who commanded the regiment in person until his arrest. Under Anthony’s leadership the regiment operated in western Missouri from November 1861 to January 31, 1862. The regiment spent the rest of the winter stationed at Humboldt, Kansas. Next it was sent to Lawrence, Kansas, on March 25. On April 22 it was assigned to join a newly formed brigade at Fort Riley commanded by Brigadier General Robert B. Mitchell. The regiment was still part of Mitchell’s brigade during the pivotal events that occurred in Tennessee in June 1862.

Several members of the Union high command are important characters in this story. Major General David Hunter succeeded General John C. Fremont as commander of the Department of the West on November 2, 1861. When the Department of the West was reorganized into the Department of Kansas and the Department of the Missouri, Hunter retained command of the former from November 9, 1861, to March 11, 1862. General Henry Wager Halleck commanded the Department of the Missouri (renamed the Department of the Mississippi on March 11, 1862) from November 19, 1861, to July 23, 1862. Departments such as those commanded by Halleck and Hunter were made up of districts. Within Halleck’s department, Brigadier General Isaac F. Quinby commanded the District of Mississippi (April 21–June 16, 1862) and later the District of West Tennessee (June 16–September 24, 1862). During Anthony’s tenure as commander, the Seventh was part of first the Department of Kansas and later the Department of the Missouri. Depending on where his regiment was stationed during his service, the Seventh Volunteer Cavalry Regiment was organized at Fort Leavenworth on October 28, 1861. Despite its designation as a Kansas unit, its ranks included men from Illinois, Ohio, and elsewhere. As was the case throughout the country (North and South), men were often drawn to service by broadsides like the one seen here, sent out by Charles Jennison in August 1861. In the case of the Seventh Kansas, the regiment included “abolitionists of the intense sort” such as Samuel Ayers, Charles Lovejoy, and George Hoyt.

13. Simeon Fox, “The Story of the Seventh Kansas,” Kansas Historical Collections, 1903–1904 8 (1904): 15; Lause, Race and Radicalism, 50; Stephen Starr, The Union Cavalry in the Civil War, Volume I: From Fort Sumter to Gettysburg (Baton Rouge: Louisiana State University Press, 1979), 191. George H. Hoyt was the chief defense attorney for John Brown after Harpers Ferry. Charles Lovejoy served as chaplain for the Seventh Kansas and operated a school for the fugitive slaves who flocked to the regiment; Samuel Ayers’s letters contain many anecdotes from his time with the Seventh Kansas and are in the holdings of the Kansas Historical Society.

Anthony answered to Hunter or Halleck as his department commander. When he was in Mississippi and Tennessee, Quinby was Anthony’s district commander, located between Anthony and Halleck in the chain of command.15

In Missouri, the Union Army was fighting organized Confederate forces as well as an armed insurgency of Confederate guerrillas and sympathizers. Guerrillas were white men who were driven to fight by a desire to protect their slave-based society. They believed that Lincoln’s Republican government and Kansas military units were a threat to that society. Forming small bands, these men waged war by raiding Union positions, burning bridges, and disrupting supply lines and communications. Extended family and social networks provided shelter and support for the guerrillas. Many guerrilla bands were clustered in western and central Missouri. Guerrillas wore no uniforms and often disguised themselves either as civilians or as Union soldiers. After a raid, they could melt back into the local population. These men were known as “Bushwhackers,” and, like Jayhawkers, they carried old grudges from Bleeding Kansas.16 Anthony fought the insurgency not only by attacking them, but also by confiscating property, especially slaves. During a six-day march from Kansas City to West Point, Missouri, the regiment took “150 mules & 40 horses, 129 negroes . . . a lot of oxen, 10 wagons [sic] & two carriages.” Anthony gave some of the confiscated goods and stock to the newly freed slaves and sent them across the border into Kansas.17 He and his regiment also helped pro-Union families move across the border. Anthony believed that in order to defeat the Confederacy and the Missouri insurgency, the Union had to directly attack slavery and the Southern home front.

On New Year’s Eve 1861, the regiment marched to Dayton, Missouri, where Union sympathizers claimed three Confederate officers were recruiting men to join Sterling Price’s Missouri militia. Sterling Price was one of the most important leaders of Confederate forces in Missouri. From 1853 to 1857 he was governor of Missouri. After the war began he took command of the Missouri militia to fight for the Confederacy, and on March 6, 1862, Price received a formal commission in the Confederate army.18 Anthony’s regiment arrived in Dayton on New Year’s Day 1862 to find that the main body of the reported Confederate force had escaped during the night. With it had gone much of the town’s population. Anthony ordered the town burned because it had “been used voluntarily as a depot for recruiting and supplying the rebels”; he spared only “the one house belonging to [a] Union man.” Anthony reported to General David Hunter that “we captured a lot of stock belonging to rebels, 6 tents and company utensils” and that “some 15 Union families moved into Kansas.”19

On January 5 a group of Union men requested Anthony’s help protecting loyal families in Holden and Columbus, Missouri, from Southern insurgents. Anthony dispatched part of his regiment to Holden and then on to Columbus, where local Southern sympathizers led the Kansans into an ambush. Five men were killed and three taken prisoner before the Kansans retreated back toward Holden. Anthony retaliated to the townspeople’s treachery by taking their livestock, “applying the torch to 225 secesh buildings,” and, “[bringing] out 50 Union families, who burned their own buildings, so that they could be of no service to the rebels.” Writing to Hunter, Anthony justified the destruction because “the people of the town decayed [his men] into an ambush.”20 For Anthony, these tactics were logical: the residents of Dayton and Columbus were in league with the enemy and therefore merited harsh treatment.

General Hunter’s adjutant wrote to Anthony that Hunter had “read with surprise” the reports on the destruction of Dayton and Columbus and that he saw

17. Daniel Read Anthony to Daniel Anthony, December 22, 1861, and Daniel Read Anthony to Aaron McLean, December 3, 1861, box 1, folder 8, Anthony Papers.
20. Jeffery Patrick, ed., “This Regiment Will Make a Mark: Letters from a Member of Jennison’s Jayhawkers, 1861–1862,” Kansas History: A Journal of the Central Plains 20 (Spring 1997): 56–58. The word “secesh” is a phonetic spelling of the shortened word “secessionist” and was frequently used in written reports to refer to Confederate forces and/ or sympathizers. “Report of Lieut. Col. D. R. Anthony, First Kansas Cavalry,” January 13, 1862, Official Records, series 1, vol. 8, 47. Before being mustered into service in October 1861, the Seventh Kansas Cavalry was briefly known as the First Kansas Cavalry. For some reason Anthony occasionally used the latter in his correspondence even after the name change.
“no evidence in either report of a state of facts sufficient to warrant these extreme measures.” However, Anthony was not punished. The reasons for Hunter’s objections can be found in Henry Halleck’s General Order 13, issued on December 4, 1861. Halleck specified that the army would confiscate for use by the army the personal belongings, goods, and food supplies of Missourians who aided or participated in the insurgency. Such Missourians were also to be arrested, tried, and punished. Those who acted as spies or directly took up arms against the Union were not given the rights of regular enemy soldiers. Instead they could be executed if condemned. Others who indirectly aided the insurgency or harassed loyal citizens were subject to retaliation by the Union Army. Halleck understood what he was facing and compared it to occupying Mexico during the U.S.-Mexican War. However, the key to understanding why Anthony’s

actions were unacceptable to Hunter and Halleck is in the method of retaliation. If a Union citizen was murdered or robbed, the soldiers could not respond with murder and robbery of their own. Burning a town and leaving its inhabitants destitute was not appropriate retaliation, even if they were disloyal. Anthony was acting vigorously in pursuit of insurgents, but he was not doing so in the specific manner required by Halleck.

If Halleck thought Missouri was already as hostile as Mexico, he also believed the Jayhawkers were making things worse. On January 14 Colonel Frank Steele sent Halleck the account of a pro-Union man from Rose Hill who complained that men from the Seventh “took his wife’s silverware, furs &c. . . . They shot to death Mr. Richards, a good Union man, without cause of provocation.” Colonel Steele offered to dispatch his own troopers to arrest Anthony and his men. On January 20 General Halleck wrote to Washington that Anthony’s regiment and other Jayhawkers “are no better than a band of robbers; they cross the line, rob, steal, plunder, and burn . . . and are driving good Union men into the ranks of the secession army. Their conduct within the last six months has caused a change of 20,000 votes in this state.”

Unionist Missouri officials also complained directly to Secretary of War Edwin M. Stanton. In his reply Stanton promised that “no effort on the part of the Government will be spared to protect the Union men and loyal citizens of Missouri from all illegal force and lawless violence.” However, George Miller, a resident of Pleasant Hill, Missouri reported to his parents on January 14 that “the secessionists here are fast beginning to give up the contest in Mo” because of Anthony’s tactics. Some actions by men of the Seventh Kansas are indefensible, but what is more important is how perceptions of the war in Missouri diverged depending on point of view.

At the end of January, the Seventh Kansas was stationed in Humboldt, Kansas, in the southeastern section of the state. This was widely interpreted among the men in the regiment as a punishment; Humboldt was over seventy-five miles from the region where they had previously

24. “General Orders No. 13.”
25. Frederick Steele to J. C. Kelton, January 14, 1862 (letter forwarded to General Halleck), Official Records, series 1, vol. 8, 507–09.
26. Henry W. Halleck to Lorenzo Thomas, January 18, 1862, Official Records, series 1, vol. 8, 507. Anthony’s and Jennison’s were far from the only aggressive Kansas units. Irregular Kansas forces had existed since the beginning of Bleeding Kansas, and the war gave them new life as well.
28. From George Miller to Dear Father and Mother, January 14, 1861, box 1, folder 4, Josiah Miller Collection, Kenneth Spencer Research Library, The University of Kansas, Lawrence, http://www.civilwaronthewesternborder.org/content/george-miller-dear-father-and-mother.
Anthony equated slaveholding with disloyalty. Therefore, that as an abolitionist and a product of Bleeding Kansas, Union commanders to have such concern about Anthony? Halleck, Anthony had reason to be concerned. However, Anthony had his defenders as well.

According to Simeon Fox, the regiment’s adjutant, Anthony had not acted excessively harshly in Missouri. Fox also claims Union commanders scapegoated the Seventh Kansas, blaming it for the actions of other groups. In “The Early History of the Kansas Seventh Cavalry,” Fox confirmed that during its Missouri service the regiment burned houses and took personal goods, slaves, livestock, and food only when they were known to belong to Missouri insurrectionists. Writing after the war, Fox also argued that the Dayton and Columbus incidents were appropriate actions, and that Halleck’s conservative tactics in Missouri were inadequate for fighting an insurgency that blended into the local population. Certainly members of the Seventh Kansas committed atrocities, but Fox described Anthony as a strict disciplinarian. For example, one cavalryman who did commit robbery at Pleasant Hill was sentenced to be shot the next day. The image of Anthony the indiscriminate pillager is incongruent with that of Anthony the exacting disciplinarian and is unsupported by his letters and Fox’s account. So what really caused Union commanders to have such concern about Anthony?

The key to answering that question is to understand that as an abolitionist and a product of Bleeding Kansas, Anthony equated slaveholding with disloyalty. Therefore, all slaveholders were likely secessionists in Anthony’s view. He had expressed these sentiments during Bleeding Kansas and continued to do so during the war. Writing to his sister in early February, Anthony declared that “in our march we free every slave, every man of all nations, kindred, tongue and color—and arm or use them in such manner as will best aid us in putting down rebels—we hope to stir up an insurrection among the negroes.” The specific targeting of slavery drew the attention of Union commanders in the larger context of the taking of property in general. Halleck and the Union Army distinguished between pro-Union and secessionist slaveholders. Halleck was most concerned that Anthony’s tactics targeting slavery also angered proslavery Unionists in Missouri. Quite simply, Halleck believed Missouri slaveholders might remain loyal. Anthony assumed they were not.

The necessities of war guaranteed that Anthony’s regiment was soon back on the front lines. In March, the Seventh Kansas was sent to Fort Riley, where it joined Robert B. Mitchell’s new brigade. On May 18 the brigade was assigned to reinforce the Army of the Mississippi, which was advancing toward Corinth, Mississippi. This movement put it back in the department commanded by General Halleck. Departing Leavenworth, Kansas, on May 28, it arrived in Columbus, Kentucky, sometime between June 2 and 4, with Anthony in command. The Seventh Kansas departed Columbus on June 7 and moved south toward Union City, Tennessee, providing protection for the work crews repairing the Mobile and Ohio Railroad. Reports soon came in that members of Mitchell’s brigade were causing trouble. The reports do not specify whether members of the Seventh Cavalry were involved, but Halleck believed they were. He wrote directly to Stanton that the Kansans were “making enemies to our cause wherever they went” in Kentucky and Tennessee, and “Colonel Anthony actually encouraged his men in

29. Daniel Read Anthony to Lucy Read, November 22, 1862, box 1, folder 9, Anthony Papers.
30. Daniel Read Anthony to Aaron McLean, February 19, 1862, box 1, folder 9, Anthony Papers; Daniel Read Anthony to Aaron McLean, April 25, 1862, box 1, folder 9, Anthony Papers. Anthony wrote of the arrest of Jennison, “If they have charges against him for his Missouri policy—we are all in the same boat.”
33. Daniel Read Anthony to Daniel Anthony, November 24, 1861, box 1, folder 8, Anthony Papers.
34. Daniel Read Anthony to Susan B. Anthony, February 3, 1862, box 1, folder 9, Anthony Papers; see also “Kansas Emancipation League,” Liberator (Boston), March 21, 1862. Anthony was the president of the Kansas Emancipation League, and the organization’s manifesto called for a military solution to slavery.
36. Official Records, series 1, vol. 13, 577. Mitchell’s brigade also included the First Kansas Infantry, the Second and Seventh Kansas Cavalry, the Twelfth and Thirteenth Wisconsin Infantry, the Eighth Wisconsin Artillery, and an unnumbered Kansas artillery unit.
Anthony’s abolitionist-motivated practices against southern civilians continued in May–June 1862 when the Seventh Kansas was assigned to reinforce the Army of the Mississippi, which was advancing toward Corinth, Mississippi. On or about June 10, the regiment camped on the property of a local slave owner, A. G. Simms. When the regiment left Simms’s farm, approximately eight of his slaves went with it. Anthony’s refusal to return the slaves reflected his and his men’s personal views, as illustrated in the letters of John Brown, Jr., pictured here. Brown, son of well-known abolitionist John Brown, discussed the Seventh Kansas’s tendency to protect slaves rather than return them to their owners.


40. Copy of General Quinby to General Mitchell, June 13, 1862, box 1, folder 9, Anthony Papers.

41. “Letter from the Kansas 7th,” Freedom’s Champion (Atchison, KS), September 6, 1862.

42. Copy of General Order 16, Anthony Papers.
I. The impudence and impertinence of the open and avowed Rebels, Traitors, Secessionists, and Southern Rights men of this section of the state of Tennessee in arrogantly demanding the right to search our camp for their fugitive slaves has become a nuisance and will no longer be tolerated. Officers will see that this class of men . . . are excluded from our lines.

II. Should any such parties be found within our lines, they will be arrested and sent to headquarters.

III. Any officer or soldier of this command who shall arrest and deliver to his master a fugitive slave shall be summarily and severely punished according to the laws relative to such crimes

IV. The strong Union sentiment in this section is most gratifying and all officers and soldiers . . . are requested to act in their usual kind and courteous manner and protect [loyal civilians] to the fullest extent.

Anthony crafted this order to be an extension of his war on slavery. As in Missouri, Anthony sought to protect nonslaveholding Unionists who he was satisfied were loyal.

When General Mitchell returned to the regiment he discovered what Anthony had done. Mitchell had Anthony arrested on or about June 25 and charged him with disobedience of orders and conduct unbecoming an officer and a gentleman. Among the specifications for the first charge were that Anthony had (1) “caused to be admitted to his camp two colored women, in violation of General Order 16,” (2) failed to post a camp guard on multiple occasions, (3) “allowed his men to commit numerous and divers depredations,” (4) attempted to “incite a violent and disorderly demonstration” after he was arrested, and (5) issued a regimental order (different from his brigade order) that contradicted General Order 16. The second charge further alleged that Anthony had (1) aided in the escape of a “colored horse thief”; (2) verbally abused the slaveholder Simms; (3) indicated “the purpose of his troops to be the taking of property and slaves”; and (4) convinced slaves to steal livestock and escape from their master, one “Mr. Martin.” Anthony was being accused of a range of transgressions, including lack of discipline within his unit, theft of property, poor treatment of noncombatants, and theft of slaves. Brigade Order 26 was not mentioned.

As befitted a journalist, Anthony made sure his arrest made newspaper headlines throughout Kansas and across the nation. The Cleveland Herald of July 15, 1862, describes how Kansas senator Jim Lane pursued Anthony’s release. Anthony was soon acquitted of the charges.
without a court-martial, but by then he had soured on army life. The army did not give him command of the regiment again, promoting Major Albert L. Lee instead. By now it was obvious the Union Army had no room for an ideologue like Anthony, whose abolitionist practices were seen as doing more harm than good because they upset pro-Union populations opposed to any hint of racial equality. Anthony never saw things that way. Ironically, he agreed that the army was doing more harm than good, but he thought it was because it was being too soft on the Confederates. On July 8, a few days after his arrest, he wrote an emotionally charged letter to his father complaining about the plight of Union soldiers assigned to protect the homes and farms of the very rebels who sought to kill them—the very rebels who took meaningless loyalty oaths. This was not what Anthony had signed up for, and he wrote, “Under all these circumstances, I think the army is better off without me.”

47. Daniel Read Anthony to Daniel Anthony, July 8, 1862, box 1, folder 9, Anthony Papers.

The prevailing interpretation of Anthony’s military career has been that he was an emancipator ahead of his time whose beliefs conflicted with a conservative Union government and that he was arrested for violating clear Union policies prohibiting emancipation of slaves by the army. Anthony has typically been portrayed either as a hero of emancipation who defied a reluctant Union

47. Daniel Read Anthony to Daniel Anthony, July 8, 1862, box 1, folder 9, Anthony Papers.
government, or a villain who destroyed innocent lives in Missouri. Joseph Beilein has argued that some historians have traditionally oversimplified the rebel guerrilla as good or evil; similarly, some historians have oversimplified Anthony and the men of the Seventh Kansas. There was a specific logic to the way Anthony waged war. He combined abolitionist idealism with a desire to punish the secessionists. His personal correspondence and official reports reveal both sides of his motives in action. The narrative of the abolitionist Anthony versus the conservative Union military (at least early in the war) obscures the fact that Union policy toward slaveholders was not black-and-white. The heart of this flawed narrative is the misconception that the U.S. government and the military had a uniform policy for dealing with fugitive slaves. Despite what Quinby thought, Brigade Order 26 actually drew from existing policies. Furthermore, General Order 16 and the actions of Quinby and Mitchell were not completely consistent with federal policy at that time.

To varying degrees, Missouri, Kentucky, and Tennessee were governed as occupied enemy territories subject to military rather than civilian systems of justice. By taking up arms against the Union, individuals forfeited constitutional protections of slavery. Martial law put the Union Army in the role of deciding the fate of slaves in those three states. Therefore, the Union Army was the only actor able to unilaterally free substantial numbers of slaves in 1861 and 1862. This occurred through “military emancipation,” defined by James Oakes as “emancipation as a means of suppressing domestic insurrection,” in which the Union Army confiscated slaves in order to achieve military victory. During Anthony’s service this policy was codified in two statutes: the First Confiscation Act (FCA) passed by Congress on August 6, 1861, and an Article of War passed on March 13, 1862. These were military measures and part of military law. They were intended for use in unfriendly occupied territory.

The FCA provided for the confiscation of all potential military resources, but its inclusion of slaves made it a potential tool that could result in a form of emancipation. On August 8 Secretary of War Simon Cameron (Edwin Stanton’s predecessor) instructed that the FCA be applied to all areas in which Union authority was resisted and that military necessity overruled civil rights regarding fugitive
slaves in those places. Cameron further instructed that the military was to receive all fugitive slaves, no matter the loyalties of the master, and that “a record should be kept showing the name and description of the fugitive slaves (also known as contrabands), the name and the character as loyal or disloyal of the master.”

Only the slaves of disloyal masters would then be retained. However, slavery was still a question of civil law, and few believed it was the military’s job to decide on such issues. This placed Union officers in an impossible position: they were not allowed to protect the slaves of loyal masters, but they were also forbidden to return them.

By tying itself in knots like this, the military made a uniform strategy for dealing with fugitive slaves even more impossible to achieve.

General John C. Fremont’s August 30 declaration of martial law in Missouri contained a clause emancipating Missouri slaves. Before ultimately firing Fremont, Lincoln insisted that he comply with the First Confiscation Act instead.

As James Oakes has clearly demonstrated, Lincoln made it clear that the FCA and military authority applied in the loyal slave states as well. One of Fremont’s replacements, Major General Halleck, issued General Order 3 on November 20, 1861. Halleck’s goal was to do what Fremont had refused to do: align military policy with the FCA and prevent Union soldiers from either taking slaves from loyal owners or ever being put in the position of having to return slaves. The new order first warned about fugitive slaves acting as spies for the Confederacy.

Second, it decreed the exclusion of all “unauthorized persons” from Union lines, but Halleck did not specify who was “unauthorized.” Furthermore, it is unclear whether Halleck differentiated between slaves who ran away on their own and those who were confiscated deliberately by the army because the enemy was using them for military purposes.

This order was widely interpreted by Halleck’s subordinates as a blanket exclusion of all slaves. By not allowing any runaway slaves to cross Union lines, the army would never be put in the position of having to determine the status of those slaves. But Halleck did not intend for these orders to be interpreted as such. He sought to remedy the confusion by correcting officers who expelled blacks who should have remained. In General Order 13, he specified that any slave “used for insurrectionary purposes” be confiscated. Critically, Halleck expressly forbade slave owners to enter Union lines to search for slaves.

The substantial burden of determining the beliefs of slaveholders while fighting an entrenched insurgency fell to officers like Anthony who directed the day-to-day operations of units.

On March 13, 1862, Congress passed a new Article of War, which declared, “All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due, and any officer who shall be found guilty by a court-martial of violating this article shall be dismissed from the service.”

It was now illegal for a Union officer to order his men to return a slave to their owner or to help owners retrieve slaves. This article completed the process of sublimating civilian slave policies with a military policy for those areas under military occupation, such as Missouri and Tennessee. Critically, the Kansans said Simms had sent his slaves to work on Confederate fortifications. If true, then this should have been a textbook case for the application of the First Confiscation Act. Furthermore, Anthony decreed that officers and soldiers who contributed to the return of slaves would be punished “according to the laws relative to such crimes.”

The law to which he was referring can only have been the March Article of War. This wording suggests that Anthony was deliberately leveraging Union policy to wage a war against slavery.

Brigadier General Isaac Quinby’s General Order 16 prohibited all black men from entering Union Army lines, posts, or camps unless they were “free or . . . by act or consent of their masters have not become clearly contraband.”

Quinby specifically mentioned Halleck’s
original orders and went one step further by adding a complete restriction on fugitive enslaved women. Quinby clearly adopted an exclusionary interpretation of General Order 3. However, the slaves of A. G. Simms appear to have fit Halleck’s conditions for confiscation. Quinby directly authorized Simms to personally go to the camp of the Seventh Kansas under the protection of Captain Lawrence. This was exactly what the Article of War had forbidden three months earlier: a Union officer assisting with the return of slaves. Quinby clearly believed he was enforcing the will of General Halleck, but Halleck had already forbidden slave owners to enter Union lines to look for slaves. Quinby and his subordinate Mitchell violated Halleck’s orders by allowing a potentially disloyal civilian (Simms) inside Union lines. Quinby also violated the First Confiscation Act and the Article of War by attempting to return slaves who had been employed in constructing Confederate fortifications. There is no evidence that Quinby argued that Simms was in fact loyal, even though all facts in the case hinged on Simms’s loyalty.

In September 1862 a member of the Seventy-Sixth Illinois Regiment wrote directly to President Lincoln in protest of Quinby returning fugitive slaves. In his defense Quinby explained that he had allowed the slave owner (this time from Kentucky) to search the camp for the slave because Quinby believed the slave owner to be loyal and that taking slaves from loyal men was hurting the Union cause. It is unclear why Quinby thought he had jurisdiction to determine the loyalty of a slave owner when Halleck had said the military had no such right. The rest of Quinby’s defense offers a hint: he included himself among “the conservative union-loving men of the North” who believed that slavery was not the cause of the war and praised President Lincoln for “wisely abstain[ing] from any distinct declaration of principle on the Subject of Slavery.”

Very little source material exists to give historians a hint as to Quinby’s beliefs on slavery, but his alignment with conservative Unionism suggests that he did not support a war against slavery.

General Order 16 and Brigade Order 26 were two different interpretations of the same set of Union policies by two different men. These contradictory orders emerged from two different theories on how to wage the Civil War. Anthony advocated a hard-line war that targeted slaveholders in particular. He demonstrated this through Order 26, his decisions to sack Dayton and Columbus, and his complaints that his men were being used to protect the property of traitors. He leveraged his operational control over the Seventh Kansas Cavalry and the malleability of Union policies to fight the war according to this logic. He used an aggressive, yet well-established interpretation of the First Confiscation Act, as well as the language of the Article of War as a basis for Brigade Order 26. In doing so, he took an entirely different approach to the same set of problems as General Quinby and General Mitchell. The collision of these irreconcilable approaches to emancipation resulted in Anthony’s arrest.

Though Lincoln, Congress, and commanders such as General Halleck made policy, officers such as Anthony and Quinby had the power to turn words into the actions of regiments and brigades. Union commanders understood this situation, as is seen in the level of concern they expressed about both Anthony’s and Quinby’s actions. A thorough account of similar instances is beyond the scope of this article, but further research would help illuminate how unit commanders like Anthony shaped emancipation through everyday actions. A better understanding of the relationship between Union policies as they were made and as they were enacted may have wider implications as well. There have been other wars in which the United States has occupied hostile territory against an active insurgency, with a mission to win hearts and minds as well as find and destroy the enemy. We cannot wholly equate the Civil War with the Vietnam War or Iraq War. However, further research should compare how the military addressed the challenge of fighting an active insurgency in those wars. Anthony’s example underscores how military policy is not always uniform in interpretation or application. To see that, it is important to look for subtle differences, like Anthony’s use of the language of the Article of War, or Quinby’s conservative stance on emancipation. By analyzing the beliefs and motivations of individual officers who made the day-to-day decisions of warfare, we can better understand how everyday actions can shape the character of wars.