One measure of the legitimacy of a criminal-justice system is how well it treats those who are not of the dominant race or culture. The rule of law—the basis for Anglo-American legal and constitutional institutions—requires consistent enforcement for the system to retain integrity. Strict adherence to legal procedure, regardless of the status of the individuals, is one means to ensure consistent application of the rule of law.

In popular stereotypes of the American frontier, the laws that

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did exist were not consistently enforced and, in any case, did not apply to Indian people. Minnesota’s early history, on the other hand, indicates that most settlers, despite their evident racism, believed that the rule of law applied to Native Americans as well as whites. The ever-present tension between racism and the rule of law, however, made the outcomes of cases unpredictable; some Indian people received fair treatment within the criminal-justice system while others did not. The real story of criminal justice on the frontier is usually more interesting and complex than the popular stereotype.1

In 1849, when the Territory of Minnesota was established, the Ojibway (Chippewa) controlled most of its northern half while the Dakota (Sioux) possessed the southern part. The Mdewakanton or eastern bands of Dakota lived in southeastern Minnesota along the Mississippi and Minnesota Rivers. The Mississippian bands of Ojibway lived in numerous villages scattered along the rivers and lakes of the territory’s northern and north-central region. Ojibway villages closest to St. Paul were located at Mille Lacs Lake, the Snake River, Gull Lake, and the Crow Wing River.2

In the 1851 treaties of Mendota and Traverse des Sioux, the government pressured the Dakota into giving up their remaining lands in Minnesota except for a narrow stretch along the Minnesota River in the west-central region. Throughout the territorial period, however, government officials failed to permanently dislodge the Mdewakants from their traditional villages. The repeated late arrival of annuity payments, limited success of the government’s agricultural program, general dissatisfaction with reservation life, and, finally, starvation led many Dakota to abandon the reservation and return east.3 As a result, during the 1850s, the Dakota were frequently seen in and around St. Paul.

The Ojibway were less conspicuous than the Dakota in St. Paul but were nevertheless frequent visitors. In addition, the federal government had granted the Winnebago (Ho-Chunk) of Wisconsin a reservation at Long Prairie in 1848. Although the reservation only existed for a few years, members of this Wisconsin tribe also frequented St. Paul.4

The St. Croix Valley had been a hotly contested zone between the Dakota and Ojibway, the scene of numerous battles and attacks. Raids and counterraids continued as late as the mid-1850s, despite Euro-American settlement. August L. Larpenteur, a trader who arrived in St. Paul in 1842, recalled that an Ojibway raid on Little Crow’s band at Kaposia a year earlier led to a bloody battle on the St. Croix at what would become Stillwater. According to Larpenteur, “For a long time, even after I came here, the excitement in regard to this raid by the Chippewas was the topic of almost every day’s conversation, and a Chippewa Indian was supposed to be hidden behind every bush.”5 In 1850, some 20 miles east of Stillwater on the Apple River in Wisconsin, a party of Dakota killed 15 Ojibway. Three years later, Ojibway raided the Dakota village of Shakopee on the Minnesota River.6

St. Paul newspapers reported intertribal violence. The Minnesota Pioneer, for example, described the following incident in 1850:

At about 1 o’clock P.M., there was a great excitement in Saint Paul, Indians yelling at each other across the river. . . . It seems news has reached them that a party of Sioux were overtaken, a short distance out of Saint Paul, and two murdered and three taken prisoners. At this moment, a company of the Sioux have started northward through town, stripped of their blankets, in pursuit of the dastardly murderers. This is the first blow (if the story is true) struck by the Chippewas in revenge of the 14 of their tribe, murdered the other day, in the sugar camp, by the Sioux.6

Local criminal-justice officers usually left conflicts between the Dakota and Ojibway to federal officials: the commissioner of Indian

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6 Minnesota Pioneer, May 16, 1850, p. 2.
affairs (during this era, the territorial governor), the Indian agent, and the commandant at Fort Snelling. These men were more often than not frustrated in their attempts to impose peace or otherwise interfere in inter- and intratribal affairs.7

In April 1853, after a series of raids and counterattacks along the St. Croix and Minnesota Rivers, the tribes clashed in the streets of St. Paul. A party of about 18 Ojibway entered town one evening and hid in an unfinished building in Lowertown. At daylight the party watched for any Dakota coming up the Mississippi River from the nearby village of Kaposia. When two Dakota sisters and their brother disembarked from a canoe and walked up the levee to the trading house, the Ojibway shot and fatally wounded one of the women. The Dakota man fired at the attackers, chasing them down Jackson Street with a gun.8

A contemporary, historian John Fletcher Williams, related the reaction of residents:

The firing and excitement attracted a number of citizens, who, as soon as they learned what had taken place, pursued the retreating Chippewas, whether to arrest them or for what

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purpose, no one hardly knew. They soon overtook the pagans, who, turning calmly around and confronting them, said: “White man, why do you pursue us? This is none of your affair! Do you mean to interfere in our fights?” No one knew what reply to make, and . . . [they] allowed the Chippewas to pass unmolested.

Although the crime occurred in St. Paul and fell under the jurisdiction of either the town police or the Ramsey County sheriff, it was the territorial governor, Alexander Ramsey, who took charge and requested that troops from Fort Snelling pursue the Ojibway attackers. A platoon of cavalry, led by a Dakota guide, tracked the perpetrators to St. Croix Falls, Wisconsin. The resulting skirmish left one Ojibway dead, but the soldiers returned without any prisoners. This ended the government’s attempt to punish the raiding party.

Federal authorities often found themselves mediating between the two tribes. Their desire was not so much to apply the rule of law but, instead, to maintain friendly relations with each and reduce intertribal violence. To this end, they recognized and allowed Indians to practice customs such as restitution for violent acts in an attempt to break the cycle of raids and counter-raids that characterized Dakota-Ojibway relations. For example, the Dakota scout who led the troops to the Ojibway raiding party in 1853 was allowed to take the scalp of his fallen enemy as a trophy. Perhaps the officer in charge hoped that this act would compensate the Dakota for the attack, thus preventing a counterraid, or perhaps the soldiers and their commanding officer did not much care what one Indian did to another.

The involvement of Governor Ramsey and federal troops in lieu of town and county criminal-justice systems was typical for cases involving Native American victims and suspects. Although federal law authorized local officials to investigate and prosecute crimes among Native Americans committed outside of Indian territory, these officials were often content to abdicate jurisdiction. Perhaps they were either reluctant to pursue suspects into Indian villages and
camps or confused about jurisdiction—or perhaps they lacked concern about what Native Americans did to each other.9

In contrast, when Native Americans were suspected of violence against whites, local authorities did not hesitate to investigate and prosecute. An examination of several violent crimes from Minnesota’s early history demonstrates that, when the accused was an Indian, the victim’s race determined whether the case would be pursued to a final conclusion.

The 1851 murder of a Winnebago man and the events that followed indicate that those prosecuting Native Americans remained confused about jurisdiction. The discovery in St. Paul of the body prompted a preliminary investigation by the Ramsey County sheriff, coroner, and several other local officials. The victim had been stabbed to death. As witnesses had seen him in the company of other Winnebago several days earlier, Sheriff Cornelius P. Lull requested the commandant at Fort Snelling to send a squad of soldiers to the Winnebago camp not far from town to investigate and arrest a suspect.10

Historian Williams gives the following account of the investigation: “The officer in charge of the squad asked one of them, Che-en-u-whee-kaw, or Standing Lodge, if he knew anything of how their brother ‘Lo’ had met his end, when Standing Lodge very coolly and unconcernedly replied, ‘I killed him!’” He further informed the officer that the dead man had committed some crime or offense, which, “according to the Indian code, merited death, and that he, the speaker, had been selected to give him his quietus.”

After Standing Lodge’s confession, the soldiers took him into custody although they were not sure they had the jurisdiction to arrest him. They decided they needed to ascertain whether the law applied to him “as equally as if one white man had killed another.”

Standing Lodge went without protest to St. Paul with the soldiers and spent the night in Sheriff Lull’s carpenter shop (the county jail was not yet completed). At the preliminary examination before the St. Paul justice of the peace the next day, Standing Lodge openly admitted his guilt, but the presiding local officials and onlookers disagreed over whether the murder case should proceed. According to Williams, “Some urged to let him go, as it would only expose the county to considerable cost to imprison and try him, and it was scarcely worth while to take note of all the quarrels and murders among the Indians, as they were occurring every few days, but a few cared how many Indians were killed. Others thought it ought not to be passed thus.”

Eventually it was agreed that Standing Lodge should appear before the grand jury at the next term of the Ramsey County District Court, which was to convene the following month. To avoid the expense of boarding him, the justice of the peace released the accused on his own recognizance.

In May the grand jury indicted Standing Lodge, but he did not stand trial, “the Prosecution not being ready to proceed.” Instead, the case was continued to the next term of court in September. At that time Justice Aaron

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9 Carroll, “Criminal Justice,” 35–41; William C. Canby, American Indian Law in a Nutshell (St. Paul: West Publishing Co., 1981), 11–12, 94–96, 126, 158–60; Francis Paul Prucha, ed., Documents of United States Indian Policy (Lincoln: University of Nebraska Press, 1990), 66. Although the law was not precise, Native Americans acting outside Indian Territory or off the reservation were presumed to be subject to the same laws and process as everyone else. The one explicit exception is in sec. 17 of the 1834 Trade and Intercourse Act, substituting a diplomatic process via the Indian agent when Indians committed property crimes against whites outside of Indian Territory.

10 Here and four paragraphs below, Williams, History of . . . St. Paul to 1875, 288–89.
Goodrich dismissed the case for lack of prosecution. Standing Lodge, having given his word to return, appeared promptly at both terms of the district court.11

In contrast to Standing Lodge's case, there was no reluctance on the part of St. Paul and Ramsey County officials a year later when Yu-heza or Yu-ha-zee, a Dakota man, was suspected of killing an immigrant woman. Bridget Keener was traveling in the Minnesota River valley with her family when they encountered a group of Dakota men who reportedly used "threatening actions and language." Then, seemingly without provocation, one of the Indians fatally shot Mrs. Keener. The family carried her body back to St. Paul for burial.12

Thirty soldiers set out from Fort Snelling to apprehend the suspect. The Minnesota Democrat provides the following account of Yu-ha-zee's capture: "On Friday last, the murderer was surrendered by his own band to the dragoons sent in pursuit of him. He belonged to the Little Rapids band, who, when he was delivered, sang his death song, supposing that he would be immediately executed."13

The next day Yu-ha-zee appeared before a justice of the peace for a preliminary hearing, after which he was committed to the St. Paul jail. Two days later, a grand jury indicted him for first-degree murder. As the fall term of the Ramsey County District Court was in session, Yu-ha-zee waited only one day to stand trial.14

Although the case file, including testimony, has not survived, the minutes of the Ramsey County District Court show that there were three witnesses for the prosecution and three for the defense, the latter including Governor Ramsey. It is probable that Ramsey testified about the illegal liquor trade in the territory and its negative impact on Native Americans. The governor most likely spoke on Yu-ha-zee's behalf because the accused was intoxicated at the time of the crime and therefore was a victim of the illegal sale of liquor. Ramsey expressed his view on this subject a month later in his annual address to the people of Minnesota:

In a former message I suggested the policy of cultivating friendly relations with the Indians tribe [sic] within our borders, and I cannot refrain from again in this place alluding to the subject . . . . The Indians are well disposed towards the whites, and the few offenses committed by them have generally given as much dissatisfaction to their own as to our people. In savage communities, as in civilized, a majority of the wrongs committed may be distinctly traced to the use of ardent spirits, which in spite of the denunciations in law, and the disapprobation of Public opinion, are still stealthily sold to the Indians.15

12 Williams, History of . . . St. Paul to 1875, 351; Willis A. Gorman, Order of Execution, Mar. 25, 1854, Pardon Records, Gov. Willis A. Gorman Papers, Minnesota Territorial Archives, MHS.
13 Minnesota Democrat, Nov. 3, 1852, p. 2.
After deliberating an undisclosed length of time, the jury found Yu-ha-zee guilty. At this point, the minutes record the following statements:

Upon being asked by the Court if he had anything to say why sentence of death should not be placed upon him, replied, “that the band of indians to which he belonged would remit their annuities if he could be released.”

The sentence of the court is that you, Yuheza, be taken hence to the legal and proper place of confinement and there kept until under the law, the Governor of this Territory shall by his warrant order your execution and that you be taken to the place of execution and hung by your neck till you be dead and may God Almighty have mercy on your spirit.

A territorial law requiring that executions be delayed at least a year after conviction, appeals, and a vigorous pardon campaign combined to delay the execution until December 1854.16

The extant records indicate that Yu-ha-zee received all proper procedural guarantees. Indeed, one year after his conviction the editors of the Daily Minnesotian and the Minnesota Democrat complained that the execution had been delayed due to a bill of exceptions filed by his defense counsel. His two defense attorneys, Jacob J. Noah and L. A. Secombe, had immediately appealed to overturn his conviction, claiming that the Ramsey County District Court lacked proper jurisdiction, but the territorial supreme court overturned this appeal. (Presumably, they argued that the case should have fallen under the jurisdiction of the Second Judicial District, which included the counties west of the Mississippi, the site of the crime.) Nor did Yu-ha-zee suffer from any language barrier, as the district court employed interpreters at trials for Native Americans and French-speaking defendants. Significantly, none of the petitions and letters sent to Territorial Governor Willis A. Gorman as part of the pardon campaign cited an unfair trial or denial of due process as justifications for clemency.17

The editor of the Minnesota Pioneer believed the Yu-ha-zee trial represented the triumph of the rule of law on the Minnesota frontier:

In this capture of the felon, and his trial, has been most interestingly exemplified the dignity and majesty of the law. Here at a point which three years ago was but an Indian wild, two thousand miles from the central power which established the territorial court, a murderer has been captured amid the recesses of his own savage haunts, has been tried by an enlightened jury, in as calm, dispassionate a manner as ever a trial is conducted in the oldest communities. . . . Our citizens all, we trust, see the propriety, and indeed the moral necessity, of this peaceful method of vindicating the laws.18

Yu-ha-zee’s sympathizers petitioned Governor Gorman for his pardon on a variety of bases. In one letter written in the autumn of 1854, several prominent St. Paul citizens, including the successful trader William H. Forbes, argued that the convicted man had already been confined in the St. Paul jail for two years and was not prepared to meet his death, as the date of execution had never been set. The petitioners pointed out that Yu-ha-zee had been intoxicated at the time of the crime and “consequently knew not what he did.” Finally, they argued that no apparent good could come from executing the prisoner and that his hanging would not “promote the morals of the community.”19

Forty-five St. Paul women also petitioned for Yu-ha-zee’s pardon, calling him a “poor and

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16 U.S. v. Yu-heza, 205; Williams, History of . . . St. Paul to 1875, 332. Perhaps in response to the Yu-ha-zee case, the territorial legislature in 1853 amended the statute so that it required a minimum delay of one month and a maximum of six months before an execution; Collated Statutes of the Territory of Minnesota (St. Paul: Joseph R. Brown, 1853), 24.


18 Minnesota Pioneer, Nov. 11, 1852, p. 2. The author of the editorial is not known. James M. Goodhue, whose name was still on the masthead, had died in August, and Joseph R. Brown, who may have written the editorial, did not take over until February 1853.

19 W. H. Forbes, A. I. Morgan, A. L. Moore, and Edward Heenan to Governor Gorman, undated, Pardon
unfortunate man and he too a Savage without friends, money or influence.” If not a full pardon, the women requested a commutation of the sentence to life in prison or a reprieve until the president could be informed of the case. Signers included Anna E. Ramsey, the wife of the previous governor, and Julia E. Fillmore, the sister-in-law of former President Millard Fillmore.20

J. G. Riheldaffer, founder of the St. Paul Presbyterian Church, requested pardon on the basis that Yu-ha-zee had suffered enough. The clergyman also questioned whether a “savage” could understand the “importance we attach to human life; or appreciate our method of punishing the offender.” Riheldaffer argued that a long prison sentence would make more of an impression on the Dakota people than an execution. Although in general he favored capital punishment, the minister wondered whether it was appropriate under these circumstances.21

Despite these efforts, Gorman refused to grant Yu-ha-zee a pardon, commutation, or reprieve. The governor justified his refusal, claiming that the killing of Mrs. Keener had been “seemingly deliberate” and “without a Shadow of excuse.” The victim was a defenseless woman, and the execution was necessary to deter other Indians from such behavior.22

In contrast to the petitioners’ views, David Olmsted, the editor of the Minnesota Democrat, likely expressed the opinion of many. In an editorial written a year after Yu-ha-zee was sentenced, Olmsted claimed that it would be a “living disgrace to the name of Justice in the Territory, if this scoundrel is allowed to go ‘unwhipt of justice’ merely through technical quibbles and legal abstractions.”23

Yu-ha-zee was hanged in St. Paul on December 29, 1854. Editor Earle S. Goodrich expressed his repulsion in the Minnesota Pioneer and refused to cover the event for his paper. After the execution, Goodrich was happy to report that only a small group had attended. He was dismayed at the behavior of those who witnessed the hanging:

It was not enough for the fiends incarnate who attended the execution, that the poor fellow should expiate his crime upon the scaffold, but his expiring moments were disturbed by the laughs and jeers of the debauched in the crowd, and with words of jest and scoffing, uttered in his own language by persons in the shape of men, who were spectators of the awful scene. A gentleman of our acquaintance who has witnessed many executions, informs

Records, Gorman Papers.

20 To His Excellency Willis A. Gorman, undated, Pardon Records, Gorman Papers.
22 Gorman to women petitioners, Dec. 28, 1854, Pardon Records, Gorman Papers.
us that for beastiality [sic] and infamy, the one of Friday stands out without parallel; and that those in attendance seemed much more like savages than he, over whose death-throes they had congregated to glut their unhallowed eyes. Such conduct should be frowned upon by every lover of decency in the community.  

Two other cases involving the alleged murder of a white victim by a Native American show different responses to the rule of law. These crimes occurred in the St. Croix Valley in 1847 and 1848, when the area between the Mississippi and the St. Croix Rivers was still part of Wisconsin Territory. While in one case the accused was afforded due process, in the other settlers turned to vigilantism to punish the alleged murderer. Even then, the settlers apparently felt it necessary to provide a semblance of due process in order to make their actions appear legitimate.

Nodin, an Ojibway, stood trial at the fall term of the St. Croix District Court at Stillwater in 1847 for murdering Henry Rust, a fur trader and whiskey seller. Nodin and his son-in-law, Nezha Ke Ogema, testified at the trial as the only witnesses to the crime, which occurred at Rust’s trading post on the Snake River, about 60 miles north of Stillwater.

Rust was reportedly drunk one Sunday in March 1847 when he witnessed a dispute between his partner, Andrew (Jack) Drake, and Nodin. Apparently Drake had refused to sell Nodin any more whiskey on credit and had forcibly removed him from the store. Nodin (who admitted at his trial to being drunk at the time) left the post angry, and Rust followed him to the nearby Indian lodge. There Rust stood outside the door and attempted to talk to Nodin. Shortly thereafter, Nezha Ke Ogema appeared outside the lodge door, gun in hand. Rust hurried back to the post, where he, Drake, and a third man grabbed their guns, rushed outside, and fired into the dark. One of the shots hit Nodin, still within his lodge. Believing Rust intended to kill him, Nodin raised himself to reload his gun. Meanwhile, the three white men had returned to the trading post. Rust retrieved a rifle and stepped outside to shoot but was shot first by Nodin.

A missionary, William T. Boutwell, arrived at the post the next day and found a large group of white men, mostly loggers, milling around and “swearing vengeance on every drunken Indian they could find.” The Ojibway in the vicinity had all fled in anticipation of such a reaction, and eventually the men turned their attention to punishing the illegal whiskey traders. The posse burned Rust’s and Drake’s post to the ground before carrying the dead man’s body to the Pokegama Lake mission for burial. According to Boutwell, the 40 men present at the funeral resolved to visit every trader in the area and destroy their liquor. The next day the group made good its promise at three posts in the St. Croix Valley.

Nodin and Nezha Ke Ogema were located soon afterward and surrendered themselves to the federal Indian agent. They had a hearing before Justice of the Peace Joseph R. Brown and were kept for a while in the basement of the post office. In early April William H. C. Folsom, the sheriff of St. Croix County, escorted the two men to Fort Snelling to await their appearance before a grand jury at the June term of the district court in Stillwater. According to Folsom, the Ojibway prisoners made no attempt to escape, although they were unbound and he their sole guardian.

In June 1847 the two men were indicted—Nodin for murder and his son-in-law as an accessory—and tried. At the trial, the jury of white men acquitted Nodin on the ground that Rust had sufficiently provoked him to warrant a finding of justifiable homicide. The jury, according to Boutwell, believed that Rust had violated the law by selling liquor to the Indians, thereby causing his own death. Sheriff Folsom said Nodin was acquitted because the jury

Type of bottle, probably British, used in the liquor trade during the late-eighteenth to midnineteenth centuries. Found at Fort Charlotte, this one was not necessarily used in trade with Indian people.

the Indians, thereby causing his own death. Sheriff Folsom said Nodin was acquitted because the jury thought “the killing was the result of a drunken brawl.” Disgust for the Indian liquor trade appears to have been an important factor in the acquittal. Settlers blamed the whiskey sellers, rather than their customers, for the violent consequences.

A year later, 20 miles upriver from Stillwater at St. Croix Falls, another Ojibway man stood accused of murdering a Norwegian immigrant named Miles Tornell and his hired man. Tornell’s post was located near St. Croix Falls, and he competed for trade with the Indians with a German immigrant named Frederick Miller, whose post was on Balsam Lake. In May a party of Ojibway attacked Tornell’s post, destroying it and killing the two men. A few weeks later some white men came upon the ruins and reported the news back to St. Croix Falls. There, a group of men appointed a coroner and traveled to the scene of the murders to investigate.

The investigation led to the arrest of four Ojibway men believed to have participated in the raid. In separate examinations, each reportedly implicated Paunais as the murderer and Miller as instigator of the crime. A posse and Sheriff Maurice M. Samuels, another local trader who had illegally sold liquor to the Indians, arrested both men and brought them to St. Croix Falls for trial.

There being no district court in session at the time, the settlers convened their own court and appointed a “judge.” One participant justified the illegal trial that followed, claiming that the community faced an “emergency situation” and that procedural proprieties were observed, including the appointment of attorneys to represent the defendants. What emergency existed, other than the settlers’ desire for vengeance, is not clear. There is no reason that the accused could not have been held until the next district court session, as Nodin had been.

At the illegal trial, Paunais reportedly “frankly confessed” to the murders of both men and said that Miller had hired him to kill Tornell. Another Ojibway man testified to having witnessed Paunais’s acts. “After brief remarks by the lawyers,” the jury convicted Paunais of murder and Miller of instigating the crime. The deputy sheriff and his deputies kept the two men under guard until the following day. In the morning the mob hung Paunais but was lenient toward Miller, whom they flogged, then placed on a steamboat and ordered never to return.

News of the murder had spread up and down the St. Croix Valley. Settlers from Marine Mills, Osceola, and Stillwater traveled upriver by steamboat to witness the proceedings. Among them was Morton S. Wilkinson, a prominent

Fort Snelling, from an 1853 engraving


Stillwater citizen and the St. Croix County attorney who had prosecuted the Nodin case. His presence at the lynching, according to historian and contemporary Edward D. Neill, seemed to sanction the illegal action. Wilkinson was consequently criticized by his colleagues for his participation.28

The reaction of Paunais and the other Ojibway gathered at the scene was described by one participant in the lynching:

I stood at his [Paunais’s] side through the whole affair, and he coolly smoked his pipe as if it was an every-day circumstance that was to happen. But when he bade his wife farewell, I could see the tear start in his eye. He looked round a moment on us all, then took his wife and brother by the hands, and said in his native tongue: “Farewell! Paunais dies like a brave. Wait a little: Pa-ga-ka-ge [White Birch, his wife], by and by you will help me paddle my canoe again”. . . . He then struck his breast, curled his lip, handed his pipe to his wife, climbed on the barrels which we had arranged for him; and when the rope was placed round his neck the barrels were pulled from under him, and he died without a groan, or hardly a struggle—as a “brave” should die.29

Among the witnesses to the hanging were Paunais’s wife, mother, brothers, and several Ojibway chiefs. As the body swung from the tree, Joseph LaPrairie, a Christian mixed-blood from the Pokegama mission, reportedly said:

Brothers: I am of your blood, you will therefore listen to my counsel. You see one of our brethren hanging before you. It is just. It is the white man’s way of punishment for taking the lives of their brethren. You will therefore take warning, and shun the counsel of bad white men and bad Indians. Go back to your hunting-grounds. Shun bad traders, and the white man will not hurt you. You see that they set our others free; they like Indians who tell the truth.

Although local law-enforcement and district-court authorities had demonstrated little interest in prosecuting Standing Lodge for the murder of his fellow tribesman and generally eschewed involvement with other crimes among Native Americans, Nodin, Paunais, and Yu-ha-zee did not experience such negligence. Surprisingly, given the evident racism of most settlers, it appears that Nodin and Yu-ha-zee were afforded fair trials by nineteenth-century standards (although certainly not by today’s). The two all-white juries seem to have reached their verdicts on the basis of the available evidence.

Unfortunately for Yu-ha-zee, a vigorous pardon campaign on his behalf failed to convince Governor Gorman that intoxication at the time of the killing was justification for mitigating his murder conviction. Clearly, Gorman hoped Yu-ha-zee’s execution would show other Native Americans that such crimes would not go unpunished, but this was not the sole basis for his denial of the pardon. The governor had other grounds, which were not unreasonable, for refusing leniency: the victim was unarmed and the attack unprovoked.

While it is significant that a Dakota man was the only person between 1820 and 1857 legally convicted of first-degree murder and executed in the area that became Minnesota, an examination of crime and homicide during this period shows that the story is more complex than this statistic suggests. Most of the 17 other

11–15; Folsom, Fifty Years in the Northwest, 89.
29 Here and below, “An Indian Execution,” The Knickerbocker (New York), Jan. 1849, p. 79–80, quoted
the homicide cases that were evidently premeditated, suspects were never found; in the remaining cases, defendants were convicted of manslaughter or second-degree murder and received prison sentences or were acquitted, like Nodin, on the basis of justifiable homicide. None of these cases involved the same circumstances as Yu-ha-zee's—the reportedly unprovoked killing of an unarmed woman by a man. The closest case involved a man who shot his wife during a quarrel in a St. Paul hotel. The husband fled town but was apprehended and convicted of manslaughter because the killing occurred during a domestic dispute. Given this context, it is not absolutely clear that a white man committing Yu-ha-zee's crime would have received a lighter sentence. Moreover, in 1860, a woman from Stillwater was executed after she was convicted of poisoning her husband. Mrs. Bilanski was also denied a pardon by the state’s new governor, Alexander Ramsey.  

In Paunais's case, the territory's usually law-abiding settlers ignored the rule of law for no good reason. Significantly, the settlers at St. Croix Falls deemed it necessary to appear to follow proper criminal procedure by appointing a judge and jury and holding a "trial." In doing so, they attempted to make their actions legitimate, although everyone present knew that the proceeding was illegal. While the Paunais case apparently lends credence to popular notions of frontier lawlessness, it is the only recorded lynching in the region between 1820 and 1857. Minnesota's early settlers by and large believed in and adhered to the rule of law. In some cases, despite white racism and ambivalence about jurisdiction, they even extended it to Native Americans. That usually law-abiding white Minnesotans turned to vigilantism in Paunais's case demonstrates the power of racism; only it could undermine their loyalty to the rule of law.

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