



Use and Display of the State Seal by the Judicial Branch

Introduction

The Committee for Equality and Justice (CEJ) offers this brief report regarding the use and display of the Minnesota state seal by the judicial branch. The report is intended to help inform interested parties, including district court benches and Equal Justice Committees (EJCs), appellate courts, and court administrators, about the history of the state seal, the controversy around it, and the options available to the judiciary related to the use and display of the state seal.

The CEJ recognizes that the judicial branch does not have authority over the state seal, that the seal is used and displayed across governmental entities and facilities, and that pragmatically and in some cases statutorily the judiciary does not have control over its own use and display of the state seal. But, in some areas, the use and display of the state seal lies within the discretion of the judicial branch. With that recognition, the CEJ makes two recommendations in this report: (1) that courts consider their discretionary use of the state seal and (2) that courts consider providing educational opportunities regarding the seal. The CEJ makes these recommendations in service to its mission to recommend improvements in court procedures as related to race and to recommend diversity and inclusion education.

Issue

The issue presented is the judiciary's use and display of the state seal in light of its symbolic and historic significance and the equality and justice concerns that the seal poses with respect to Native American persons who participate in or encounter the court system. The Minnesota state seal has been the subject of controversy for decades. The controversy stems from the seal's depiction of a Native American man on horseback and a white settler in the foreground and the symbolism of the scene.

Background

History

The Minnesota state seal has a complicated history, which is more fully described in the attached "short history" prepared by Judge Bruce D. Manning, Fourth Judicial District, and offered to the CEJ for its inclusion here. As Judge Manning describes, the seal is based on the territorial seal designed by territorial Governor Alexander Ramsey and Col. Henry Sibley in 1849. The territorial symbol was designed during Minnesota's Native American removal era and as demonstrated by its motto, "I fain would see what lies beyond," strongly suggested a conquering sentiment of manifest destiny. Further, according to historian Edward Neill, a friend of Governor Ramsey, the territorial seal was based on an 1849 watercolor by Capt. Seth Eastman. In this watercolor, the Native American rider appears to be, according to Neill, "fleeing on horseback toward the setting sun." Additionally, Eastman's wife wrote a poem about the image, which clearly portrays manifest destiny and oppression of Native Americans. For



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example, one excerpt reads, “We claim [the red man’s] noble heritage, and Minnesota’s land must pass with all its untold wealth to the white man’s grasping hand.”

After Minnesota became a state in 1858, Governor Ramsey continued to use the territorial design, which is the same design presently used in the state seal. The creation of the Minnesota state seal was contemporaneous with manifest destiny, the 1862 U.S.-Dakota war, and execution and persecution of Native Americans in Minnesota. Both Governor Ramsey and Col. Sibley advocated for executions of Native Americans following the U.S.-Dakota war. One memoirist, writing in 1891, said of the 1862 war, “Many an innocent Indian, no doubt, lost his life during that time. The settlers never left their homes without their rifles. The seal of the State seems, therefore, very appropriate.”

Minnesota Statute

This troubling history is not reflected in the statute that the Minnesota Legislature passed in 1983 regarding the seal. Minnesota Statutes section 1.135 purports to “prescribe[] the design and state[] the historical symbolism” of the seal. Minn. Stat. § 1.135, subd. 1 (2020). As for the design of the seal, according to the statute, the seal is encircled by the phrase “The Great Seal of the State of Minnesota” and also includes the motto “L’Etoile du Nord.” Inside the circle is “the portrayal of an 1858 Minnesota scene,” including “a settler plowing the ground near the Falls of St. Anthony while he watches an Indian on horseback riding in the distance.” *Id.*, subd. 3(e). Additionally, there is “a likeness of a sun” that provides a background for “a male Indian in loincloth and plume riding on horseback . . . holding a spear.” *Id.*, subd. 3(f)(2). The seal also includes “a tree stump . . . with an ax embedded in the stump and a period muzzleloader resting on it” with a powder flask “hanging towards the end of the barrel.” *Id.*, subd. 3(f)(5). A “white barefoot male pioneer” is plowing the earth and “looking at the Indian.” *Id.*, subd. 3(f)(6). As for the historical symbolism of the seal, the statute states that “[t]he sun, visible on the western horizon, signifies summer.” It states that “[t]he Indian on horseback is riding due south and represents the great Indian heritage of Minnesota” and that “[t]he Indian’s horse and spear and the Pioneer’s ax, rifle, and plow represent tools that were used for hunting and labor.” *Id.*, subd. 5.

“Alternative State Seal”

In 1968, before the legislature’s passage of section 1.135, the Minnesota Human Rights Commission issued a report about the problematic history and symbolism of the seal. An alternative seal was created around this time. The alternative seal altered the Native American rider to obscure that he is Native American by adding a hat, pants, shoes, short hair, and a rifle. Section 1.135, however, has codified the design of the official state seal and excludes the official use of this alternative seal.

It is with this background that the CEJ offers the following recommendations.



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Recommendations

Recommendation 1: Consider Whether and Where to Use or Display the Seal

The Minnesota state seal appears in many places within the court system, including in county courthouses and courtrooms (sometimes easily removable, other times fixed or built-in) and on the Minnesota state flag, buildings, official documents, stationery letterhead, business cards, and paper and electronic newsletters. The CEJ recommends that the courts and court administration consider the following questions:

1. Where do we use or display the seal?
2. Where possible, do we wish to discontinue the use or display of the seal?

The following information is intended to provide guidance in addressing these questions.

1. It is important to note that, where the seal is used, it must conform with the statutory description of the seal. Minn. Stat. § 1.135, subd. 6 (2020); Minn. Stat. § 358.03 (2020). (E.g., the alternative seal is not an option.)
2. Many of the displays of the state seal are in county buildings and may be fixed. The courts that are located in county buildings do not have control over such fixed displays. But, where a seal appears in a courtroom and is easily removable, the courts may consider removing it. For example, judges in Hennepin County courtrooms where matters under the Indian Child Welfare Act are heard have found it easy to remove the plaque-style state seals that are hung on the wall behind the bench.
3. The seal can also be easily removed from virtual courtrooms. State Court Administration has already pushed out to the courts a virtual courtroom background for Zoom that does not include the state seal.
4. The seal must be used or displayed in certain circumstances:
 - a. The Minnesota flag, which has the state seal on it, must be displayed in courtrooms near the bench under General Rule of Practice for the District Courts 2.01(b).
 - b. Further, use of the state seal with the name of the relevant court or office (also called “the court seal” per Minn. Stat. § 358.03) is required by statute for many court documents. These documents include, but are not necessarily limited to:
 - Subpoenas, blank subpoenas given to pro se defendants, writs of execution, writs of habeas corpus (Minn. Stat. §§ 53C.05(b) (2020), 550.04 (2020), 589.05 (2020), 611.06 (2020); Minn. R. Crim. P. 22.02, subd. 1)



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- Judgments or proceedings used as evidence in disciplinary proceedings (Minn. Stat. §§ 146A.08, subd. 3 (2020); 147.091, subd. 5 (2020); 147A.13, subd. 5 (2020); 148.261, subd. 4 (2020); 148F.09, subd. 3 (2020); 153.19, subd. 2 (2020))
 - Writ or process issuing from a court record (Minn. Stat. § 484.04 (2020))
 - Orders for prison release from Hennepin County Adult Correctional Facility (Minn. Stat. § 484.89 (2020))
 - Appointment of deputy court administrator in St. Louis County (Minn. Stat. § 485.05 (2020))
 - Search of records, including judgment searches (Minn. Stat. § 485.06 (2020))
 - Summons in an application for registration of land (Minn. Stat. § 508.16, subd. 1 (2020))
 - Itemized statement from original court concerning trial expenses when changing venue (Minn. Stat. § 542.17 (2020))
 - Payment and satisfaction by court administrator (Minn. Stat. § 548.17 (2020))
 - Certificate specifying the facts and number of days a nonresident is required to testify in Minnesota (Minn. Stat. § 634.07 (2020))
 - Authenticating certificate as proof of an official record, certified copies of court records (Minn. R. Civ. P. 44.01(a))
5. Business cards and individual stationery for judges and staff often carry, but are not required to carry, the state seal.
6. Where appropriate, changes should involve consultation with court administration—for example, regarding purchasing options and policies.

Recommendation 2: Education

As part of or separate from any consideration of changes regarding the use or display of the seal, you may want to provide an opportunity for educational programming for judges and staff around the issue of the state seal. Judge Manning has developed a presentation on the topic, which he made available to the CEJ, and he may be available if you wish to invite him to present to your committee, bench, or group.