

“CORDENIO ARNOLD SEVERANCE”

BY

JAMES GRAFTON ROGERS

FOREWORD

BY

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Cordenio Arnold Severance is today almost forgotten.¹ But during the first quarter of the last century, he was one of the nation’s most respected corporate litigators, and his law firm—Davis, Kellogg and Severance—was the first Minnesota law firm to achieve national prominence, one that may never be equaled in prestige or height of reputation.

Severance was the 44th President of the American Bar Association, serving only nine years after his partner, Frank Billings Kellogg, held that office. His term, 1921-1922, fell toward the end of what James Grafton Rogers called the “fourth period” or the “crest of the old ABA,” from 1913 to 1924. This was “an era of enterprises” during which the *ABA Journal* matured, the Canons of Ethics popularized, the Canons of Judicial Ethics published, the ABA’s campaign against “judicial referendum” ended in victory, and the American Law Institute endowed and began work.²

¹ Inexplicably he was placed in the “Runners Up” category in Jessica Thompson’s “Minnesota’s Legal Hall of Fame: The Most Influential Attorneys in State History,” *Minnesota Law & Politics* 18, 39 (August/September 2007).

² Though not mentioned by Rogers, Severance was one of the founders of the American Law Institute. The following is an email from Harry Kyriakodis, librarian of the ALI/ALI-ABA Library, received by the MLHP on September 25, 2008, in response to an inquiry about Severance’s participation in the early activities of the ALI:

Mr. Severance was part of the committee that founded the American Law Institute. Here are excerpts from the minutes of the meeting before incorporation:

MINUTES OF A MEETING OF JUDGES, LAWYERS AND LAW TEACHERS HELD IN THE AUDITORIUM OF MEMORIAL CONTINENTAL HALL, WASHINGTON, D. C., ON FRIDAY, FEBRUARY 23, 1923, AT THE INVITATION OF THE COMMITTEE ON THE ESTABLISHMENT OF A PERMANENT ORGANIZATION FOR THE IMPROVEMENT OF THE LAW.

Elihu Root, of New York, as chairman of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law, called the meeting to order at 10.15 A. M.

C. A. Severance, of Minnesota, moved the election of Mr. Root as temporary chairman of the meeting and called for a vote upon his motion. The motion was unanimously agreed to and Mr. Root thereupon took the chair....

And then there is the following entry, later on in the same minutes:

On motion of C. A. Severance, of Minnesota, duly seconded, the temporary organization was declared to be the permanent organization of the meeting.

Mr. Severance subsequently became a member of the Institute's Council, and attended a few Council Meetings from 1923 to 1925. The following is an entry in the Institute's *Minutes in Remembrance 1925-1975* (1976):

**CORDENIO A. SEVERANCE
Council Member, 1923-1925**

The Council has learned with deep regret of the death of Cordenio A. Severance, Esquire, one of its members. Mr. Severance was one of those originally interested in the organization of this Institute, and from the beginning displayed an active interest in its work. He was a lawyer of great ability and distinction. For many

Rogers devoted a chapter to Severance in *American Bar Leaders: Biographies of the Presidents of the American Bar Association, 1878-1928*, which was published to commemorate the ABA's Semi-Centennial. The book is a collection of short biographies of the first fifty presidents of the Association.

In his "Foreword," Rogers acknowledged the subjective nature of his sketches: "The aim has been to depart altogether from the style of formal memorials. Instead, an effort has been made to depict what manner of men these leaders were and are how they lived, thought, and carried on as lawyers and in public life." By any measure, he succeeded. When Rogers observed that "some of [Severance's] legal arguments and

years he practiced law at St Paul, Minnesota, in partnership with the Honorable Frank B. Kellogg, the present Secretary of State Both members of that firm attained such distinction that they were called into the service of the Federal Government; Mr. Kellogg as special counsel in the prosecution of the Standard Oil combination, and Mr. Severance in the government's suit to compel a dissolution of the union of the Southern Pacific and the Union Pacific Railway Companies. After the successful termination of these proceedings, Mr. Kellogg was elected to the United States Senate, and Mr. Severance became one of the counsel employed by the United States Steel Corporation to defend it in the suit brought by the United States Government. The high professional character and ability of Mr. Severance was recognized in his election as President of the American Bar Association in 1921. His death is a loss to this Institute, in which he was greatly interested, besides bringing sorrow to his many personal and professional friends.

This minute in remembrance initially appeared in the December 16-19, 1925, Minutes of the Ninth Meeting of the ALI Council.

Work on the *Restatements of Agency, Conflict of Laws, Contracts and Torts* began in 1923. Mr. Severance is not listed in these works as having been involved in their drafting. He surely died before any real work began.

(MLHP: this email is quoted with the permission of Mr. Kyriakodis).

opinions have almost sparkling readability, a product largely of breadth of culture,” he might well have been describing his own presidential profiles. Rogers did not write like most other lawyers. He wrote engaging prose which sometimes took unexpected literary turns. In his chapter on Kellogg, Rogers begins a sentence, “In the seven years and a half of Roosevelt’s régime...” A few sentences later, he refers to “the letters of marque given by the Sherman Act...” He compliments an article Severance once wrote in defense of the Supreme Court as being “one of the best regimentations of the authorities.”

Rogers makes several references to “Cedarhurst,” the Colonial Revival residence designed by Cass Gilbert where the Severances entertained friends and visitors to their 500-acre country estate.³ “All his business associations led to friendships, from friendships to visits to “Cedarhurst” and then often to long records of attachment,” Rogers writes.

In his “Foreword,” Rogers asserts that the first fifty ABA presidents represented an ideal for the “mass” of lawyers practicing between 1878 and 1928:

The fifty stand for what the American lawyer has admired as leadership....[T]he fifty presidents represent the sort of thing that the mass of lawyers would have desired themselves to be, and the kind of generalship that expressed their common aims and instincts. Throughout the period which this list represents, the ambitious boy in almost every town and country school thought of the law as a possible stage for the exercise of what he hoped were his superior talents....By and large, this catalog of men reveals, as nearly as any other spontaneous collection of national figures, the sort of thing that America happened to regard as distinguished public life, in the period between our civil conflict and the great European war.

³ A photograph of “Cedarhurst” appears in Samuel H. Morgan, “Timber, Steel, Law, and Politics: St. Paul’s Pioneering Attorneys and Their More Interesting Cases,” 33 *Ramsey County History* 4, 8 (Winter, 1999). Located in Cottage Grove, it was placed on the National Register of Historic Places in 1976.

He may have been right about that early period, but it is no longer true that most lawyers emulate the presidents of the ABA. Few practitioners even know the name of the current president. The bar today is more diverse, and “the law” has too many competitors to be the preferred occupation for “ambitious” students with “superior talents.”

Nevertheless, there is a character in Rogers’ book of biographies whom the “mass of lawyers” today would admire and perhaps even seek out for advice, conversation and friendship—Rogers himself. He led a varied, eventful life. He practiced law, taught law, moved easily between government service and academia, wrote books, plays and poetry,⁴ and never lost his love of the west, especially the mountains of Colorado.

The following article appeared first as a chapter in James Grafton Rogers’s *American Bar Leaders: Biographies of the Presidents of the American bar Association, 1878-1928* 213-216 (Chicago: American Bar Association, 1932). Though reformatted, it is complete. Page breaks have been added. It is posted on the MLHP with the permission of the heirs of James Grafton Rogers.

Roger’s profile of Severance may be read together with his study of Frank Billings Kellogg, which is posted separately on the MLHP. □

⁴ Rogers is listed in a website, *Strangers to Us All: Lawyers and Poetry*, established and maintained by Professor James R. Elkins of the College of Law, West Virginia University; the website identifies this country’s “lawyer/poets” and lists their published works. As tabulated by Elkins, Rogers published two volumes of poetry, a journal of his wartime years at the OSS, six books, and two plays.

For many Coloradoans, the natural history of his Georgetown home, *My Rocky Mountain Valley*, published in 1968, is one of his most memorable books. Rogers’ *The Golden Lode: A Frontier Drama in Verse*, originally published in 1920, was reissued as a paperback by Kessinger Publishing Co., in 2007.

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IN

AMERICAN BAR LEADERS

**BIOGRAPHIES OF THE PRESIDENTS
OF THE**

**AMERICAN BAR ASSOCIATION
1878 —19 28**

BY

JAMES GRAFTON ROGERS

PUBLISHED IN COMMEMORATION OF ITS SEMI-CENTENNIAL

BY THE AMERICAN BAR ASSOCIATION

CHICAGO

1932

CORDENIO ARNOLD SEVERANCE*

1862	Born, Mantorville, Minnesota.	1889	Married Mary Frances Harriman of Wisconsin.
1877-80	Spent two years at Carleton College, Northfield, Minnesota	1901-20	Defended in United States Steel Trust Cases.
1880	Entered public schooling at Mantorville.	1908-12	Tried Union Pacific-Southern Pacific Trust Cases.
1882-83	Studied law, Kasson, Minnesota.	1917-18	Chairman, Red Cross Commission to Serbia.
1883	Admitted, Minnesota bar.	1920	Visited Belgrade as Trustee of Carnegie Foundation.
1885	Practiced law with Governor—United States Senator, C. K. Davis.	1921-22	President, American Bar Association.
1887	Frank B. Kellogg joined partnership.	1925	Died, South Pasadena, California.

CORDENIO SEVERANCE tried great lawsuits, but his individual story is that of his graceful and lovable personality pictured beside the white pillars of his country estate called “Cedarhurst.” The key of his life was a passion for friendships. These friendships were not the source of his success in railroad and corporation practice, but they did bring him the Presidency of the American Bar Association, a lifetime of relationships with men of national and international fame and other fruits that come to a man who loves companionship

For more than forty years, Severance practiced as the member of a firm of national reputation in St. Paul and ranged over the United States on the business of his clientele but his affections clung to his country estate near Cottage Grove, not far from the city. There he and Mrs. Severance led almost a manorial life. Both were the product of old American families. They had no children of their own. The 500 acre farm, with its large residence building, became the seat of cordial interchanges with neighbors and almost every prominent visitor to the Northwest.

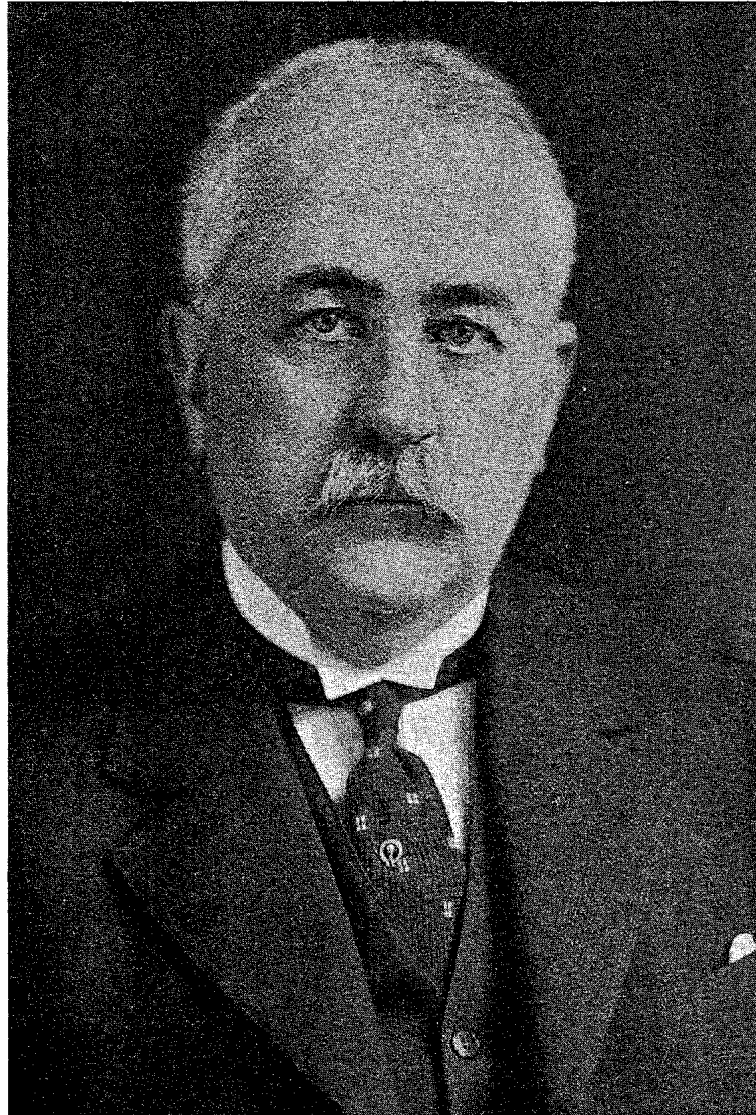
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Severance had a rather modest formal education, but he collected a large library on every sort of subject, read widely in the fields of history, drama, poetry and the literature of rural life. He was the country gentleman in its most appealing form. His [214] collie dogs—he often had forty in the kennels—were an institution. He shared in the sunny and cloudy days of the Cottage Grove community, attended the weddings and funerals of the neighborhood, kept a watchful eye on the schools and the churches, discussed crops and stock-raising through long hours, and chatted by the roadside with the oldest inhabitants. The gardens about his residence were a delight to him and he seemed to know every tree and consider its personality. He entered his dogs in the shows and gave their puppies to his friends. He was an authority on large investments and the problems of world markets. This business and his own tastes led to much rambling, particularly in Europe, and he was much at home in the Capitals and official circles of Washington and abroad. All his business associations led to friendships, from friendships to visits to “Cedarhurst” and then often to long records of attachment.

He was a man of striking good looks, cordial, stylish and a much desired figure in any club group. He had a genuine interest in people, a fund of information and a talent for easy after-dinner conversation that gave him a local place as an after-dinner speaker and toastmaster, and a sort of national reputation as a teller of yarns. He studied the cello and when, in his later years he had a pipe-organ built at “Cedarhurst,” the big music-room was much used for informal concerts. He was a warm supporter of the St. Paul Symphonies and both Damrosch of the New York Symphony and Oberhoffer of the Minneapolis Orchestra were among his closest friends. His financial aid to patriotic and charitable causes was large. He helped unfortunate neighbors in disaster, saw them through ill health and gave many a boy aid to education. Carleton College claimed much of his energy. He served as a Trustee and left a small fortune to it on his death. Few American lawyers are surrounded with so many warm remembrances.

Severance was born in rural Minnesota. His father was not a lawyer. The family had come from England in the Puritan period and gradually sifted west through Pennsylvania. After the usual history of a country boy in the public schools, he had two years at Carleton College, Northfield. Years later, the College recognized a thousand services by giving him an honorary degree. He studied law in an office in the little

town of Kasson, was admitted to the bar at twenty-one, and got a foothold in the office of Governor (afterwards United States Senator) Cushman K. Davis. Two years later, he was taken into partnership [215] and shortly afterwards, Frank B. Kellogg joined the firm. With various shifts in personnel, the firm has continued to carry Severance's name.



CODENIO ARNOLD SEVERANCE

The "Trust Busting" epoch that began with the new century opened opportunities for both Kellogg and Severance. It launched Kellogg upon his public career, but Severance had little taste for that sort of thing and his connection with the anti-trust campaign is wholly that of a

practitioner. As a Special Assistant to the Attorney General, he represented the Government in the suit against the Union Pacific-Southern Pacific merger and won the case. A series of private employments in cases involving the same issue succeeded. He was one of the counsel for the United States Steel Corporation in the Government suit to dissolve that combination and participated actively in the trial and argument of the case. The final conclusion of the courts that the corporation was, as the people phrased it, a good trust," came near the end of his life, after years of difficult litigation. His last argument in court was in defense of another trust prosecution brought against the International Harvester Company.

He held no public offices. He went through the usual régime of the distinguished lawyer in serving as President of the local Bar Association in St. Paul and President of the Minnesota State Association. His friendships as a Commissioner on Uniform State Laws played a part in his elevation to the Presidency, as has been the case with other men. He was the trustee of many public bodies, including the Carnegie Foundation for International Peace. The Great War aroused him deeply and he chafed in civilian affairs until a chance came to spend his energy abroad in the service of the American Red Cross in the Balkans and later in the arrangements for the reconstruction of a library donated by the Carnegie funds to the University of Belgrade. In his late years, both he and Mrs. Severance suffered ill health. The custom of visiting California during the winter grew upon them and there he died, on one of his yearly visits.

Severance wrote little in the literature of the profession. His addresses as President of the American Bar Association show far more interest in letters than do most; he quotes from Bacon and Shakespeare; his discourse runs simply and clearly. It is all conservative, as conservative as might be expected from a man who had spent his talents in the defense of great industrial property interests. He is bitter against collegiate and parlor Social[216]-ism; he stirs the profession to resist the disorderly elements after the Great War. The attack on the Supreme Court, during which the radicals suggested an amendment to the Constitution to destroy what they called the veto power of legislation in the judiciary, stirred Severance to one of the best regimentations of the authorities in defense of our Constitutional system that the period produced. Some of his legal arguments and opinions have almost

sparkling readability, a product largely of breadth of culture. After all, it was his personality that made his way. “We elected him because we loved him” is the common explanation of his conspicuous place in the national history of the American bar. ■



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