

Adelaide Park Lands Heritage Places

SAMUEL JAMES WAY MONUMENT

NORTH TERRACE

Place Name and Address: Sir Samuel James Way monument
North Terrace
Adelaide

SUMMARY OF HERITAGE SIGNIFICANCE:

Description:

The monument includes the statue and pedestal. This is a life size bronze statue depicting Sir Samuel James Way in the robes of the Chancellor of the University of Adelaide. It is set on a granite pedestal.

The monument is located on North Terrace near an entry to the University of Adelaide opposite Pulteney Street.

The inscription on the front of the pedestal reads:

Sir Samuel James Way
Baronet, P.C.
Lieutenant Governor
Chief Justice
Chancellor of
The University of Adelaide
1836–1916

Statement of heritage Significance:

The monument to Sir Samuel James way commemorates the work and achievements of a significant South Australian, and a leading and influential citizen and jurist. The location of the monument outside the University of Adelaide on North Terrace, is appropriate given Way's identification with the institution.

Relevant Criteria (Under Section 16 of the *Heritage Act 1993*):

(a) It demonstrates important aspects of the evolution or pattern of the State's history, particular for the manner in which it commemorates the contribution of Way to the intellectual and social life of Adelaide, and his influence on the development of the University and the legal profession.

(e) It demonstrates a high degree of creative, aesthetic or technical accomplishment, being the work of noted English sculptor Alfred Drury (1856–1944).

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(g) It has a special association with the life or work of a person or organisation or an event of historical importance, in Sir Samuel James Way, Lieutenant Governor, Chief Justice, and Chancellor of the University of Adelaide.

RECOMMENDATION:

It is recommended that the monument to Sir Samuel James Way — statue and pedestal — on North Terrace be provisionally entered in the South Australian Heritage Register.

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ASSESSMENT OF HERITAGE VALUE:

Criteria

(a) It demonstrates important aspects of the evolution or pattern of the State's history, particular for the manner in which it commemorates the contribution of Way to the intellectual and social life of Adelaide, and his influence on the development of the University and the legal profession.

(e) It demonstrates a high degree of creative, aesthetic or technical accomplishment, being the work of noted English sculptor Alfred Drury (1856–1944).

(g) It has a special association with the life or work of a person or organisation or an event of historical importance, in Sir Samuel James Way, Lieutenant Governor, Chief Justice, and Chancellor of the University of Adelaide.

BRIEF HISTORICAL BACKGROUND:

The statue of Sir James Way represented in the robes of the Chancellor of the University is the work of the English sculptor Alfred Drury: he was also responsible for the statues of Sir Thomas Elder and Charles Cameron Kingston elsewhere in Adelaide.

A particular feature of this monument is that it was promoted before Way's death. He demurred for a time, but relented when Sir Langdon Bonython raised the funds from friends. Drury, whom Way had urged as the sculptor of the statues of Elder and Kingston, was given the commission in 1915. However, the intervention of World War I meant that casting was not possible until after the war and after Way's death on 8 January 1916. The statue finally arrived in Port Adelaide in November 1923.

The granite pedestal was designed by architect Walter Bagot who supervised the construction of the monument by stonemason AS Tillett.

The monument to the memory of Samuel James Way was unveiled by Chief Justice Sir George Murray on 17 November 1924: Murray had succeeded Way as Lieutenant Governor, Chief Justice and Chancellor.

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Way was a distinguished South Australian whose biography is included in the *Australian Dictionary of Biography*, where a successor, Chief Justice Bray wrote:

WAY, Sir SAMUEL JAMES (1836-1916), chief justice and lieutenant-governor, was born on 11 April 1836 at Portsmouth, Hampshire, England, eldest son of James Way, a Bible Christian minister, and his wife Jane, née Willis. Samuel attended Shebbear College, Devon, and a private school run by a Unitarian minister at Chatham, Kent. In 1850 James Way migrated with his wife and younger children to Adelaide to become superintendent of his Church in South Australia, leaving Samuel behind to complete his education. On 6 March 1853 he joined his family in Adelaide, in time for the Sunday evening service. Articled to Alfred Atkinson, he was admitted to the Bar on 23 March 1861. He proved to be an industrious and competent practitioner whose career was forwarded by fortuitous events: Atkinson became insane shortly before Way's admission, leaving his junior to run the practice; after Atkinson's death in July, Way bought the practice for £1000, payable by installments. In 1863 he appeared before a select committee of the House of Assembly for a claimant in the dispute over leases to the Moonta copper mines. This controversy occupied the attention of the Supreme Court for two years and ultimately went to the Privy Council.

In 1867 Way was retained by the government in an action before the governor and Executive Council for the amotion of Justice Boothby from the Supreme Court; Way conducted proceedings and delivered the final address. That year he took a partner, enabling him to concentrate on the barrister's side of the practice. In 1869 he holidayed in England where he was concerned in two appeals to the Privy Council. Two years later he took silk.

Elected in February 1875 to the House of Assembly for Sturt, in June Way became attorney-general in (Sir) James Boucaut's ministry; when Chief Justice Sir Richard Hanson died suddenly next year, Way replaced him. Although there were precedents for his elevation from attorney-general to chief justice, Way's appointment was disapproved by the bench and by his partner (Sir) Josiah Symon. The puisne judges E. C. Gwynne and R. I. Stow were so affronted that they ostracized Way in private, permanently in the first case, temporarily in the second. His acceptance involved exchanging an income of almost £6000 a year for a salary of £2000, but he had saved some £40,000 in fifteen years practice and could afford it. That he attained the chief justiceship while still under 40, and without either financial backing or university qualifications, was testimony to his skill and energy.

On 27 March 1876 he took his seat on the bench of the Supreme Court which he was to occupy for nearly forty years. His life entered a period of autumnal splendour during which, while assiduously attending to his judicial duties, Way was also prominent on most of South Australia's educational, cultural and philanthropic bodies. Out of his wig he was a softly spoken man; but he drew attention by the challenging poise of his head which was always slightly held back.

Way sat in the court's various jurisdictions. He promoted a

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reorganization of the circuit court system, and the fusion of law and equity along the lines of the English Judicature Acts. He invented the summons for immediate relief. He formalized judicial dress on the English model, not only the black gown and wig in vogue before him, but the scarlet and ermine of the Criminal Court. He presided over royal commissions, notably that of 1883 into the administration of the Destitute Act: its recommendations partially alleviated the plight of boys on a rotting hulk used as a reformatory training ship, and the servitude of unmarried mothers to washtub and mangle, and urged the establishment of a state children's relief board. Sitting with his colleagues Boucaut and (Sir) William Bunday in almost unbroken harmony from 1884 to 1903, Way dominated the court; on the only instance in which he was in the minority, he was upheld in the Privy Council.

A council-member of the new University of Adelaide before his elevation, Way was vice-chancellor (1876) and chancellor (1883-1916). There was criticism of these appointments because of his lack of tertiary qualifications and experience; on ceremonial occasions he wore his judge's wig and gown in lieu of the academic dress to which he was not entitled. Prominent among those who promoted the establishment of the Adelaide Children's Hospital, he was president of the board from its foundation in 1876 until 1915. In addition, he was president (1893-1908) of the Public Library, Museum and Art Gallery of South Australia and was active in Freemasonry and in Bible Christian affairs. He helped to effect the union in 1900 of the three Methodist sects into the United Methodist Church of Australia and New Zealand, and remained a staunch member of the Methodist Conference. In 1872 he had bought Montefiore, a North Adelaide mansion where he spent the rest of his life; while at the Bar he also bought Sea View, a farm near Noarlunga; on his property at Kadlunga he grazed the improved Shropshire sheep which he had introduced into Australia. He was delighted when a great pastoralist greeted him in Sydney not as the chief justice, but as 'the breeder of Shropshires'.

From 1876 Way sometimes acted as governor during an interregnum or in the incumbent's absence. Late in 1890 he was appointed lieutenant-governor of South Australia for life. Governor Kintore made this arrangement with the Imperial authorities without cabinet's knowledge; the announcement came after Way had departed on a world tour. Fêted in England and awarded an honorary doctorate of civil law at the University of Oxford in 1891, he visited Shebbear College and presented it with a neighbouring farm.

Greater honours awaited him. An Imperial Act of 1895 allowed up to five colonial judges to enter the judicial committee of the Privy Council. Way was chosen as the Australasian representative. The appointment—which involved negotiations to gain support from the other Australasian colonies—was forwarded by (Sir) Langdon Bonython, proprietor and editor of the *Adelaide Advertiser*, and, more grudgingly, by Premier Kingston. In 1897 Way left to take his seat. He heard appeals from India, China, South Africa, Jamaica and New South Wales. He was awarded an honorary LL.D. by the University of Cambridge. According to his letters, he was received with deference

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and showered with attention by official and legal dignitaries and by society hostesses. In some quarters, however, he experienced iciness and condescension. Way went home in October and never sat on the Privy Council again, ostensibly because of the failure of either the Imperial or the various Australian colonial governments to pay his salary and expenses.

On 11 April 1898, his 62nd birthday, Way married Katharine Gollan, late Blue, née Gordon, a 44-year-old widow with a grown family. Though he had several times refused a knighthood (perhaps because his senior puisne Boucaut was a K.C.M.G.), Way accepted a baronetcy with alacrity in 1899. It would have been a little presumptuous, he wrote, to have 'declined a dignity which was accepted by Sir Walter Scott', and he was proud to have become, as he saw it, the first Methodist baronet in the British Empire.

From this point, Way's official life began a slow decline in status and supremacy. While taking no official part in the Federation movement, he strove unsuccessfully behind the scenes to prevent any restriction on the power of the Privy Council to grant leave to appeal from the High Court of Australia. His attitude to the High Court was one of suspicion and distrust: 'That Court was no more needed than the fifth wheel to a coach'. In 1906 he refused the offer of a seat on that court; he could hardly be expected to 'tramp about the Continent as a subordinate member of the itinerant tribunal'. The High Court soon demonstrated a propensity to reverse the decisions of the State courts in a disproportionate number of cases. Its actions made a great difference to Way's method of working. Formerly he had delivered most of his judgements extempore. He now made a practice of reserving them, and then delivered them at some length. The resulting delays were eventually discussed in parliament. While he long escaped the correction of the High Court, in 1909 he was inevitably reversed, for the first time in thirty-four years (*Dashwood v. Maslin*).

The retirements of Bunday (1904) and Boucaut (1905) had left Way somewhat lonely on the bench. He received what might well have been a salutary shock when (Sir) John Gordon dissented in the first case that he heard in the Full Court, but later found Gordon an excellent judge and an agreeable colleague; and he was pleased when his former associate and subsequent successor (Sir) George Murray was appointed to the Supreme Court in 1912. As the twentieth century's second decade took its course, Way began to fail. Lady Way's death in May 1914 came as a heavy blow. Diagnosed as suffering from cancer, Way went to Sydney where, in July, Sir Alexander MacCormick amputated his left arm. Characteristically, Way wrote an eleven-page description of his journeys there and back, the operation and his convalescence.

He returned to the bench in October 1914 and struggled on with his many duties. The cancer recurred. He presided over the university commemoration in December 1915 and sat twice in the Full Court in the week that followed. On 8 January 1916 he died at his North Adelaide home and was buried in his parents' grave in West Terrace cemetery. His estate was valued for probate at £55,000 (gross). There

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were thirty-five beneficiaries, the most considerable legacy going to his widowed sister; his library of 15,000 volumes was willed to the university. Way's voluminous, shrewd and candid letter-books are in the Mortlock Library of South Australiana. It is said that his sister burnt his personal diaries.

Sir Samuel Way was not a great jurist. His pragmatic cast of mind inhibited intensive historical research or jurisprudential analysis. At times he strained the law to produce the result which he thought justice and common sense demanded (see *De Pledge v. Australian United Steam Navigation Co.*, 1904). But he was conscientious, intelligent and industrious, and his verdicts gave general satisfaction. His judgement in the celebrated corset case (*Weingarten v. Wills & Co.*, 1906), which took nearly four hours to read, demonstrated his ability to marshal and assess a complex array of facts.

There was a touch of vanity about him, and an element of the complacency and self-satisfaction of his era. For all that, Way was by nineteenth-century standards a great man who left an enduring mark on South Australian life. Beatrice Webb had found him a 'grizzled, bearded little man, insignificant in features, voluble and diffusive in speech, with more authority than dignity in his manner; he neither pleases nor impresses ... At first he seems a fussy little methodist ... presently you discover that he is both good and wise. With intimacy one learns to appreciate his wide experience of men and things, his large-minded cultivation and above all his continuous application in advancing what he believes to be right'. Way's portrait by G.A.J. Webb is in the Supreme Court, Adelaide; his statue stands in North Terrace near the university.

REFERENCES:

David Jones, *Adelaide Park Lands & Squares Cultural Landscape Assessment Study*, Corporation of the City of Adelaide, October 2007, p. 552.

Simon Cameron, *Silent Witnesses: Adelaide's Statues and Monuments*, Wakefield Press, Adelaide, 1997, pp. 87–91.

JJ Bray, 'Way, Sir Samuel James (1836-1916)', *Australian Dictionary of Biography*, Volume 12, Melbourne University Press, 1990, pp. 417-420.

Adelaide City Archives, Sir Samuel James Way Monument, TC DKT 1923/3914.

Register, 18.11.1924.

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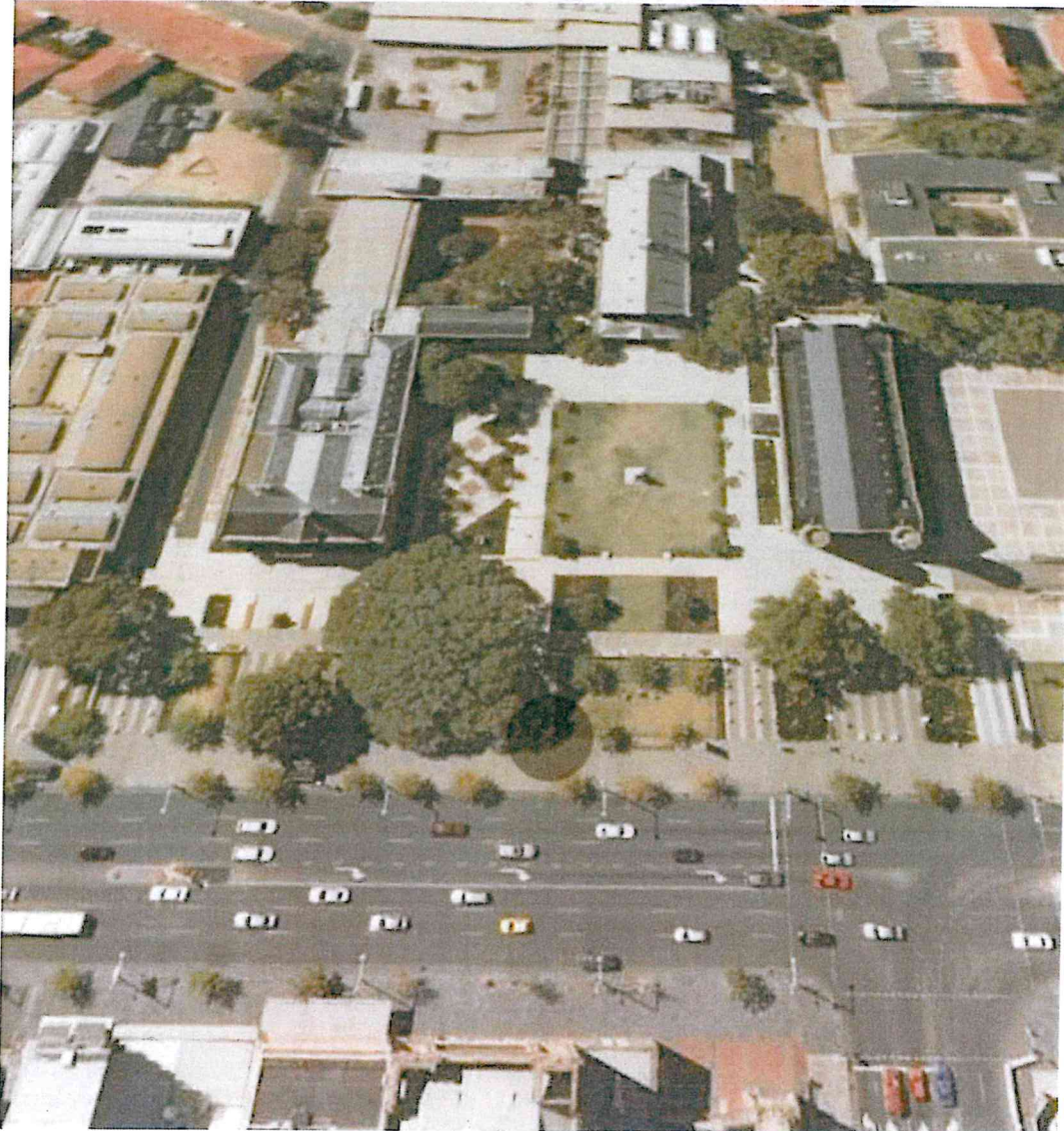
SITE RECORD:

FORMER NAME:	Samuel James Way Monument	
DESCRIPTION OF PLACE:	Monument	
DATE OF COMPLETION:	1923	
REGISTER STATUS:	Description:	n/a
CURRENT USE:	Description:	Monument
	Dates:	
PREVIOUS USE(S):	Description:	n/a
	Dates:	n/a
SCULPTOR:	Name:	Alfred Drury
	Dates:	1923
BUILDER:	Name:	AS Tillett
	Dates:	1924
SUBJECT INDEXING:	Group:	
	Category:	
LOCAL GOVERNMENT AREA:	Description:	Adelaide City Council
LOCATION:	Unit No.:	-
	Street No.:	n/a
	Street Name:	North Terrace
	Town/Suburb:	Adelaide
	Post Code:	5000
	Region No.:	
	Region:	Adelaide
LAND DESCRIPTION:	Title Type:	CT
	Volume:	5685
	Folio:	769
	Lot No.:	n/a
	Section:	694
	Hundred:	Adelaide

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Site Plan



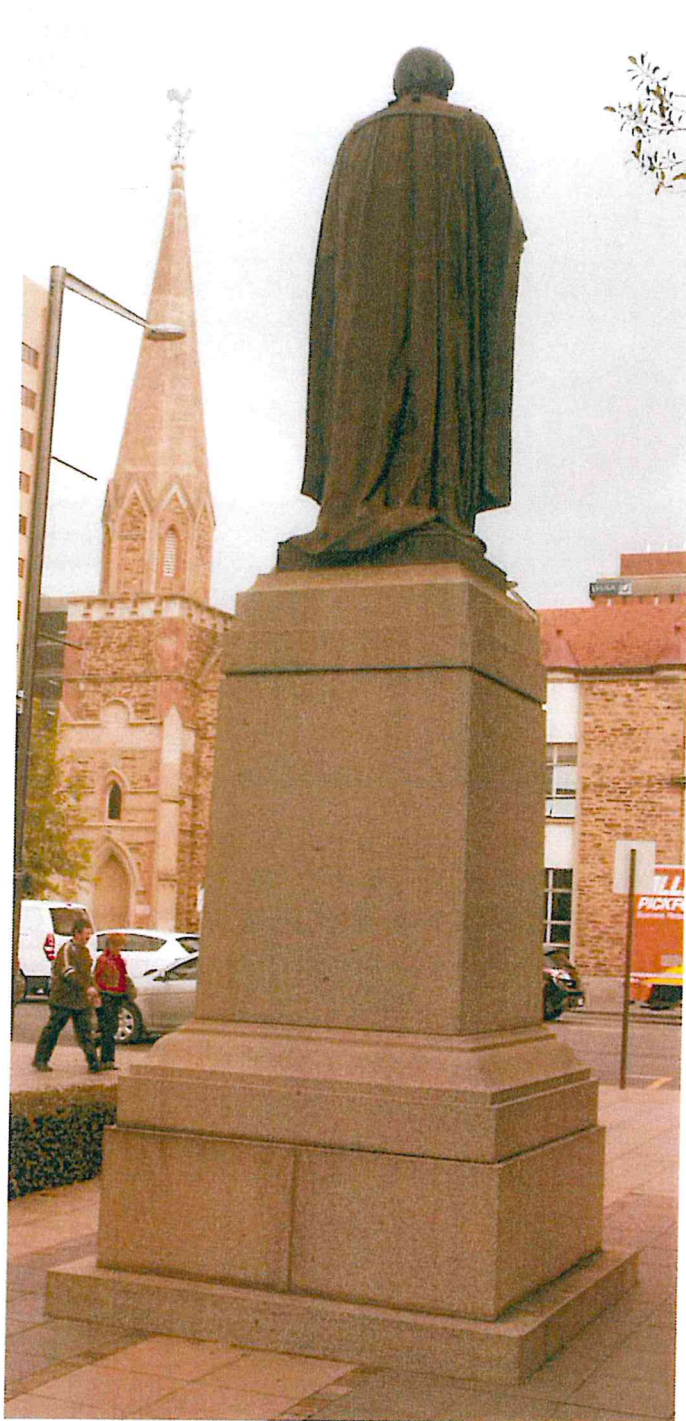
SAMUEL JAMES WAY MONUMENT

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View to the north showing the front and eastern elevations of the monument

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View to the south showing the rear and western elevations of the monument