

A Remarkable Career.

The wisdom of the party which pleads for equal opportunities for all is demonstrated in the career of the late Chief Justice. Samuel James Way was not born in the purple. He was born at Portsmouth, England, on April 11, 1836, and he was a son of the late Rev. James Way, for many years general superintendent of the Bible Christian Missions in Australia. His own natural ability, his pertinacity of application, and his virile personality brought him to the front. The process was not immediate; it was gradual; and it was only the man with lofty ambitions that could have developed the patience to mature the qualifications which enabled him to rise to every occasion, and thus create a record unparalleled in the history of the State.

Emigration to Australia.

The late Sir Samuel Way was an eldest son, and it may be said, further, that he was a worthy son of a worthy father. How the family came to Australia is worth recounting. The Rev. James Way was a man of mark in the Bible Christian world. After the birth of Samuel at Portsmouth, Hampshire, the parson was stationed in London, at Tenterden, in Kent, in the Isle of Wight, at Exeter and Bideford (in Devonshire), and at Chatham (in Kent). In 1847 he was president of the annual conference, and three years later he was sent to Australia to establish Bible Christian societies. When the parents left England the future Chief Justice and Lieutenant-Governor remained behind to complete his education. This was commenced at Shebbear College, Chatham, under the direction of the Rev. J. C. Means, a Unitarian minister of excellent literary and scholastic attainments. The headmaster was anxious that his pupil, who had shown unusual brilliance, should remain in the old land and graduate at the Oxford University. Young Way, however, possessed in a striking degree a commendable regard for his parents, which would not allow any personal ambition to involve any lengthy separation, and accordingly he sailed for the comparatively new land of Australia.

Arrival in South Australia.

He landed in Melbourne on February 27, 1853, and on March 6 he joined his family in Adelaide. Soon afterwards the British love of adventure made him wish to try his luck at the goldfields, but this desire was nipped in the bud by a few months' holiday on a farm at Noarlunga. It is interesting to note here, however, that this experience created broader interests, and at the time of his death Sir Samuel was the owner of that farm, and, in addition, possessed one of the finest sheep studs in the State at Kadlunga, a small station adjoining the widely known Minlaro slate quarries.

Choice of Career.

After the rural holiday the question of a career for the 17-year-old lad was discussed, and the legal profession was decided upon. It was a wise decision, fraught with great developments. The lad entered the office of Mr. J. T. Bagot, and he afterwards joined the office of Mr. A. Atkinson, to whom he was articled in 1856. A useful experience followed, as the new law clerk soon had the management of the conveyancing and common law business. It was only a matter of time before his enterprise and merit obtained the recognition of management of the whole business. On March 23, 1861, he was called to the South Australian bar, and soon afterwards he succeeded Mr. Atkinson as the head of the business. This was remarkable progress for seven years, but greater things were to follow. The young lawyer so distinguished himself in several causes celebre that in 1871 he was appointed a Q.C. The dialectic skill he showed in his conduct of the celebrated Moonta Mines case and the patience and wisdom with which he presented the arguments for his clients had paved the way for his advancement. His part in the intrusion case, *Regina v. Baker*, arising out of the long-pending dispute as to the power of the Government arbitrarily to resume possession of pastoral lands included in annual leases, gained him further distinction, and he soon divided with Mr. Stow, Q.C., the then leader of the bar, the principal court business. When on circuit at Mount Gambier in 1868 the ability of Josiah Symon (now Sir Josiah Symon, K.C.), then a clerk under his cousin, Mr. J. D. Sutherland, attracted Mr. Way's attention, and he gave the future K.C. an opportunity to complete his articles in his office. In 1872 he admitted Symon into the firm, and the newcomer succeeded to the whole business upon Mr. Way's elevation to the bench four years later. Another promising pupil of Mr. Way's, who stamped his influence large in South Australian political history, was the late Right Hon. C. G. Kingston, K.C. To recover from the effects of overwork Mr. Way took a trip to England in 1867, and twice he appeared before the Judicial Committee of the Privy Council, of which in later years he became a member.

Entry Into Politics.

The rising young lawyer studiously refrained from identifying himself with politics until he had established his legal business on a firm footing. In 1875 he judged that the time was ripe, and at the general elections in that year he was returned to the House of Assembly for the district of Sturt. In the debate on the Address-in-reply, which Mr. Way moved, the Blyth Ministry was turned out of office. The mover of the ejection amendment, Mr. Townsend, having failed to form a Ministry, Mr. (later Sir James) Boucaut was sent for, and he succeeded in the task. Mr. Way accepted the portfolio of A

ttorney-General, and was sworn in on June 3. The policy was described as a bold and comprehensive one. The Premier was keen in putting down log-rolling, and the pernicious system of Parliamentary addresses for local expenditure, and it is claimed that he succeeded. The policy included a comprehensive scheme of railway extension and other public works, together with the necessary taxation scheme to meet the proposed expenditure. The Ministry's proposals were temporarily defeated by the same old Legislative Council, which has been a stumbling block to progress ever since. The Council threw out the stamp tax, which was an instalment of the requirements. A special session was convened to give the "superior" Chamber another opportunity and a second time it rejected the proposal. During these strenuous times Mr. Way proved a ready debater, and his forensic ability and broad views commanded attention.

Elevation to the Bench.

The Chief Justice (Sir Richard Hanson) died suddenly on March 10, 1876. Mr. Way's brilliant attainments marked him as a worthy successor, and the Premier and his colleagues invited him to fill the position. It was one of those great crises in life, in which a decision could be arrived at only by the person concerned. The opportunity was fraught with immense possibilities from a national point of view, but from the personal viewpoint it meant the sacrifice of place and pay. The Attorney-General enjoyed the confidence of the community, and the salary attaching to the Chief Justiceship was only one-third of Mr. Way's professional income. And already he was recognised as the leading exponent of the bar. Indeed, at this stage of his career one newspaper critic wrote:—"At the present moment Mr. Way is the natural leader as well as the mere ex-officio leader of the South Australian Bar. He has earned this proud position by sheer hard work and thorough devotion to his calling. He has recognised the old adage that the law is a jealous mistress and will brook no divided or half-hearted fealty. He is generally looked upon as a thoroughly shrewd lawyer, well versed in the science of his profession, rapidly seizing the point of an argument, acute in discriminating between what is material and what is purely accidental, prompt to detect a sophistry, and far more apt to be swayed by principles than technicalities. In a word, he has many of the qualities that go to make an excellent judge." The years passed, and the wisdom of the criticism was demonstrated so fully that within a quarter of a century the Chief Justice's reputation as a lawyer and a jurist was established throughout Australia and his merit was recognised both in England and America. These statements can readily be supported by the fine tribute which appeared in the Australian "Review of Reviews" in 1895 in an article entitled "The Supreme Court Bench of South Australia." The writer said:—"It is the justifiable boast of South Australians that they possess a judicial bench which, both on the intellectual and moral sides, worthily maintains the high standard which the British judiciary has given the world, and that in the Chief Justice Way they have one of the ablest judges in her Majesty's dominions. The qualities which have so rapidly advanced Mr. Way may be summed up in five words—'clearness of vision, courage, capability.' To the man who has these comes opportunity. Mr. Way is first and foremost a lawyer. This he regards as the great business of his life, and to this the various spheres of his marvellous activity are subordinated. Hundreds of tributes have been paid to him in the press, but probably none is more expressive and deserved than the encomium passed by the "Journal of the Society of Comparative Legislation," which in 1890 said the Chief Justice brought to the bench "all the qualities of a sound and learned lawyer, added to industry that never flagged and patience that was inexhaustible. As Chief Justice of the colony Sir Samuel Way has gone on steadily from year to

near increasing his reputation, and he is now acknowledged to be one of the ablest constitutional lawyers in the colonies." And as the years have flown by his reputation has increased.

Record Advancement.

This advancement was phenomenal, for at the time of his elevation to the highest judicial position in the land Mr. Way had been five days less than 15 years at the bar, he was under 40 years of age, and was the youngest but one of all the Chief Justices in the British Dominions. Sir Samuel at the time of his death was the senior judge in Australia, and there can be few if any judges in any part of the Empire who have had a longer term of judicial service. It was significant that the day before he took his seat on the bench for the first time—Monday, March 27—his father preached his farewell sermon prior to his retirement from pastoral work. And the teachings of the father were exemplified in the son.

High Ideals.

The ideals which Sir Samuel set himself in the administration were simplicity of procedure and dispatch, and his aims to a large extent were realised. In 1878 he was largely instrumental in securing the enactment in this State of the English Judicature Acts, and he personally supervised the rules of procedure which did much to prevent delay and afforded comparatively prompt relief. His judgments have invariably been marked by clearness and erudition. He was always a strong advocate of the extension of the circuit court system, and through his efforts the northern circuit courts were established in 1881. The first of these courts, fittingly enough, was held by Sir Samuel, who was tendered complimentary banquets at Port Augusta and Gladstone. The years have flown by since then, and the talented judge capped his record in this connection, when in 1915, one-armed and nearly 80 years of age, he travelled 600 miles to preside at a similar court at Mount Gambier. With eye undimmed and mentality alert he provided an excellent illustration of the dogged British spirit which knows no defeat.

Public Spiritedness.

The Chief Justice was never happy unless his time and energies were being devoted to the benefit of the public, and he never spared himself from extra service by limiting himself solely to his strict judicial and gubernatorial duties. He acted as Commissioner of the Court of Insolvency from April, 1881, until June, 1883, working voluntarily and without salary

for an extra day per week. He presided over a Royal Commission on Tribunals of Commerce, which sat for six months in 1883. In 1883, at the request of the Roman Catholic bishop, the Government, and the members of the Destitute Board, he accepted the presidency of a commission to enquire into the administration of the Destitute Acts and regulations. The enquiry was made because of the frequency with which complaints were made concerning the management by the Destitute Department of the industrial and reformatory schools, and of the boarding-out system. All parties reposed entire confidence in the Chief Justice, and that was the reason for his appointment. The sittings lasted for two and a half years, and the final report, drafted by the president, has been recognised as a valuable and lasting addition to literature on the subject dealt with.

Judicial Colleagues.

During his long occupancy of the bench the Chief Justice was associated with some notable men. His first two colleagues were Mr. Justice Gwynne, who retired in 1881, and Mr. Justice Stow, who died in 1878. He was then associated with Mr. Justice Boucaut, the ex-Premier in whose Ministry he was Attorney-General, and Mr. Justice Andrews, a one-time partner with Mr. Atkins at the time young Way was serving in that office as an articled clerk. Mr. Justice Bunday, who succeeded Mr. Justice Andrews, who died in 1884, was a fellow-clerk of the Chief's at Mr. Bagot's office when he first took up the legal profession in earnest. Mr. Bunday retired from the bench on November 30, 1903. The next colleagues were Sir John Gordon and Mr. Justice Homburg. Upon the death of the latter Mr. Justice Murray was elevated to the bench. With all of these colleagues, with whom Mr. Acting-Justice Buchanan should be included, the Chief worked with zeal and good-fellowship. His judgments were decisive, and the number of his decisions that have been reversed in a period of 40 years, are so very few that he could justly be looked upon as a judge who made no mistakes.

Administrator and Governor.

Since the withdrawal of the Imperial troops in 1870 the Dormant Commission to administer the Government in the absence of the Governor has always been addressed to the Chief Justice, and in less than a year after Mr. Way's appointment to the high office this commission became active, and he was en-

able to establish the unique position in colonial history of opening and dissolving a session of a Parliament of which he had been a member. The frequency with which Sir Samuel acted as Administrator, Deputy-Governor, or Lieutenant-Governor has also created a record of service which shows that he had during his lifetime been more a Governor than any Governor the State has had. And his work in this capacity met with such entire approval, that it provides a strong argument why the States should be permitted to select their own Governors, or at all events have him selected from among the most worthy citizens. Recognition of this fact, probably, led some years ago to a suggestion that in the interests of economy Sir Samuel should continue to fill both the viceregal and judicial offices permanently. However, he opposed this proposal, as both unconstitutional and as tending to weaken the connection between the colony and the mother country, and the matter was quietly dropped.

On taking up the Governorship from July 17, 1902, to July 1, 1903, during the period intervening between the departure of Lord Tennyson and the arrival of his successor, Sir George Le Hunt, the Chief Justice once again demonstrated his patriotism and his loyalty to the people. It was a time of drought, and economy in administration was essential. Sir Samuel made no bones about it, but, realising the sorry state of the State's finances, he spontaneously relinquished half of the viceregal salary to which he was entitled. The efficiency and economy of this interim administration was surely effectively demonstrated for—"at the request of Ministers his term of office was extended to a whole year, less a fortnight. During the period in which Admiral Sir Day Hart Bosanquet was Governor Sir Samuel was called upon to act as Deputy-Governor no fewer than 30 times and twice as Lieutenant-Governor, the latter appointment as Lieutenant-Governor being from February 21, 1914, to April 18, 1914, when Lieutenant-Colonel Sir Henry Galway arrived to take up the position rendered vacant by the retirement of Admiral Bosanquet. Sir Samuel Way acted as Deputy-Governor for Sir Henry Galway on four occasions, and from November 11 to November 17, 1915 he assumed the position of Lieutenant-Governor, his last Executive meeting being held on November 11 last year. Altogether since 1877 he had been Administrator, Deputy-Governor, or Lieutenant-Governor no fewer than 100 times.

Honors and Letters.

Royal recognition of the services of Mr. Way was proffered in 1879, and in several subsequent years, when he was offered the customary judicial knighthood. He asked to be excused from accepting, and in 1889 he acted similarly with the proffered distinction of K.C.M.G. However, greater distinction followed, for in the 1890 new year honors he was gazetted as Lieutenant-Governor. This was an unique happening, for it was the first occasion on which a Chief Justice was so honored before his retirement. The precedent was afterwards followed in four of the other States. Sir Samuel uninterruptedly held the position of Lieutenant-Governor for a quarter of a century, serving under three Sovereigns. His tact, wide knowledge, and unfailing courtesy made of him a successful Administrator. In January, 1897, largely through the influence of Premier Kingston, Sir Samuel Way was appointed to a seat on the judicial committee of the Privy Council by the Imperial Government. The late W. B. Dalley was the first, Sir Alfred Stephens was the second, and the Chief Justice was the third Australian Privy Councillor. Sir Samuel arrived in London on April 23, and after being sworn in took his seat on the committee on May 13, being the first colonial judge to enjoy this privilege. Academic distinctions poured upon the great lawyer. The University of Oxford conferred on him the degree of D.C.L., *honoris causa*, in 1891, and Cambridge recognised him in 1897 with the degree of LL.D., *honoris causa*. In 1892 the University of Adelaide had conferred the *ad eundem* degree of LL.D. on its chancellor, and the

Farm, and estate valued at £2000, which had denominational value from the sentimental viewpoint as it was where the first B.C. Society was formed in 1815. Again in 1897 Sir Samuel addressed several Methodist conferences in various parts of England. He advocated Methodist union as far back as 1859, and when the proposal took definite shape in Australia he threw his influence into the scale with marked results. He gave a great fillip to the movement in 1895, and in the complete consummation in 1902 he may be said to have played a prominent part. Broadmindedness characterised the religion of the Chief Justice, and he was in thorough sympathy with the pastoral work of other organisations.