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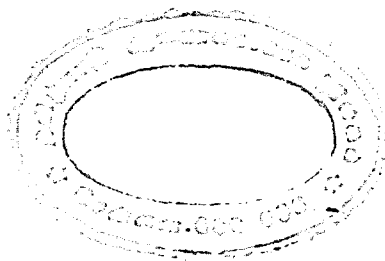
in the

Hindu Temple

Endowments

(Draft Bill)

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19608

# AN APPEAL TO ENGLISHMEN

ON THE

HINDU TEMPLE ENDOWMENTS,

(Draft Bill)

BY A HINDU.



"We do strictly charge and enjoin all those who may be in authority, under us, that they abstain from all interference with the religious belief or worship of any of our subjects, on pain of our highest displeasure":— *Her Majesty the Queen's Proclamation.*

BELLARY :

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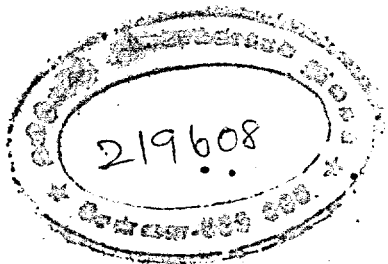
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## AN APPEAL TO ENGLISHMEN.

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India, a land of contentment under all evils in days gone by, by an un-looked-for influence of western education indiscriminately dealt out to its people, by the liberal minded Englishman, has now become and is becoming a factory, for moulding a noisy clique of discontented and malcontent agitators, ever seeking to upset the existing order of things, in order to realise their own ambitious and sordid ends. Observation with impartial judgment will not fail to point out, how the aristocracy of the country is dying out and deteriorating, and the lower orders are being uplifted into prominence. The deterioration of the time-honored aristocracy and a rising into prominence of a new class of men creates in the latter a craving for power and position unheard of by their ancestors. The education given is so inexpensive that even a cook, a waterman and a punchangam-wallah, supplementing his income a little by beggary, graduates his sons in our universities, only to make them roam about the country with mischievous discontentment and to urge reforms and changes, all to bring weight to their ragged and empty purse. Had special care been bestowed and inducements held out to educate the aristocracy, many an utterance now forced upon the public attention from this or



that congress, association, society, club, or reading room would be more sensible, grateful and liberal-minded, than the resolutions now passed after a lot of spouting, and soaring high, all to benefit a class of men seeking new prominence, and to afford gain and lucre to themselves and their progeny. Under the cloak of that much abused word "patriotism," the provisions of the Income Tax Act, the Salt Act, the Forest Act and the Arms Act have all been cursed, detested and denounced. And why? Because they either touch one's pocket or wound one's newly plumed dignity. Movements and agitations like the Indian Council's Bill-agitation and any other agitation to give away half of Her Majesty's Civil and Military covenanted and commissioned appointments to natives (no matter of their origin) would be quite a welcome and a feast to the ever busy and hungry agitators, whose only redeeming feature, in some cases, is the alphabetical affixes to their names earned by beggary and cram.

The benighted Madras Presidency, in proportion to its pungent poverty, contains a greater number of this class of agitators than her sister Presidencies, and the result is that these not only join with men of similar propensities in the other Presidencies, in their common cause and clamour, but also create agitation of their own in this Presidency merely to benefit self.

India, once the centre of despotism, is now, a blooming garden of freedom under the British rule. Here, war has been replaced by peace, crime has been repressed, agriculture, irrigation and produce improved, the advantages of Railways and Telegraphs have been bestowed, commerce is augmented, religious fanaticism tolerated, personal security, personal liberty, and the right of private property

protected. Thus, all mark a decided difference between what India was before, and what India is now. In a word, Englishmen stand as the guardian angels and protectors of India. Yet these untiring and greedy agitators are sorely discontented with the Government. They cry out for legislative interference, on matters wherein legislation is *complete, wise, and politic*.

The "Hindu Temple Endowments Draft Bill" is the forced outcome of an agitation. The agitators are men, who have nothing to lose and every thing to gain, and whose object and heart-burnings may be fairly understood to be for subjecting the endowments, to yield them their livelihood and to usurp the authority over these institutions, by upsetting the existing laws agreeably to their motives, especially so, as the openings in the public service are too few for the large number annually manufactured out of the forcing-houses called schools.

A brief reference to the past discussion on the question of Religious Endowments up to the time of the appointment of the present Committee that drafted the Bill, now under consideration, may be here necessary to show how often the matter was forced on the attention of the Local Government, the Government of India and even the Secretary of State, in the shape of different Bills and Reports and yet all ended in the result that Act 20 of 1863, as it now stands is a valuable enactment.

In January 1871, the Government of India referred certain papers, in regard to the amendment of the law regulating the administration of Religious Endowments to the Government of Madras, and requested its opinion as to the measures that might be adopted, *without deviating from the policy of Act 20 of 1863*. In reply, the Government of India

were informed in January 1872, that a draft Bill prepared by the Honorable V. Rama Iyengar was under the consideration of the Government. On the 23rd of October 1874, a detailed report was submitted and the attention of the Government of India was invited to the remarks of the Advocate General, on an outline of a Bill which that officer proposed and which the Governor in Council approved, as a mere outline. A copy of the correspondence up to this stage was submitted to the Secretary of State for his information in November 1874. The Government, in February 1876, requested the Government of India to pass orders on the subject of the letter dated 23rd October 1874. The Government of India intimated *that the policy of Act 20 of 1863 should be maintained*, and that a Bill based on certain suggestions might be submitted to the Government of India for sanction and for transmission to the Secretary of State. A Committee was appointed, with the Honorable Sir William Robinson as President, to frame a Bill in the manner suggested. That Committee submitted its draft Bill and report, on the 12th November 1877. The Bill was the subject of considerable discussion and it was finally resolved in January 1879 that all the papers connected with the subject and a draft Bill as suggested by His Grace the Governor of Madras should be transmitted to the Government of India. The Government of India desired to proceed with the last of the 3 Bills and submitted the same (with annexure) for the approval of the Secretary of State.

The matter was subsequently dropped, at the wish of the Government of India. In 1883, the Honorable Mr. Carmichael wrote a minute and submitted a draft Bill on the subject. By G. O. No. 58 dated 5th February 1884, a Commit-

tee, with the Honorable Mr. Sullivan as President and M. Hammick Esqr. as Secretary, was appointed to report upon the administration of Hindu Religious Endowments in this Presidency. On the 19th March 1886, the Secretary to the Committee submitted a report with a draft Bill and a minute of dissent recorded by Dewan Bahadur Ragnatha Row. The Government, after considerable discussion and hesitation, forwarded the draft Bill in June 1887, to the Government of India for the sanction of His Excellency the Governor General in Council, to introduce the Bill into the Legislative Council.

Mr. W. M. Young, Officiating Secretary to the Government of India, has forwarded the following letter to the Chief Secretary to the Government of Madras:—"I am directed to acknowledge the receipt of your letter, No. 23, dated the 1st June 1887, forwarding for the consideration of the Government of India a Bill to provide for the better administration of Hindu religious and charitable institutions in the Madras Presidency, and asking for the sanction of His Excellency the Governor-General in Council to introduce the Bill into the Legislative Council. In reply, I am to say that, after a careful consideration of the provisions in the Draft Bill submitted, the Governor-General in Council is of opinion that the measure, as at present drafted, is too wide in its application. If, however, legislation is essential for the due protection of Hindu endowments in the Madras Presidency, His Excellency in Council will have no objection to the introduction of a measure of more limited scope and more in harmony with the policy of Act XX of 1863. Such a modified measure might provide for the revival of Managing Committees (which it is understood have almost become extinct in Madras). Such Committees need not, in the opinion of the Government of India, be District Committees, but might be so constituted that each should represent an uniform class of institutions in a district. The Bill might set forth fully the powers con-

ferred and duties imposed under the old Regulations which are transferred by Act XX of 1863 to Committees, and might impose upon Committees the duty of instituting suits for misfeasance on the part of trustees, and might empower the courts to charge costs in the first instance to the institution concerned, subject to the proviso that the Court should have power to order otherwise in any case, in which a suit turns out to be vexatious. A Bill of the nature just suggested would be in keeping with the accepted policy of Government in this matter, and would, it seems probable to the Governor-General in Council, go far to meet the requirements of the Madras Presidency. I am to request that, should the Governor in Council concur in these views, the Bill proposed may in due course be submitted, for the consideration of the Government of India."

The Madras Government on the 15th March 1888 ordered that the foregoing letter be transferred to the Public Department, with original notes recorded by the Honorable Members, for the necessary action. In its Order of the 4th April, Government remarks:—"In view of the opinion expressed by the Government of India that the Draft Bill prepared by Mr. Sullivan's Committee is too wide in its application, His Excellency the Governor in Council resolves to request the following gentlemen, viz:—Hon'bles Mr. Justice Muttuswami Aiyar, C. I. E., S. Subramani Aiyar Rai Bahadur, P. Chentsal Rao Pantulu Garu, C. I. E., M. R. Rys, T. V. Ponnuswami Pillai Avergal, C. Sankara Nair Avergal, V. Bashiyam Ayyangar Avergal Rai Bahadur, and Pundit Ranganadha Mudaliyar Avergal Rai Bahadur to form themselves into a fresh Committee, for the purpose of considering how the existing law in this Presidency, in regard to the administration of Hindu religious and charitable institutions may be best amended on the lines now laid down by the Government of India and to embody the results of their deliberations in a new Draft Bill. They will also consider and report how far, the rules framed under Act XX of 1863 require alteration.

As it is very probable that different Districts will require different treatment in respect to their religious endowments, the Committee will be requested to select and consult one or more corresponding members in every important District, who should be allowed the fullest opportunity for expressing their views. His Excellency in Council thinks that the Government of India is under a misapprehension, in assuming that Managing Committees have generally fallen into abeyance in this Presidency. Such Committees exist, at all events in some Districts, but the general complaint is that, owing to the defective state of the law, they are powerless for good."

Thus the present Committee, with full three years labour, brought forth the Draft Bill having had strict injunctions to frame the Bill *on the lines of Act 20 of 1863 and without deviating from its policy.*

After repeated rebuffs, the previous Committees, and their Reports and Bills met, at the hands of our Government, everybody expected that this Committee would act on the lines clearly laid down. Yet the cries of the few selfish agitators to govern others property, perhaps weighed strong, that the Committee opportunely, with one stroke of its pen, dragged into its clutches *Atheenum Temples* also, which were distinctly exempted from all interference of Divisional and District Committees and their rules, by section 4 of Act 20 of 1863, for valid, equitable, and legislative grounds.

In the "Statement of Objects and Reasons" of the Draft Bill, the legislative justification disclosed for this inclusion of *Atheenum Temples* (or institutions falling under section 4 of Act No. 20 of 1863) is as follows:—

"Supervision over institutions falling under Section 4 of Act XX of 1863 was prior to that Act, exercised by the Board of Reve-

one under Regulation VII of 1817, and there is no reason why they should be now exempted from the control of Committees constituted under the Act and left only to be reached by special resort to Courts of Justice."

A summary disposal of an important and new question! It is like asking to show cause why anything and everything of a person should not be placed under the control and within the scope of this Bill. Act XX of 1863 distinguishes temples &c. as follows:—

Section 3.—"In the case of every mosque, temple, or other religious establishment *to which the provisions of either of the Regulations specified in section 1 are applicable, and the nomination of the trustee, manager or superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer; or in which the nomination of such trustee, manager or superintendent shall be subject to the confirmation of the Government or any public officer, the Local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.*"

Section 4.—"In the case of every such mosque, temple or other religious establishment *which, at the time of the passing of this Act, shall be under the management of any trustee, manager or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public officer, the Local Government shall, as soon as possible after the passing of this Act, transfer to such trustee, manager or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such mosque, temple, or other religious establishment.*"

After thus distinguishing, the Act by sections 5, 6, 14 and 13 lays down special procedure for temples under section 4, to meet cases of dispute, as to right of succession to vacated trusteeship, for powers of manager appointed by court, for any person interested in such temple to sue trustee &c. in case of breach of trust, misfeasance or neglect of duty, and to apply for leave to institute suit, and finally *exempts* the said temples from the control of the Division or District committees by section 7. Add to this the penal provisions of the criminal law (Indian Penal Code), whose jurisdiction for criminal breach of trust &c. is not excluded, by Regulation VII of 1817 or Act XX of 1863 (I. L. R. I. Madras page 1), and section 20 of Act XX of 1863 which says:—

"No suit or proceeding before any Civil Court under the preceding sections, shall in any way affect or interfere with any proceeding in a Criminal Court for criminal breach of trust."

There is also in the Civil Procedure Code (Act XIV of 1882) a separate chapter (chapter 40) for suits relating to Public charities, Trusts &c. The section is as follows:—

"In case of any alleged breach of any express or constructive trust created for public charitable or religious purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

- (a) appointing new trustees under the trust;
- (b) vesting any property in the trustees under the trust;

- (c) declaring the proportions in which its objects are entitled;
- (d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged;
- (e) settling a scheme for its management, or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may, outside the Presidency towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf."

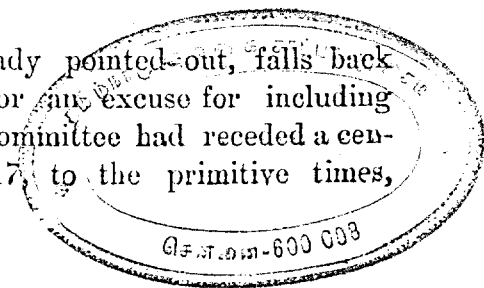
This provision of law is very salutary and important, as it leaves the suits in the hands of disinterested and responsible authorities.

In the face of all the above wise safeguards of general and special laws protecting *Atheenum* temples, is now ventured by the Draft Bill, a special law of an inquisitorial nature, a law that is not in existence or in demand, in other parts of India, to convert private property into public property and *that* for the Hindu Community only in Southern India (the land of temples), leaving untouched the Mahamedan Institutions under Act XX of 1863. What is the wisdom, and what is the policy of a law like this? In 1884 Government *impartially* appointed a Committee intending to take both Hindu and Mahamedan Endowments under consideration and for this purpose, the Hon. Mir Humayun Jah Bahadur was appointed a member of the Committee, but certain obstacles "having been prominently urged by the influential member" of the Mahamedan Community, the Mahamedan Endowments were left untouched and the noble member retired from the Committee, "deciding that for the present, legislative action in connection with Mahamedan

Endowments was not called for." When under the existing self-same law or laws, both the Institutions had been brought to work, where was the impossibility for the proposed new law, if the proposed new law was a just and proper one, to include Mahamedan Endowments also? Are there not "influential" and noble members in the large Hindu Community to urge grounds and reasons against the proposed *narrow-mindedness* to include *Atheenum* Temples and to point out and expose its results and after-consequences to the rulers. Already, the fierce race antagonism between the two classes, in religious matters is keen, and now an invidious distinction, leaving the old law as it is to the Mahamedans, and framing a rigorous new law distrusting the Hindus alone, is neither just nor politic. Why treat the *mild* Hindu differently! Are there not greater number of *mosques*, *makans*, *ashur-khanas* and *musajerkhanas*, that get the aid of this and former Governments and nobility, than the Hindu Temples, now working under the self-same laws? If it is said that there are not so many "general complaints" (the burden of the Draft Bill) with reference to Mahamedan Institutions it is because there are not so many greedy agitators, versed in the art of agitation, in that noble and united community, as in the Hindu Community, always spinning cobwebs of airy nothings. Thus a separate law for Hindu Endowments only, is impolitic and unjust, and *a fortiori*, the attempt to include *Atheenum* Temples under the contemplated invidious law is highly uncalled for.

The Draft Bill as already pointed out, falls back on Regulation VII of 1817, for an excuse for including *Atheenum* Temples. If the Committee had receded a century or two back than 1817 to the primitive times,

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it would then have found some further justification for its aggression. As it is, an examination of Regulation VII of 1817 shows, that the committee has not correctly understood the scope and intentions of the Regulation. Section 12 of the Regulation states that "in those cases in which the nomination has *usually* rested with the Government, or with a public officer, or in which no private person may be competent and entitled to make sufficient provisions for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent." Section 13 says that, "on the receipt of the report and information required by the *preceding clause*, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management or superintendence." Thus the provisions of the Regulation never assumed any pretension, to interfere in the case of temples, the nomination of whose trustees did not rest with Government or its local agents *usually*. It may therefore be seen, that even under the old Regulation, now relied upon, the Board of Revenue did not interfere and had no right to interfere, in the appointment and dismissal of *Atheenum* trustees, and in the general management of such temples and their affairs. But now the proposed Bill at great length and detail interferes, most inquisitorially, on the bare allegation that the Board of Revenue had interfered with *Atheenum* Temples, while it is a fact the Board did not so interfere. The General superintendence, over land and money endowed, with reference to *temples* and *mosques* was *rested* in the Board of Revenue by the Regulation. Such

superintendence, if the Board of Revenue exercised (for the Board, as a matter of fact did not exercise, at any time any control over the Endowments of many *Atheenum* temples and mosques) in reference to particular temples or mosques, the practice was given up by Act XX of 1863 and the management was left in the hands of the hereditary *Atheenum* trustees or managers, and those institutions were placed, free of the District Committees, created under Act 20 of 1863. Experience of half a century (1817 to 1863) proved to the Legislators, that even this limited superintendence over *Atheenum* temples and mosques, by the Board of Revenue, was unnecessary and inadvisable and they, by the enactment of 1863, while transferring the powers and duties of the Board of Revenue, to the District Committees, took away from the Committees' hands all the powers over *Atheenum* temples. And supposing the Board of Revenue, at some past distant date, (under a law now repealed for purposes of the present subject) exercised some control over the lands attached to *Atheenum* temples, still, is it an argument to compare the *Board of Revenue* with the *Committees* (already formed or to be formed under the Draft Bill) and place *Atheenum* temples in their protection? If the *Board of Revenue* and these *Committees* were equal in respectability, impartiality, and efficiency, and if frauds there were, in the management of *Atheenum* temples did the legislators of 1863, make a fun in giving away the lands &c., to these very authors of fraud, while these *great Committees* were being formed, for the *better* administration, under the local self-government system of all temples and Endowments but *Atheenum* temples! Act 20 of 1863, had repealed, Regulation VII of 1817, of the Madras Code, and

Regulation XIX of 1810, of the Bengal Code, so far as Religious Endowments were concerned. The discussions of the Legislative Councils, of the two Local Governments, and of the Government of India, and the Statement of Objects and Reasons of Act 20 of 1863, and all papers, including the Secretary of State's Despatches on the subject, that led up to the *repeal* of the two said Regulations and to *enact* a law *alike* applicable to Hindu and Mahamedan religious institutions in this and the Bengal Presidency would amply show, the justice of keeping up the distinction between *Atheenum* institutions and other institutions, as was demarcated by Regulation VII of 1817, as by Act 20 of 1863. The *legislators* of 1863 were no ordinary men and the grounds and reasons that existed then, to exclude *Atheenum* temples do exist now. Thus Regulation VII of 1817, very poorly helps, if it helps at all, justifying the inclusion of *Atheenum* temples, within the scope of this Draft Bill.

After examining the provisions of Regulation VII of 1817 and Act 20 of 1863, it becomes essential to see, whether the present Bill is drafted *in accordance with the views and intentions* of the Government of India and the Government of Madras (printed at pages 5 and 6), when rejecting the last Bill (Hon: Mr. Sullivan's) and appointing the present committee, or whether the present committee has gone out of its way to legislate on matters *never* contemplated under those references.

The Government of India's expressions are:— "The measure as at present drafted is *too wide* in its application." "His Excellency in Council will have no objection to the introduction of a measure of *more limited scope and more in harmony with the policy of Act 20 of 1863.*" "Such

a modified measure might provide for the *revival of managing committees* (which it is understood have almost become *extinct* in Madras)." "The Bill might set forth *fully* the powers conferred and duties imposed under the old Regulations *which are transferred* by Act 20 of 1863 to *Committees.*" "A Bill of the nature just suggested would be in keeping with the *accepted policy* of Government in this matter."

Now then, can any one read from the above expressions that the *powers and duties, not imposed* under the old Regulations *and not transferred to Committees*, under Act 20 of 1863 should now be interfered with by the Draft Bill? Has not the Government of India strictly prohibited the intended Draft Bill from raking up old matters? Do not the expressions, only show an intention, on the part of the Government of India, on the mistaken impression, some how caused, that the Committees were *extinct*, that therefore the law should be so *amended* as to galvanize, the Committees, under Act 20 of 1863, into action and no further? When the Government of India pointed out that the last draft Bill rejected was, "*too wide,*" in its application the present draft Bill has made its application *wider* still. When the Government of India said that, *if* legislation was necessary *a measure of a more limited scope* may be drafted, the present draft Bill has usurped *more unlimited scope than ever.* When the Government of India directed the measure, to be in *harmony* with Act 20 of 1863 and with the *accepted policy* of Government in the matter, the Bill is drafted directly contrary to the injunctions imposed. There is nowhere *even* an implication to *extend* the powers of the Committees under Act 20 of 1863 over *Atheenum* temples. Had Government of India understood the real and existing state of circumstances,

that the Committees under Act 20 of 1863 were *not extinct*, the last draft Bill would have been *finally* shelved in, and the present Committee would not have come into existence.

Now the expressions in the order of the Madras Government are:—

“How the existing law in this Presidency in regard to the administration of Hindu religious and charitable institutions may be best *amended on the lines now laid down* by the Government of India.” “His Excellency in Council thinks that the Government of India is under a misapprehension in assuming that Managing Committees have generally fallen into abeyance in this Presidency. Such Committees exist.” “The general complaint is, that owing to the defective state of the law they (*the Managing Committees*) are powerless for good.”

Now, can any one read from the expressions of the Madras Government either, that its intention in forming the present Committee is beyond that of the Government of India's, as already pointed out, and as only to *amend* the law or rules in reference to the *Managing Committees* under Act 20 of 1863?

Why then were *Atheenum* temples included? The answer, perhaps, is ‘general complaint.’ Is ‘general complaint,’ sufficient to set aside all considerations of law, policy, or promises and directions given by the Local Government and the Government of India? Are there not complaints, even on matters wherein the law is most decided and severely penal? Can any one yield to general complaints and upset the principles of law and rights under the law in the solemn name of the legislature? Several institutions have several complaints and the *Congress* has more complaints than all.

Yet Government knows its duty and does its duty. A *complaint* literally means, to beat the breast or head as a sign of grief especially with a noise. These noisy agitations are understood rightly by discerning men. The present committee will not yield to the clamorous writings in this or that newspaper, which boasts of its service to the country by advocating the cause of the *Congress*, while in the opinion of many, its advocacy often embitters the state of feeling between the governing and the governed. On the “Hindu Temple Endowments” question, a few agitators, with motives hidden underneath, emphatically declare and broadly advertise, that their voice is the *representative* voice of the people, though their ancestors have not left any the smallest Endowment to be affected by the most rigorous and inquisitorial law that may be passed, affecting large *Atheenum* Endowments, and the dignity of the endowers and their heirs. If the *representative character of the Congress* is estimated by the *English Press* in the following terms, what must be said of the agitators of the ‘Hindu Temple-Endowments’?

- (a) “The spouting Hindus no more represent the Indian nation than the unwashed Socialists of Trafalgar Square represent the British nation.” *Mirror* (London), January 27, 1890.
- (b) “The unvarnished truth is that the assembly was as much representative of the popular desires as Mr. B. is of the Church of England.” *Standard*, December 28, 1890.
- (c) “As for the alleged representative character of the Congress, it would just as much represent the inhabitants of Saturn or Jupiter as those of Hindustan.” *Globe*, December 28, 1890.

- (d) "We should like to know by what right the native members of the Congress take upon themselves to speak for the people of India." *St. James's Gazette*, December 28, 1890.

The attitude the *Hindu* (newspaper) has taken towards the subject is very unfortunate, though not surprising. Speaking of the inclusion of *Atheenum* Temples it declaims, "we may also have memorials presented to Government against this innovation, alleged to be signed and presented by the public." What a startling disclosure regarding Memorials presented to Government! The *Hindu* is a high authority on Memorials to Government. For its chief strength often consists in basing its demands and arguments on the numerical strength and the length of the Memorials presented. That the inclusion of *Atheenum* Temples is an innovation, the *Hindu* is kind enough to admit, but that memorials will be presented against this inclusion alleged to be signed by the public is its prophecy. Does this show its experience how these Memorials are generally signed and presented to Government, or does it mean that such memorials only, as are in its good graces, are genuine and the rest are 'alleged to be signed by the public,' or does it betray a 'guilty conscience,' the injustice of the cause (the inclusion of *Atheenum* Temples) being too apparent even to an ordinary mind? In another place, the *Hindu* with great taste says—"The inclusion of Adinam temples under the supervision of the Committees may rouse a howl of opposition from the so-called Dharmakartas of those temples." Why should any representation to Government be styled a howl of opposition, and why are the Dharmakartas called, the so-called Dharmakartas? Are the real Dharmakartas, in

the opinion of the *Hindu*, are those would-be Dharmakartas under the Draft Bill, not descended to the ancestors of the so-called Dharmakartas? If the representations, and the prophesied memorials, of the heirs of the original endowers, be a howl of opposition, what must be said of the howl of the unconnected agitators, not descended to the original endowers? Why should not the heirs of the endowers 'howl and oppose' when their property is unjustly and against all law attempted to be snatched away to the benefit of the selfish agitators or their connexions, under the cloak of doing gratuitous good to Religious Endowments? If the heirs of the original endowers have failed to be true to the conditions of the bequests, what guarantee is there, that strangers would gratuitously act otherwise? Services proffered gratuitously by strangers are to be suspected, is the Fable of the sow and the wolf.

Everything that fair doth show.

When proof is made, proves not so.

There might be here and there a gentleman or two, with English education, acting in favor of this, as in other agitations, only with mistaken views and impressions, without any further motive but the rest every body knows what. English education, amongst Hindus, has reached the unexpected and unmerited result, that many educated Hindus have turned to be the admirers of Mr. Bradlaugh's religious principles, and how, on earth, in such hands, Religious Institutions and Endowments will prosper, under the Draft Bill, is a riddle. In their hands God-worshipping will not prosper, but Mammon-worshipping will prosper. But,

'Ye cannot serve God and Mammon.'

Yet the *Hindu* is pleased to condemn its anticipated 'howl of opposition' from the heirs of the original endowers, and would

even warn and command the Legislature and Government, to listen to its salutary sayings in Religious matters also. When the *Native Press* howls and wails, when Government even *justly* wants to restrain it within proper bounds, no shame there exists, if the Dharmakartas *howl* also, when an unjust Legislation is about to be passed affecting their just rights under the law of the land they are living in. The *Hindu* has unfortunately, and, it is hoped, by a mistaken view, has portrayed an one-sided picture. It would be well if there is any journal to put forth the claims of the aristocracy on this question.

The Local Government has constituted the present Committee, unlike its predecessors, without a single disinterested Englishman in it, for *policy* unknown to any. Of course it is not to be inferred from this omission, that on this all important question Government is indifferent or apathetic. The consequences of a bad legislation operates on the Government that gives life to it. But the endowing public may feel confident of justice at the hands of the presently constituted Committee, *on the verdict of the members whereof, depends the prosperity or the annihilation of the Temple Endowment dispositions*—the only solace to the dying Hindu. Against the law of perpetuity the ingenuity of the Hindu (like other people), from the richest to the poorest, finds a consolation in his last moments, that property, large or small, may be tacked on to temples, to be managed by his heirs and successors in perpetuity in honor of his name, a small income only of the property being devotable to the temple and the rest being enjoyed by his successors for ever. The object is clear. Whether there is an intention to do charity or not, the intention to *retain* the property in

the family for ever and save it from dispositions of any sort, and above all save the property from *interference* by *strangers* (as is now proposed by the Draft Bill) is topmost in the mind of the testator and may be apparent to any and all. How many rich families of Southern India, now probably not in very affluent circumstances, have endowed large property in the shape of temple endowments, in view for the *mere* dignity that the families for ever would be in possession of *their* temples, and enjoy honors, respects and divine blessings in perpetuity, *through* their heirs and successors.

The framers of Act 20 of 1863 clearly understood the difference between public property and private property. *Atheenum* temples may be open to public worship but they stand *on the grant of private Endowments*. The act of worship by the public is not a legal right, the original endower or any other person in his position can enforce by law. A right, if the act of worship is a right, not enforceable by law, cannot convert private property into public property. There must be a legal right enforceable by law on both sides.

The present Bill when passed into law, including *Atheenum* temples, will form the favorite instrument to many for revenging quarrels or fomenting litigation, which the Hindu is so very fond of and for harassing the hereditary trustees eternally, and for depauperising the Institutions completely to the benefit of the ever increasing legal profession. The *Madras Mail* (6th July 1891) on the present Draft Bill observes, "A greater part of the litigation with regard to the misdoings, *real or supposed*, of temple trustees may safely be attributed to party spirit or private pique on the part of the promoters. For those motives of action scope is given in the Draft Bill as in the existing law; but it may be doubt-

ed whether a sense of duty to the public will be cultivated any more successfully under the proposed measure than it has been hitherto." The inexhaustible Hindu Law Succession Table, and experience of Hindu society will show, how many there are to watch with zeal the conduct of the *Atheenum* trustee, and to fan the smallest spark into the largest flame. Yet what anxiety have these kind hearted agitators for *Atheenum* Temples? There are any number of relations of the trustee interested in hauling him up before a Court of justice, expenses being no consideration for the Hindu litigant. And after all, are there real complaints or complaints of any substance and truth, before the present committee justifying its action to introduce a new law altogether? The records of the Madras High Court and the District Courts in the Presidency will amply show how frequently, false and futile applications are made to these courts to obtain their sanction (as is now required before commencing any action) to institute proceedings against Trustees. If a Tabular Statement, be obtained, from all the District Courts in the Presidency, for the last ten years or for any fixed period, of all applications and suits under Act 20 of 1863, regarding *Atheenum* and other temples, every one may be in a position to know the nature and number of those complaints, and how they were disposed of, and whether there is any legal justification or necessity, to include *Atheenum* temples. Hitherto, even the agitators were making noise, only of public temples and of the alleged powerlessness of the Managing Committees under Act 20 of 1863. But now finding the Draft Bill to include *Atheenum* temples also, the agitators have commenced to extend their complaints and operations against these too, with extreme

merriment. The details of the Draft Bill need not be gone into here, it is sufficient to say that the effect of all its provisions, is so inquisitorial, so vexing, so minutely distrusting, so tempting to litigation, and so sure to drain all the temple funds that all future chance of any Hindu endowing property to Temple Endowments is stopped and will be stopped for ever. Surely, when the charitably disposed Hindu ancestor made Endowments to be managed by his heirs in perpetuity, it had never entered into his head that at some distant date those that were not descended to him and his heirs would control, harass and persecute his heirs for the mistake he has committed in endowing property to these Religious Institutions. The present Bill when passed into law will bar all future chance of any Hindu endowing property, as he knows that it will fall into other hands than his heirs, with the risk of his heirs being persecuted by inquisitorial aliens. The dying Mahamedan with an easy heart may leave all his property in perpetuity, in the hands of his heirs, in the name of Religious Endowments, but the dying Hindu must, with an agonizing heart, with no law of the kind to protect his property in perpetuity in the hands of his heirs and successors, leave his property unrestrictedly to his heirs, rather than to the agitators, their heirs and successors, with no religious solace to him in his last moments. Thus, under British Rule, there is to be one law for the Mahamedan and another law for the Hindu of Southern India. The native 'patriots' are gradually bringing about the *extinction* of the Hindu Religious Institutions to the utter ridicule of other religionists. If such a thing is attempted at in England or other civilized country by a few of the country men, the nobility of the land will sternly and

constitutionally oppose it. The nobility of England have got their separate Chapels and Religious Houses and Endowments, and can any law like the Draft-Bill be attempted there *compulsorily* to bind them, as is attempted here *even retrospectively*?

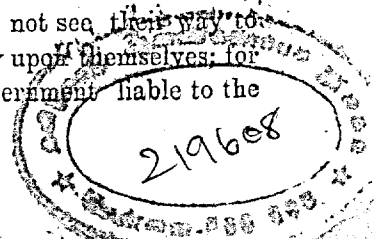
Another and a more serious objection to the law as propounded by the Draft Bill, is the close connection Government is brought to possess in Religious matters by way of compulsory legislation authorizing taxation on all Hindu Temples. The *Madras Mail* observes that "it is the religious element that has created a difficulty.\* \* \* That measure (the last Bill) was vetoed by Government because it was supposed to trench on the sacred principle which it had laid down, imposing on itself a self-denying ordinance in all matters of religion." Is the present Draft Bill an improvement on its rejected predecessor? While the last Bill or the lost Bill bluntly wanted paid superintendence and central control, the present Bill cleverly dispersed over different sections how the Temple Funds should be drawn to the last drop, yet imperceptibly. Under the present Bill, pay, not exceeding one hundred Rupees to a trustee, charges for inspection of the temples, pay of servants of the Committees, fees for lawyers, Court fees for Suits, Applications and Proceedings (Miscellaneous, Regular and Summary), election charges, auditing charges, printing charges and to crown everything else "and other charges necessary for carrying out the purposes of this Act" should all come out of the Temple Funds. And is the above exaction fair or legal in the case of *Atheenum* Temples and *Atheenum* Religious Institutions over which no official or compulsory superintendence was ever thought of by the endower. Be it remembered that all this

is to be consummated under the sanction of Government in the shape of a compulsory legislation. Such an unjust and compulsory interference cannot be said to be non-official because a number of native gentlemen only drafted the Bill. The solemn promise of Her Majesty the Queen cannot be altered by the Draft Bill. The Legislation proceeds in the name of Her Majesty the Queen. Legislative compulsion is official compulsion. Her Majesty the Queen's Proclamation cheerily declares:—

"We do strictly charge and enjoin all those who may be in authority, under us, that they abstain from all interference with the religious belief or worship of any of our subjects, on pain of our highest displeasure."

His Excellency Lord Connemara, in September 1889, when the present Committee was sitting in solemn conclave, devising means and measures to appease the agitating deities, briefly and truthfully said:—

"You next speak of Devastanum mismanagement. I mentioned my views last night in answer to an address given to me at Kumbakonam. There seems to be a misunderstanding. There is the Act of 1863, and Government are not disposed to interfere with the religious endowments of this country. It is not a measure that would recommend itself ever to my judgment, but at the same time you have the power in your hands. The answer that I get continually is that it is expensive, and that persons will not take the risk or show enough public spirit by subscribing amongst themselves to raise sufficient money to enter upon a litigation with the trustees. I do not know that people are so very averse to litigation. I think the Act of 1863 gives you full power. I consulted the Government of India already on the subject and they do not see their way to going further and taking more responsibility upon themselves; for their action in the matter would make Government liable to the



imputation that they were interfering with the religious endowments of the people."

If, any interference, beyond what is provided for, in Act XX of 1863, even in the case of *public* Temples, is considered illegal and impolitic, by the conscientious and just Government, remembering its solemn promises and proclamations, how much more must it feel, the uncalled-for poaching into *Atheenum* Temples, now attempted at by the Draft Bill. Again the Honorable Mr. Carmichael "desired that the larger national temples only should be supervised by authority outside the temples, thinking the scheme proposed under which *all* Religious Institutions should be brought under control unworkable and undesirable." He divided Religious establishments into two classes—"those under the management of the trustees and those which are not. In the former case the management *was to continue* to vest in the trustees, their heirs and successors and in the event of disputed succession the right to succeed was to be determined by a suit." Thus the Indian-experienced Honorable Councillor echoed the provisions of Act 20 of 1863 and condemned the proposal to include *Atheenum* Temples as *unworkable and undesirable*. There is a good deal of law and policy imbedded in those two words *unworkable and undesirable*.

In spite of all these political and legal grounds and reasons, the agitators are exerting to cause a serious misapprehension between the governing and the governed in *Religious* matters, through feelings of self-aggrandizement, causing enormous pain of mind to the aristocracy of the country, by a proposal to interfere with their *Atheenum* Temples.

Summarising the whole, it follows, that the Draft Bill is the forced outcome of an agitation, that Regulation VII of 1817, Act XX of 1863, the opinions and dictates expressed and proclaimed, by the Secretary of State, the Government of India, the Local Government and by several great Statesmen, prohibit the course adopted by the Draft Bill in including *Atheenum* temples, that the Draft Bill is clearly against the good intentions of Her Majesty the Queen's Proclamation, that more evil than good would result from this inclusion of *Atheenum* temples, that an uncharitable and provoking distinction between *Atheenum Mahamedan* Mosques and *Atheenum Hindu* Temples is painful and impolitic and should be avoided, that the two races must be treated *alike*, by the same law as now by Act 20 of 1863, that the Draft-Bill's interference with *Atheenum* temples, the consequent taxation and litigation, are against the intents of the endower, that the inclusion of *Atheenum* temples, for committees to lord over them is assuredly to drain the Temple-Funds by eternal litigation, certain to shoot out *even* from the innocent rites of the distribution of the Holy ashes or *thulsi* up to the investment of the sacred garlands to the endowers and their heirs in recognition of the Endowments, they have created for their everlasting fame and honor, that, the administrative ability of the Native has too well been tried and exemplified, through many Municipal Councils, that Government will not commit itself again by the experiment of including *Atheenum* temples under the Local Self-Government system, now contemplated by the Draft Bill, which is sure to result in dire consequences, that the existing law (Special, Criminal and Civil) provides ample means to meet all

cases of breaches of trust, misfeasance and neglect of duty, on the part of *Atheenum* trustees &c, that the introduction of the contemplated law over *Atheenum* institutions will promote ruinous litigation and base corruption, the two main things which a good Government ought to discourage and that therefore the existing immemorial distinction regard to *Atheenum* Temples must be respected and be untouched as now provided for by Act 20 of 1863.

One of the greatest Statesman that India has seen and a high authority on Indian politics was Sir Thomas Munro. His unparalleled success in Indian policy in religious matters was due to the rule of *nil innovetur*, he laid down for his guidance (Memoirs, Vol. II, 17 to 20).

Justice and remedy finally rest with Englishmen, this proposed compulsory Legislation regarding *Hindu* Temples, and to them this Appeal is humbly dedicated.

