

decision to resign :

Briefly, Your Highness, I have been conscious for some time that we do not see eye to eye on certain fundamental matters of external and internal policy. And that leads, as it must lead, to disagreement in many a detail. I have never questioned and I do not now question, the position that in all these matters Your Highness's decision must be final. The Prime Minister must accept it or resign. To accept it without conviction would not be fair, either to Your Highness or to the State and I am grateful to your Highness for letting me resign.... I need not repeat to your Highness that if in the days to come I can be of any service to the State wherever I may be, that service will be rendered gladly and freely.

The resignation of B.N. Rau from this high political office left him free to render service to the Nation in many other capacities.¹²

8. HINDU LAW REFORM COMMITTEE (1940-41, 1943-46)

An opportunity for contributing to Hindu Law Reform came to B.N. Rau in the following circumstances:

The Hindu Women's Rights to Property Act, 1937 came into force on 14th April, 1937. By the end of 1940, public opinion had been built up favouring the amendment of some of the provisions of the Act. Judicial construction of its provisions rendered it necessary to have a second look at them. A reference had been made to the Federal Court by the Governor-General under section 213 of the Government of India Act, 1935 asking the opinion of the Federal Court on the following questions, viz. (1) Does the Hindu Women's Rights to Property (Amendment) Act, 1938, operate to regulate (a) succession to agricultural land; (b) devolution by survivorship of property other than agricultural land? and (2) is the subject of devolution by survivorship of property other than agricultural land included in any of the entries in the three legislative lists in the Seventh Schedule to the

12. See also under "Judge of the Calcutta High Court", *supra* p. 5.

Government of India Act, 1935? It may also be mentioned that there were five Bills moved in the Central Legislature seeking amendments to the Act. Taking note of the above facts, the Government of India passed a resolution on July 25, 1941, appointing a Committee called the Hindu Law Committee, 1941 to examine the Hindu Women's Rights to Property Act, 1941 with particular reference to the five Bills referred to above and to suggest such amendments to the Act as would (a) resolve the doubts felt as to the construction of the Act, (b) clarify the nature of the rights conferred by the Act upon the widow, and (c) remove any injustice that may have been done by the Act to the daughter and (d) to examine and advise on (i) the Hindu Law of Inheritance (Amendment) Bill promoted by Mr. Santanam, and (ii) the Hindu Women's Rights to Separate Residence and Maintenance Bill, promoted by Dr. G.V. Deshmukh. The Government of India appointed B.N. Rau as the Chairman of the Committee and Shri Dwarka Nath Mitter, Ex-Judge, Calcutta High Court, Shri J.R. Gharpure, Principal, Law College, Poona and Shri Vasudev Vinayak Joshi, High Court Pleader, Baroda as its members. The Committee submitted its Report on June 19, 1941. In the meanwhile, on April 22, 1941, the Federal Court answered the questions which had been referred to it under section 213 of the Government of India Act, 1935. The Court held that the Hindu Women's Right to Property Act, 1937 and the Hindu Women's Rights to Property (Amendment) Act, 1938 operated to regulate devolution by survivorship of property other than agricultural land and the subject of devolution by survivorship of property other than agricultural land was included in entry No. 7 of List III (Concurrent List) in the Seventh Schedule to the Government of India Act, 1935. In the course of its recommendations, the Hindu Law Committee observed that Hindu Law might be amended suitably as suggested by it, and the Hindu Code which was going to be enacted should, *inter alia*, be a Code which should recognise that men and women were equal in status with appropriate obligations as well as rights, a Code which, generally speaking, shall be a blend of the finest elements in the various amendments made to Hindu

law by several Acts passed from time to time.

The Rau Committee drew up two Bills, the Hindu Marriage Bill and the Hindu Intestate Succession Bill. These were introduced in the Central Legislature in 1943, but were eventually allowed to lapse because of opposition from the conservative elements amongst the public. But the pressure of public opinion led the Government to reappoint the Committee, which then toured the country, heard evidence given by the progressive and conservative sides and drew up the Hindu Code Bill. That Bill was also introduced in the Central Legislature. Again, it encountered difficulties. Government of India ultimately decided to introduce reforms by separate Bills devoted to various topics. It was only in 1955 that the Hindu Marriage Act could be passed by Parliament. It was soon followed by the Hindu Succession Act, 1956. But B.N. Rau was not there to see that his efforts ultimately yielded some result.

9. RESERVE BANK v. PROVINCES (1944)

B.N. Rau's talents were utilised in one more field. In 1944, a dispute arose between the Reserve Bank and some of the Provinces as to which of them should bear the loss incurred by the looting of the government treasuries during the 1942 Struggle. B.N. Rau was asked to decide it. His award ultimately went in favour of the Provinces, a view which had been put forward by Shri M. Hidayatullah as the Advocate-General of the Central Provinces and Berar. Shri M. Hidayatullah, recounting his experience as a lawyer appearing before B.N. Rau, said thus :¹³

Sir B.N. Rau impressed me as a man of sound commonsense and great legal acumen. I had appeared before Judges, including the Judges of the Federal Court, but very few compared with him for sheer stately judicial presence."

13. M. Hidayatullah, The First B.N. Rau Memorial Lecture, *Judicial Methods*, delivered under the auspices of the Institute of Constitutional and Parliamentary Studies, (National, Delhi 1970) pp. 18-19.