

## FOREWORD

The Government of India in the Department of Science and Technology, had some time ago entrusted the Indian Law Institute with the work of preparing a study of the method adopted in ancient Indian thinking with reference to injunctive statements and allied matters, including a comparison with modern methods. The main theme was the logic of legal reasoning. This book is an attempt to study some of the relevant principles, as expounded in the literature of ancient India and to compare the same with modern legal rules.

The subject is a vast one, whether one takes the ancient Indian Literature or turns to the modern rules on the subject. In order to keep the work within manageable limits, it has been considered convenient to deal with some of the more important aspects.

Of course, "interpretation" is a very general term. One may "interpret" a set of events or a number of co-existing phenomena in the material world, even where there is no verbal message. This is the widest sense of the word "interpretation". In a narrower sense, interpretation would mean the placing of meaning on or the attribution of significance to any system of intentional communication, which is in the nature of a linguistic message. Thus, if a car driver sees on the road a traffic sign and interprets it as having a particular meaning, then interpretation in the narrower sense is the process adopted by the car driver, consciously or subconsciously. In a still more limited sense, one may think of interpretation as confined to pure verbal messages. It is the process that occurs when there are doubts in the understanding of a language when it is used in a particular context, in an act of communication. Where one or more persons experience practical doubt or engage in a dispute as to the meaning which ought to be ascribed to some particular linguistic communication, the choice of one or other possibility involves an act of interpretation in this narrowest sense.

In some of the Continental countries, the various approaches to interpretation have been catalogued rather elaborately. Thus, German writers speak of (1) semiotic interpretation; (2) genetic interpretation; (3) historical interpretation (4) comparative interpretation; (5) systemic interpretation; and (6) teleological interpretation. There has also been considerable discussion of the presumptions which guide interpretation and of the materials which can be used for interpretation. Legal literature on all these aspects, in and outside the Commonwealth, is prolific. It is also admitted that, to a large extent the class of statute my govern or influence statutory interpretation and, in this sense, the substantive legal field of a statute may have some bearing on its interpretation.

Students of interpretation come to realise that interpretational issues are largely (but not exclusively) linguistic in nature. Their origin is mainly traceable to doubts

arising from indeterminacy of the syntax, ambiguity of the language, imprecise thinking on the part of the law makers, and so on. The language of statutes and other legal documents is legal language. Legal language sometimes overlaps non-legal or natural language. It may sometimes supplement the latter or conflict with the latter or even supersede it. Apart from this linguistic parallelism, there are questions or issues arising from the fact that legal language is largely prescriptive in kind. Also, statutory language in particular is very largely normative in nature. The prescription of duties by law or the laying down of norms in statutes frequently involves a debate as to the moral counterparts of the normative propositions that are expressly or impliedly affirmed or denied in legal language. For this reason, ethical considerations may also become relevant.

Besides this, statutory language is usually abstract and general in its form. "Abstractness" means that certain theoretical characteristics of the relevant fact-situations come to be dealt with, in pervasive diction. The draftsman of a legal document is often forced to sublimate the concrete. "Generality" means that a number of fact-situations may come to be covered by a statutory provision. The draftsman cannot concentrate on individual cases while formulating legal language. In order to apply statutory language of an abstract character to concrete cases, interpretation becomes inevitable. The draftsman ascends to the abstract. The interpreter descends to the particular and the concrete.

A close look at the ancient Indian literature relevant to the subject reveals that the classical writers were fully aware of most of these problems. Beginning with the Vedic texts (which were their most immediate concern), they built up quite a detailed set of guidelines for approaching and interpreting language. They delved deeply into the mysteries of grammar. They touched the universe of logic. They took into account issues of rhetoric. They devised suitable categories, classifying and sub-classifying them wherever necessary. As will appear from the first two chapters of this book, the literature on the subject acquired a richness and profusion of its own, disclosing intellectual skill of a very high order. This book is a modest attempt to offer glimpses into certain highlights of the literature on the subject. It is hoped that this small contribution will be found useful by those interested in the subject.

Dr. Jaswanti Dave, formerly Reader and Head of the Department of Sanskrit, SNDT, Indian Women's University, Bombay and Dr. Miss Sangeeta Khanna, Delhi have supplied certain useful material in connection with Chapter 1 and 2. Their assistance is gratefully acknowledged.