

(1968) 11 MAD CK 0031
In the Madras High Court

D. Gobaloussamy

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-11-1968

Acts Referred:

Government of Union Territories Act, 1963 — Section 18(2)
Pondicherry (Administration) Act, 1962 — Section 8

Citation : (1969) 2 MLJ 62

Hon'ble Judges : M. Anantanarayanan, C.J;M. Natesan, J

Bench : Full Bench

Judgement

M. Anantanarayanan, C.J.—In D. Gobaloussamy Vs. The Union Territory of Pondicherry and Others, , Ramakrishnan, J., and myself have

dealt with the constitutional history of the French Settlements in India, Pondicherry in particular with reference to the three stages or phases of that

development. For an appreciation of the argument now presented before us, on the central issue of the vires of the Pondicherry (Extension of

Laws) Act, 1968 (XXVI of 1968), it is not necessary to traverse that ground again, but it is essential to recapitulate one or two salient features. As

I have described in my judgment, the first phase relates to the development of the French Judicial System, and the introduction of French laws into

the Settlement of Pondicherry. Even during the 23 years of British occupation, from 1793 to 1816, the French Judicial System continued to

function intact, and the French Law was administered in the Courts of the Settlement. The Decrets proceeded upto 12th June, 1947, when the

hierarchy of Courts at Pondicherry was determined in 1952. These facts emphasise one argument presented by Sri Arunachalam for the writ

petitioners, namely, that the Continental System of Jurisprudence, and the very

different Code of French Laws, Civil and Criminal, did prevail in the Courts of the Settlement, till a very recent date.

2. The second phase, or stage, commenced with the merger agreement dated 21st October, 1954, entered into between the high contracting powers of India and France. The date of the de facto transfer was 1st November, 1954, and these events were followed by the Treaty of Cession

dated 28th May, 1956. The de jure transfer took effect on 16th August, 1962, which is known as the "" appointed day"", a clear reference thereto

being embodied in Act XLIX of 1962. That Act came into effect on 5th December, 1962, and on 28th December, 1962 the Fourteenth

Amendment to the Constitution became effective, which, in the formal and legal sense, classified Pondicherry as a Union Territory, included as the

9th Item in Part II of the First Schedule.* After this, we have the enactment of the Government of the Union Territories Act (XX of 1963). In the

present controversy, we are concerned with certain features of the constitutional history, following the de facto transfer, and, later, the de jure

transfer, pertinent to the making of laws for Pondicherry, or the -extension of other State laws into the Pondicherry State.

3. Prior to the de jure transfer, the territory was being administered under Rules and Notifications issued from time to time by the Government of

India, under the Foreign Jurisdiction Act. The Pondicherry (Administration) Act (XLIX of 1962), came into force on 5th December, 1962.

Section 8 of this Act is noteworthy, as it enables the Central Government, by notification, to "" extend with such restrictions and modifications as it

thinks fit to Pondicherry any enactment which is in force in a State at the date of the notification "". After Pondicherry was classified as a Union

Territory and included as the 9th Item in Part II of the First Schedule, Part VIII of the Constitution became applicable thereto. Admittedly, the vital

Articles are : Article 239-A, which enables Parliament to create for the Union Territory a Legislature and/or a Council of Ministers; and Article

246 (4), under which Parliament has the sovereign power "" to make laws with respect to any matter for any part of the territory of India not

included in a State notwithstanding that such matter is a matter enumerated in the State List "". In other words, the overriding power of Article 246

(4) invests Parliament with legislative competence, as far as the Union Territory

is concerned, in respect of not merely List I and the Concurrent List, but also the State List; the proposition is not controverted before us. This constitutional position finds an echo in the Government of Union Territories Act, 1963 (XX of 1963), Section 18 (1) of which relates to the extent of the legislative power of the Legislative Assembly of a Union Territory, but Section 18 (2) of which explicitly states that "" nothing in Sub-section (1) shall derogate from the powers conferred on Parliament by the Constitution to make laws with respect to any matter for a Union Territory or any part thereof.

4. Admittedly, during the earlier phase, the President could make regulations for the peace, progress and good Government of the Union Territory of Pondicherry, under Article 240 (1) of the Constitution. But this power has automatically come to an end under Article 239-A, when the Legislature for the Union Territory was constituted. Actually, Regulation VII of 1963 (The Pondicherry (Laws) Regulation, 1963) was promulgated by the President under Article 240 (1), and it extended a series of Acts in force in the Indian Union, to Pondicherry State, with effect from 1st October, 1963, including the Indian Penal Code, the Criminal Procedure Code, Evidence Act, etc.

5. I have already referred to Section 8 of the Pondicherry (Administration) Act; 1962) (LXIX of 1962), investing the Central Government with power to extend; State enactments to Pondicherry. Mr. Arunachalam is right in his view that the : power of the President to extend laws, evidenced by such a measure as the Pondicherry (Laws) Regulation VII of 1963, came to an end under Article 239-A, the moment Parliament created a Legislature for the Pondicherry State, under the Government of Union Territories Act (XX of 1963), by virtue of the proviso to Article 240 (1). Whether as an interim power of the President, or as a power conferred by delegation on the Central Government u/s 8 of Act LXIX of 1962, the power to extend laws to Pondicherry in these modes lapsed, after the Legislature for the State was constituted. Thereafter, it was the Union Government alone which could make laws for Pondicherry, under Article 246 (4), apart, of course, from the powers of the State Legislature.

6. This much being clear, by means of a brief review of the major features of the

constitutional development of the territory, we shall now proceed

to the attack on. the vires of the Pondicherry (Extension of Laws) Act (XXVI of 1968). Since something appears to turn in the arguments on the

form of the measure, I shall set forth the entire relevant part of the text, which received the assent of the President on 24th May, 1968.

An Act to extend certain Central Acts to the Union Territory of Pondicherry.

7. Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows ::

Short Title--1. This Act may be called the Pondicherry (Extension of Laws) Act, 1968.

Definitions.--2. In this Act, unless the context otherwise requires,:

(a) * * * *

(b) * * * *

(c) " Pondicherry " means the Union Territory of Pondicherry.

Extension with amendments of certain laws to Pondicherry and their commencement therein.--3. (1) The Acts specified in Part I of the Schedule as

they are generally in force in the territories to which they extend and the Acts specified in Part II of the Schedule as they were in force on the 1st

day of August, 1966, in the State or Union Territory mentioned there against shall extend to Pondicherry, subject to the modifications, if any,

specified in the Schedule.

(2) Notwithstanding anything contained in Sub-section (1), or in the relevant provision, if any, of each such Act for the commencement thereof, the

provisions-of each such Act shall come into force in Pondicherry on such date as the Administrator may, by notification in the Official Gazette,

appoint;

Provided that different dates may be appointed for different provisions of any Act and any reference in any such provision to the commencement of

the Act shall be construed as a reference to the coming into force of that provision.

8. While upon this structure of the enactment, I may refer to the Schedule thereto, which cites Section 3 (1), and is in two parts. The headings are "

Year", " No. ", " Short title," " Modifications". Then follow a list of many Central Acts, with certain modifications to certain sections of those

enactments, set forth in column 4. The Advocates Act, 19 (1), which is the focus of attack in these proceedings, is also-included in this Schedule.

Part II is a list of three enactments, again with modifications, in the last column; but they are shown as in force in a State or a Union Territory.

Upon what ground, legislative competence being conceded throughout by learned Counsel (Mr. Arunachalam), is it sought to be pressed before us

that this measure, and that Section 3 in particular thereof, must be struck down as ultra vires, or a colourable piece of legislation? The central

argument is stated in this form. The Parliament has certainly a sovereign power " to make laws" for the Union Territory of Pondicherry. It can do

so by re-enacting the Central Acts, which are intended hereafter to become part of the corpus of law in this territory,, either unaltered or with

modifications. But this is a true legislative power, which must be exercised as such. A mere extension of the enactments of the Schedule, will not

amount to such legislation, and is not, in the substantial sense, " making of law " for the territory under Article 246 (4). If such mechanical extension

of preexisting Central enactments, with or without slight modifications, en masse, is not a true exercise of the legislative power, then it is invalid as a

piece of " colourable " legislation. That attack is made in the strict or formal sense, of an attempt to use a power indirectly, for a purpose other than

that for which the power was designed., The argument is on stronger foundation, according to learned Counsel, because, Pondicherry was

governed by the Continental System of Jurisprudence, comprising a quite different judicial structure, till the date of the de jure merger. The mind of

the Parliament must go with the exercise of the sovereign legislative power; it is argued that this cannot be premised, where we have merely a

omnibus Act of this character, extending a series of enactments of the newly-formed Union Territory.

9. We have very carefully considered this argument, in the light of submissions and in the light of the authorities made available to us. We have no

doubt whatever that it is not sustainable, and that it has to be repelled. Perhaps, as a preface to the analysis, I might refer to the propositions of the

Supreme Court in Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others, , namely, (i) A presumption in favour of the constitutionality of

an enactment; and (ii) A presumption that the Legislature understands, and correctly appreciates, the need of its own people. Actually, the

extension of a pre-existing law to a new territory, even by delegated" legislation, has always been recognised as valid. Reference may be made to

Rajnarain Singh Vs. The Chairman, Patna Administration Committee, Patna and Another, and In Re: The Delhi Laws Act, 1912, the Ajmer-

Merwara (Extension of Laws) Act, 1947 and the Part C States (Laws) Act, 1950, , The matter was expressed in the following form in the very

early case of The Queen v. Burrah (1877) L.R. 5 IndAp 178:

Legislation which does not directly fix the period for its own commencement, but leaves that to be done by an external authority, may with quite as

much reason be called incomplete, as that which does not itself immediately determine the whole area to which it is to be applied, but leaves this to

be done by the same external authority. If it is an act of legislation on the part of the external authority so trusted to enlarge the area within which a

law actually in operation is to* be applied, it would seem a fortiori to be an act of legislation to bring the law originally into operation by fixing the

time for its commencement.

10. Actually, there have been several instances of legislation by extension to a new territory of a pre-existing Act, which is sometimes termed as

referential legislation,"" in certain of the standard treatises. In B. Shama Rao Vs. The Union Territory of Pondicherry, it has to be carefully noticed

that the power of the Pondicherry Legislature to extend the Madras Act to Pondicherry State was, in itself, never in doubt. The relevant enactment

was struck down, not on the ground of incompetency, but because the Pondicherry Legislature adopted the Madras Act, as it stood, on the date

when it passed the principal Act, but also enacted that future amendments of the Madras Legislature, in respect of its Act, would be ipso facto

applicable to the Pondicherry measure, or read as incorporated with it. This was held by the Supreme Court to be an abdication by the Assembly,

of its legislative function, which could not be supported. Indeed, the argument of Mr. Setalvad was accepted that there could be valid delegation to

adopt other State laws by extension. Ramakrishnan, J., has devoted some attention to the sense or significance of such words and phrases as "

extend " and " make law " as defined in Dictionaries and Lexicons; but it appears to us that this is really not necessary, in view of the widespread

and recognised nature of this form of legislation; also see T.M. Kannian Vs.

Income Tax Officer, Pondicherry and Another, . The phrase " make laws for a Province " was annotated in Shib Nath Banerjee and Others Vs. A.E. Porter and Others, , and on the word " extend " we have a very early case in Nga Hoong v. The Queen (1857) 7 M.I.A. 72, which interpreted the word as " apply ". The real point is that this is one form of a legislative measure, well understood, and of considerable lineage. To hold it as not amounting to " making law," when the sovereign Parliament has declared, at the commencement of this Act, "" Be it enacted by Parliament,"" is to fly in the face of the legislative power.

11. Mr. Tiruvenkatachari, for one of the respondents, has made an interesting analysis of the history of this kind of legislation. As he points out,

under Article I (3) of the Constitution, the territory of India would include the Union Territory of Pondicherry, from the time of the Fourteenth

Amendment. After that, to introduce amendments, Act by Act, of listed statutes, with regard to the extent clause in each, by including "

Pondicherry," would be not merely a surplusage, but may give rise to needless constitutional doubts and difficulties. Certainly, another solution

would be to re-enact each of these statutes, separately, for Pondicherry, including the modifications now found in the Schedule. But, this, as is

clear from a passage in G. P. Singh's ""Principles of Statutory Interpretation"" (1966 edition) at page 153, may imply that the canon of uniformity of

laws throughout the territories of India, might be thereby jeopardised. This would amount to a form of incorporation in the second statute by

reference, and amendments of the Central Act may not take effect, with regard to the set of Pondicherry statutes. Several previous statutes do

throw an interesting light on this legislative technique. One is the "" Laws Local Extent Act"" (XV of 1874) and the other is the "" Assam Rifles

Amendment Act ""(XXX of 1962). We have also the Delhi Laws Act (XIII of 1912), and it is thus clear that Section 3, that we have earlier set

forth, really amounts, in final analysis, to an amendment of the extent clause in each of the listed enactments, by adding Pondicherry to that clause.

Mr. Chari has also drawn our attention to Ilbert on "" Legislative Methods and Forms"" (1901 edition), page 263, upon the advantages, including

uniformity and brevity, of this mode of legislation, termed " referential legislation." We are quite unable to see how this is not " making laws " for

the territory of Pondicherry, by the Union Parliament. It cannot be construed as anything else, unless there is to be a new theory of legislative

techniques, taking away certain well-established forms of legislation, through applying or extending a pre-existing statute, to a fresh area. On the

entire question of these different kinds of legislative techniques, including statutory incorporation by reference, I may cite the Full Bench decision of

this Court in *A.M.S. Mohammed Kasim Vs. The Assistant Collector of Central Excise, Madurai*, wherein I have embarked on the requisite

analysis.

12. Finally, Mr. Arunachalam sought to press two related arguments, but they were faintly pressed, and they cannot take up his case any farther.

The first is that we should have regard to Entries 79 and 80 of List I of the Seventh Schedule, namely,

79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from any Union Territory.

80. Extension of the powers and jurisdiction of members of police force belonging to any State to any area outside that State....

The argument is that these are the only powers of extension of law that the Union Parliament can be said to possess. Apart from the obvious fact

that such an argument will stultify the residuary Entry 97, which is comprehensive, it is clear enough that extension of jurisdiction of a High Court,

or the powers and jurisdiction of a Government agency, is a very different act from a legislative measure, extending a pre-existing statute to a fresh

territory. These powers are not identical at all, except that the verb "to extend", might have to be used in describing those powers.

13. The other argument was that, as a matter of verification of some record by learned Counsel, this entire Act occupied a very short time in its

passage in the Union Parliament, with very little debate, so that the individual Acts of the Schedule were not considered, in relation to their

application to Pondicherry State, statute by statute. We are quite unable to see how we could embark upon any investigation of this type, with any

propriety, or how it would be even relevant. Bills are circulated in advance, to the Members of Parliament. They might have been studied for days

by the concerned Legislators, and the brevity of the discussions can be no index whatever of the care with which the legislative process has been

gone through.

14. In result, therefore, we must hold that neither the measure, nor Section 3 thereof, nor any part of the Schedule, can be struck down as ultra

vires or unconstitutional, or as a colourable piece of legislation. The individual writ proceedings will be now further posted before us for disposal, in

the light of this judgment, as there are special facts pertinent to some of those proceedings, which may require separate consideration at our hands.

The writ appeal is dismissed; there will be no order as to costs.

M. Natesan, J.

15. "While in agreement with my Lord the Chief Justice that the challenge to the vires, of the Pondicherry (Extension of Laws) Act (XXVI of

1968), is wholly untenable, I add a few words, on one or two aspects, having regard to the strenuous arguments of learned Counsel for the

appellant in maintaining a stand which is wholly untenable and unarguable. Briefly stated, Counsel contends that, when a Legislature merely extends

an existing law to another territory within its legislative sphere, it does not make a law, and the law so extended has no legislative sanction. The

submission is that an Extension Act is no legislation at all. At the outset, I should state that applying a law current in one territory by extending it to

another territory over which the Legislature has jurisdiction, is a well-known legislative device and innumerable instances could be given of such

extension and those extensions have received recognition from Courts and Legislatures have quite often provided for such extensions.

16. The impugned Act (XXVI of 1968) which purports to extend certain Central Acts to the Union Territory of Pondicherry, is Parliamentary

enactment commencing with the enactment formula;

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows.

The principal part of the Act, Section 3 (1), reads:

The Acts specified in Part I of the Schedule as they are generally in force in the territories to which they extend and the Acts specified in Part II of

the Schedule as they were in force on the 1st days of August, 1966, in the State or Union territory mentioned there against shall extend to

Pondicherry, subject to the modifications, if any, specified in the Schedule.

The Schedule in two parts sets out the various Central Acts that are to be extended to the Union Territory of Pondicherry. Certain modifications are shown in the case of some of the Acts. The legislative competency of Parliament to enact for the Union Territory of Pondicherry the various laws that have been set out in the Schedule is not questioned. Parliament's exclusive power to make laws for the whole or any part of the Territory of India in respect of any of the matters enumerated in the "Union" List and the overriding powers of legislation for the whole or any part of the territory of India with respect to any of the matters in the "Concurrent" List are found in Articles 245 (1) and 246 (1) and (2) of the Constitution.

Article 246 (4) vests in Parliament power to make laws with respect to any matter for any part of the territory of India, not included in a State notwithstanding that such a matter is a matter enumerated in the State List. Under Article 246 (4) Parliament is vested with plenary powers to make laws for the Union Territories. This power is referred to also in Section 18 (2) of the Government of Union Territories Act (Central Act XX

of 1963), an Act which provides for Legislative Assemblies and Councils of Ministers to certain Union Territories. Learned Counsel Mr. N.

Arunachalam, while conceding, as he has to, the power of Parliament to enact for Pondicherry the various laws which have been extended,

contends only that the extension of an existing law is not legislation or making law, and, the Parliament's power under the Constitution being to

make laws, the impugned Act is not a law under the Constitution.

17. It is not disputed that Parliament did enact the Pondicherry (Extension of Laws) Act (Central Act XXVI of 1968). Act XXVI of 1968 went

through the gauntlet of legislative process and received the assent of the President on 24th May, 1968. Law is the result of an exercise of legislative

process by the Legislature in accordance with the provisions of the Constitution and business rules of Legislature, and when that is exercised, a law

is made. Manifestly, Central Act XXVI of 1968, standing by itself, is a law duly enacted by Parliament. The pivotal provision of the Act., Section

3 (1), has passed through the legislative process and become law. The only question is what is the effect of this Extension Act, the legal

consequences of the Act are expressed in the plainest English. The specified Acts are in effect declared as the law for the Union Territory of

Pondicherry also with modifications in some cases. Subject to constitutional limitations, laws may be limited with reference to territories, persons or

things. Any provision in an Act defining the extent of its operation, be it with reference to territories, persons or things is manifestly itself law. It

follows that any variation of the extent of operation of a law, say either by applying it to a territory in which it is not already in force or limiting its

operation by withdrawing it from an area in which it is in force, can only be by making a law to that effect.

18. It is said that, in the legislative subjects listed in Schedule VII, there is no topic for extension of existing laws. This is to limit the ambit and

scope of the entries in the Legislative Lists. An Extension Act is indubitably legislation in respect of the topic to which the extended Act relates.

When the Indian Contract Act or Sale of Goods Act or Transfer of Property Act is extended to Pondicherry, then contracts, transfers of property

and sale of goods in the territory are sought to be governed by the extended Acts. Several Acts may be extended by a single Act. Then the

Extension Act covers the several topics of Legislation which are the subject of the Acts extended. The pith and substance of an Extension Act is

not just extension; it provides an existing law on a listed subject of legislation for the new territory. An Extension Act is an Act of legislation to

enlarge the area within which a law actually in operation is applied. The generality of the power to legislate on a listed topic cannot be cut down by

limitations as to the form which a law on a listed topic should take. In this view it is unnecessary to sustain the Act under Article 248 and Entry 97

of List I of the Constitution.

19. The extension of the operation of an Act may be carried out in several ways. The Act may be taken up and the territorial extent clause therein

amended to include the new territory; an amending Act is passed. Or a law may be made extending to the new territory the Act by reference like

the Act now under consideration or Central Act XXX of 1965 which extended the CPC and the Arbitration Act to Goa, Daman and Diu. The

latter method, in effect and substance, amends the extent clause of the original Act. In the Central Laws ((Extension to Jammu and Kashmir) Act

XXV of 1968 both the above methods had to be adopted. Several of the Central Acts extended, like the Official Trustees Act, 1913 and the

Motor Vehicles Act, in their first section indicating the extent of operation, excepted from the operation of the Act the State of Jammu and

Kashmir. Central Act XXV of 1968 amended the extent clauses in the Acts by omission of the words "except the State of Jammu and Kashmir

and extended the Act to the State of Jammu and Kashmir. A law itself may provide for extension of the Act by notification, to territories originally

excepted : see provision to that effect in the Transfer of Property Act. Or a general law may delegate to the Central or State Government the

power to extend an existing law by notification to another territory. In the *In Re: The Delhi Laws Act, 1912, the Ajmer-Merwara (Extension of*

Laws) Act, 1947 and the Part C States (Laws) Act, 1950, , by a majority of four to three the Supreme Court upheld the validity of the provision:

The Provincial Government may...extend with such restrictions and modifications as it thinks fit...any enactment which is in force in any part of

British India at the date of such notification.

When an Extension of Laws Act like the one under consideration is passed, what happens is this; Parliament which has power to enact a law for

the whole or part of India which had earlier limited the operation of the Act with reference to area or had a new territory added to its sway, takes

up for deliberation the question whether an existing Act, to which Parliament had already applied its mind, should operate over the territory hitherto

outside the ambit of the Act. There is no magic in the expression "make laws" on which considerable stress is laid by Counsel. It only means the

issuance of a fiat of Parliament according to prescribed legislative procedure. When a measure is made by Parliament that an Act hitherto not

operative in an area, be extended to that area, the fiat is that the Act be applied to that area. The observations about referential Legislation by

Illbert in his *Legislative Methods and Forms*, at pages 263 to 264, may usefully be referred to in this context:

This method of legislation possessed considerable advantages, both from the Parliamentary and from the administrative points of view. It presented

to Parliament a single issue, namely, whether the municipal system should be adopted or not. If the municipal provisions had been repeated in the

new Bill, they would have run to an inordinate length; every detail of them would have been open to discussion and amendment, and the result of

the discussion would probably have been to introduce a large amount of variation, both in language and in substance, between the law applicable to Borough Councils and the law applicable to the County Councils and thus to have destroyed that uniformity of law and procedure which so materially facilitates administration.

20. Mr. Arunachalam contended that, having regard to the special position of Pondicherry which till recently was under Continental jurisprudence,

a jurisprudence and system of administration so different from others, each one of the Acts should have been separately taken up for deliberation

by Parliament and made law for Pondicherry. Then alone, it is urged, it could be said that laws have been made in respect of the subject-matter of

the laws extended. Counsel would submit that for a new territory like Pondicherry, the mind of Parliament should be brought on to bear upon every

provision of the extended laws and referential Legislation, as the impugned one, precludes full consideration, where needed, of the laws referred to

in the Bill for extension of laws. This is to ignore a basic principle that our Courts proceed on the premise that Parliament knows its mind and

understands the needs and requirements of its people in different territories. Secondly, the Legislature has already exercised its judgment and

brought to bear its deliberation on the substantial parts of the laws extended. Whether a particular law should be applied to the new territory and, if

so, to what extent, or with what modification are matters for determination by Parliament which is sovereign within its sphere. These are questions

of policy and Courts are not commissioned to inquire into and adjudicate on the reasonableness or propriety of the policy behind a legislation or

the sufficiency and nature of the deliberation of Parliament thereon, if the law is otherwise valid and is within Parliament's sphere of legislation and

not inconsistent with constitutional guarantees. When the impugned Act was before Parliament, the simple issue was whether the Central Acts in

question with certain suggested modifications should apply also to Pondicherry. When Parliament passed the Act providing for application of these

laws to Pondicherry, it has exercised its legislative function.

21. Learned Counsel would characterise this kind of law-making as a piece of colourable legislation. But that is misuse of language, as we speak of

colourable Legislation only when the Legislature does indirectly what it cannot do

directly. Where the legislative competency is there, the fact that the Legislature adopts one method instead of another to effect its policy would not make the legislation colourable. Parliament has adopted one of the several legislative devices that compendiously go under the label referential legislation. Legislation by reference as pointed out by Craies on Statute Law, 6th Edition, at page 30, "occurs where an earlier enactment is amended, applied, etc., by a mere specific reference to the section or part affected without any description of its subject-matter, necessitating in consequence resort to the enactments cited to appreciate what the later enactment is effecting". Parliament has preferred to extend its existing Central laws rather than re-enacting the laws for the Union Territory of Pondicherry repeating them in so many enactments. When there is an incorporation or adoption of the whole or part of another law, by repetition of the provision in a new statute, the provisions adopted become part of the adopting statute; and, the incorporated law, though in language and contents may be the same as the existing law, has an independent and separate existence from the existing law. But when a Legislature extends its own existing law to another territory over which it has jurisdiction, it is the existing law that is made applicable to the new territory. It is unnecessary, for the purpose of the present case, to examine the intricacies and distinction between various forms of referential legislation, in their actual application. It is sufficient to say that there is undoubted legislative competency for making an Extension Law like the one under consideration here.

22. It is interesting to note that learned Counsel concedes the validity of Section 8 of the Pondicherry (Administration) Act, 1962 which empowered the Central Government, by notification in the Official Gazette, to extend with such restrictions and modifications as it thought fit to Pondicherry any enactment in force in a State at the date of the notifications. If Parliament can validly delegate to the Central Government by notification the power to extend existing State Laws, then Parliament's power to enact the present Extension of Laws Act cannot be questioned. The validity of Section 8 conceded, postulates the existence of such power in Parliament. If it can extend State laws, (in my view with reference to law of another Legislature extension is not quite an appropriate expression), it

can indubitably and with greater propriety extend its own laws. The position is, as I said at the outset, wholly unarguable. If authority is needed, we have the binding dicta of the Supreme Court in T.M. Kannian Vs.

Income Tax Officer, Pondicherry and Another, . The Supreme Court there observed:

It follows that in view of Article 246 (4), Parliament has plenary powers to make laws for Union Territories on all matters. Parliament can by law

extend the Income Tax Act, 1961 to a Union Territory with such modifications as it thinks fit. The President in the exercise of his powers under

Article 240 can make Regulations which have the same force and effect as an Act of Parliament which applies to that territory. The President can

therefore by Regulation made under Article 240 extend the Income Tax Act, 1961, to that territory with such modifications as he thinks fit.

Reference may also be made to the decision of the Judicial Committee in The Queen v. Burrah (1877) L.R. 5 IndAp 178.

23. As the matter has been dealt with at length by my learned brother Ramakrishnan, J., in the order under appeal and by my Lord the Chief

Justice, I shall not further elaborate. It follows that W.A. 316 of 1968 (P) has to be dismissed. No order as to costs.