

Firstly, the American Supreme Court's appellate jurisdiction is confined to cases arising out of the federal relationship or those relating to the constitutional validity of laws and treaties. But *our* Supreme Court is not only a federal court and a guardian of the Constitution, but also the highest court of appeal in the land, relating to civil and criminal cases [Articles 133–134], apart from cases relating to the interpretation of the Constitution.

Secondly, *our* Supreme Court has an extraordinary power to entertain appeal, without any limitation upon its discretion, from the decision not only of any court but also of any tribunal within the territory of India except from decision of any court or tribunal constituted by or under any law relating to the Armed Forces [Article 136]. No such power belongs to the American Supreme Court.

Thirdly, while the American Supreme Court has denied to itself any power to advise the Government and confined itself only to the determination of actual controversies between parties to a litigation, *our* Supreme Court is vested by the Constitution itself with the power to deliver advisory opinion on any question of fact or law that may be referred to it by the President [Article 143].

The power of Supreme Court to make rules to regulate its own procedure is only subject to two limitations:

- (i) These rules are subject to the laws made by Parliament.
- (ii) These rules being in the nature of subordinate legislation can not override the constitutional provisions [Article 145].¹²

Every federal Constitution, whatever the degree of cohesion it aims at, involves a distribution of powers between the Union and the units composing the Union,

(i) As a Federal Court. and both Union and State Governments derive their authority from, and are limited by the same Constitution. In a unitary Constitution, like that of England, the local administrative or legislative bodies are mere subordinate bodies under the central authority. Hence, there is no need of judicially determining disputes between the central and local authorities. But in a federal Constitution, the powers are divided between the national and State Governments, and there must be some authority to determine disputes between the Union and the States or the States *inter se* and to maintain the distribution of powers as made by the Constitution.

Though *our* federation is not in the nature of a treaty or compact between the component units, there is, nevertheless, a division of legislative as well as administrative powers between the Union and the States. Article 131 of *our* Constitution, therefore, vests the Supreme Court with original and exclusive jurisdiction to determine justiciable disputes between the Union and the States or between the States *inter se*.

Like the House of Lords in England, the Supreme Court of India is the final appellate tribunal of the land, and in some respects, the jurisdiction of the Supreme Court is even wider than that of the House of Lords. As regards *criminal* appeals, an

(ii) As a Court of Appeal. appeal lies to the House of Lords only if the Attorney-General certifies that the decision of the Court of Criminal Appeal involves a point of law of exceptional public importance and that it is desirable in the public interest that a further appeal should be brought. But in cases specified in clauses (a) and (b) of Article 134(1) of *our* Constitution (death sentences), an appeal will lie to the Supreme Court as of right.

As to appeals from high courts in *civil* cases, however, the position has been altered by an amendment of Article 133(1) by the Constitution (30th Amendment) Act, 1972, which has likened the law to that in England. Civil appeals from the