

decisions of the Court of Appeal lie to the House of Lords only if the Court of Appeal or the House of Lords grants leave to appeal. Under Article 133(1) of *our* Constitution as it originally stood, an appeal to the Supreme Court lay as of right in cases of higher value (as certified by the high court). But this value test and the category of appeal as of right has been abolished by the amendment of 1972, under which appeal from the decision of a high court in a civil matter will lie to the Supreme Court only if the high court certifies that the case involves "a substantial question of law of general importance" and that "the said question needs to be decided by the Supreme Court".⁸ The Supreme Court can not interfere, with the finding of fact, arrived at by the final court of fact and affirmed by the high court in second appeal unless there is some infirmity for which the court can hold the findings arbitrary or perverse.¹³

But the right of the Supreme Court to entertain appeal, *by special leave*, in any cause or matter determined by any court or tribunal in India, save military tribunals, is unlimited [Article 136].

As against unconstitutional acts of the Executive the jurisdiction of the courts is (iii) **As a Guardian of the Constitution.** nearly the same under all constitutional systems. But not so is the control of the Judiciary over the Legislature.

It is true that there is no express provision in *our* Constitution empowering the courts to invalidate laws; but the Constitution has imposed definite limitations upon each of the organs of the state, and any transgression of those limitations would make the law *void*. It is for the courts to decide whether any of the constitutional limitations has been transgressed or not,¹⁴ because the Constitution is the organic law subject to which ordinary laws are made by the Legislature which itself is set up by the Constitution.

Thus, Article 13 declares that any law which contravenes any of the provisions of the Part on Fundamental Rights, shall be *void*. But, as *our* Supreme Court has observed,⁹ even without the specific provision in Article 13 (which has been inserted only by way of abundant caution), the court would have the powers to declare any enactment which transgresses a fundamental right as invalid.

Similarly, Article 254 says that in case of inconsistency between Union and State laws in certain cases, the State law shall be *void*.

The limitations imposed by *our* Constitution upon the powers of Legislatures are — (a) Fundamental rights conferred by Part III. (b) Legislative competence. (c) Specific provisions of the Constitution imposing limitations relating to particular matters.¹⁵

It is clear from the above that (apart from the jurisdiction to issue the writs to enforce the fundamental rights, which has been explained earlier) the jurisdiction of the Supreme Court is three-fold: (a) Original; (b) Appellate; and (c) Advisory.

The Original jurisdiction of the Supreme Court is dealt with in Article 131 of the Constitution. The functions of the Supreme Court under Article 131 are purely of a federal character and are confined to disputes between the Government of India and any of the States of the Union, the Government of India and any State or States on one side and any other State or States on the other side, or between

two or more States *inter se*. In short, these are disputes between different units of the federation which will be within the exclusive original jurisdiction of the Supreme Court. The Original jurisdiction of the Supreme Court will be *exclusive*, which means that no other court in India shall have the power to entertain any such suit. On the other hand, the Supreme Court in its original jurisdiction will not be entitled to

A. Original Jurisdiction of Supreme Court.