CHAPTER - VI

SUMMARY AND CONCLUSIONS
Article 356 has been pressed into service thirty-six times in the period of twenty-six-years that the Constitution has been in force. More remarkably, since 1967 the Centre's direct rule in the country has not ended even for once; one State or the other has always remained under President's rule ever since. Such a high frequency of its use was not visualised by the framers of the Constitution; they had, on the contrary, viewed this Article as an extraordinary provision meant only for really extraordinary circumstances and hoped that it would be invoked very grudgingly. But their expectations have been belied.
PRESIDENTIAL ELECTION AND DISSOLUTION OF STATE LEGISLATURE

Under Article 62 of the Constitution the election of the new President must be completed before the date of expiry of five-year period of his predecessor. According to Article 54, which lays down the composition of the electoral college to elect the President, the electoral college comprises the elected members of both Houses of Parliament and the elected members of the Legislative Assemblies of the States. Can the Presidential election be held if there are vacancies among the members of the electoral college? To plug this loophole, the Constitution (Eleventh Amendment) Act, 1961, was passed, and as a result, a new clause, Article 71 (4) was inserted in the Constitution. This clause provides that the election of the President shall not be questioned on the ground of the existence if any vacancy 'for whatever reason' among the members of the electoral college electing him.
The question of the electoral college not being full, engaged the attention of the Supreme Court as early as 1957. At the time of the Presidential election in 1957, elections to four seats in Lok Sabha and in two Assembly constituencies in Punjab and not been completed. A candidate seeking election to Lok Sabha from one of the four constituencies where the election had been postponed took the matter to the Supreme Court to plead that if the Presidential election was held on 5 May 1957 he would be deprived of his right to vote for the election of the President. The Supreme Court refrained from expressing its opinion on the merits of this contention, declaring that all doubts and disputes concerning the presidential election should be brought before it only after the declaration of the result of the election. It was precisely to avoid any such questions being taken to the judiciary that the Parliament enacted clause (4) of Article 71. Can this amendment exclude an entire State from the electoral college? At the time of the sixth Presidential election, scheduled for August 1974, two
Legislatures of Gujarat and Pondicherry stood abolished under the impact of Article 356 of the Constitution. Could the Presidential election be held when the electoral college did not include a single member representing the Legislative Assembly of Gujarat and Pondicherry?

Questions similar to these had raised in Parliament when the proposal to insert clause (4) of Article 71 was under discussion in 1961. A.K. Sen, the Union Law Minister, did refer to a possibility of the President being elected even though the majority of the seats in the electoral college had not been filled up but in the same breath, he called it 'a theoretical possibility'. While speaking in the Lok Sabha on 5 December 1961, he observed: 'If seems that there is an apprehension in the minds of some honourable members....that there is a possibility of the President being elected even though only a minority of the members may be elected, in fact, before the majority of the seats are filled up. It is certainly a theoretical possibility though
practically it is impossible to conceive that the Chief Election Commissioner would be calling for the election of the President without all the seats being filled up except those which cannot be filled up because of climatic or other reasons..... Let us leave it to common sense.'

The dissolution of the Gujarat Assembly in March 1974 created an unprecedented situation in as much as an entire State was to be deprived of the right to participate in the presidential election due in September 1974. Many in the country including the opposition parties were feeling concerned over this situation. H.R. Gokhale, the Law Minister, said in Lok Sabha, 'The Government is prima facie of the view that on a true and correct interpretation of Article 54, 55, 62 and 71 of the Constitution the electoral college consists only of the legislative assemblies of the states as are in existence at or before the expiry of the term of office of the President.' However, he said that in view of prevailing opinion to the contrary the Government has
decided to seek the advisory opinion of the Supreme Court.

The Supreme Court gave its advisory opinion to the effect that the Presidential election must be held before the expiry of the five year term of V.V. Giri, the retiring President, notwithstanding the dissolution of the Gujarat Assembly. The Court's opinion was that the Presidential election 'must be held before the expiration of the term of the President notwithstanding the fact that at the time of such election the legislative Assembly of a State is dissolved.' The State Assemblies and Parliament do not form the units of the electoral college, the units are the elected members of these bodies. The electoral college consists only of members existing at the time of Presidential election. The parity envisaged in the Constitution is not between each State separately as a unit on the one hand and the Union on the other but between the States as a whole and the Union. The election of the President cannot be questioned on the grounds of any existing vacancy, for whatever reasons, among the members of the
electoral college. The dissolution of an Assembly cannot impede a Presidential election. Finally, the President can continue in office after the expiry of his terms only in the event of his successor not being able to assume office though elected. This, in brief, was the advisory opinion given by the Supreme Court.

It needs to be noted that it was only the advisory opinion of the Court, and in no way binding on it. Further, although the reference by the President sought the Supreme Court's opinion on six points, the Court declined to express its opinion on (i) mala fide dissolution of a State Assemblies, (ii) mala fide refusal to hold elections within reasonable time and (iii) on the effect of the dissolution of a substantial number of State Legislative Assemblies before the Presidential election. Nevertheless the gravity of consequences following from such a situation cannot be minimised. The following warning sounded by B. Shiva Rao is quite apt: 'If an entire State can be excluded from the presidential election, it would be open to a resourceful Central
Government to bring about situations in which two or more State Assemblies might be dissolved through recourse to article 356 of the Constitution, if it is feared that they might upset the chances of the party in power of getting their candidate elected.

CAUSES OF PRESIDENT'S RULE:

President's rule has been imposed to cope with situations of political instability in the States but also to subserve other ends—and that, too, on a liberal scale. The following table describes the immediate causes of President's rule in the States:

<table>
<thead>
<tr>
<th>STATE</th>
<th>COURSE</th>
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<tbody>
<tr>
<td>Punjab (1951)</td>
<td>Party instructions</td>
</tr>
<tr>
<td>Pepsu (1953)</td>
<td>Numerous cases of defection. Ministry was not voted out. Rajpramukh introduced President's rule.</td>
</tr>
<tr>
<td>Andhra (1954)</td>
<td>Defections, Governor did not invite the second largest party to form the Government and recommended President's rule.</td>
</tr>
</tbody>
</table>
Travancore-Cochin (1956)  
Defections. No party able to form Ministry. Rajpramukh recommended President’s rule.

Kerala (1959)  
Dismissal by Centre.

Orissa (1961)  
Break up of the coalition.

Kerala (1964)  
Defections. No party able to form the Ministry.

Kerala (1965)  
No party able to form the Ministry.

Punjab (1966)  
Party instructions.

Rajasthan (1967)  
Governor’s refusal to call the largest alliance in the Assembly, the United Front, to form the Government.

Haryana (1967)  
Though not voted out of office the Governor recommended dismissal on the ground that the Ministry was maintaining itself in power by encouraging defections.
<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Bengal</td>
<td>1968</td>
<td>Assembly not able to meet because of the Speaker's action. Earlier, Governor dismissed the Ajoy Mukherji Ministry on the ground that it did not convene the Assembly meeting to prove its majority.</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>1968</td>
<td>Samyukta Vidhayak Dal not able to elect its leader.</td>
</tr>
<tr>
<td>Punjab</td>
<td>1968</td>
<td>Fall of a minority Government when the Congress which was propping it up withdrew its support.</td>
</tr>
<tr>
<td>Bihar</td>
<td>1969</td>
<td>Fall of a minority on account of defections and no other party able to form an alternative Ministry.</td>
</tr>
<tr>
<td>Bihar</td>
<td>1969</td>
<td>Defections; fall of the Ministry.</td>
</tr>
<tr>
<td>West Bengal</td>
<td>1970</td>
<td>Chief Minister voluntarily resigned. Governor asked the CPIM, the single largest party in the Assembly, to furnish evidence of its</td>
</tr>
</tbody>
</table>
majority. CPIM wanted majority to be tested in the Assembly. Governor recommended President's rule.

Kerala (1970) Chief Minister advised dissolution of Assembly. Governor dissolved the Assembly. Chief Minister resigned. President's rule introduced.

Uttar Pradesh (1970) One of the two partners withdrew. Governor asked Chief Minister to resign. On his refusal the Governor recommended President's rule.

Orissa (1971) One of the two partners withdrew support. Chief Minister resigned. Governor explored the possibility of forming alternative Ministry. No party being able to form the Government, Governor recommended President's rule.


Punjab (1971) Minority Government, Congress withdrew its support. Sensing withdrawal of support Chief Minister advised dissolution of Assembly. Governor dissolved the Assembly. President's rule became inevitable as budget had to be passed.

West Bengal (1971) Chief Minister faced defections, advised dissolution of Assembly which the Governor did. Chief Minister later resigned and Governor recommended President's rule.

Bihar (1972) The major partner in the coalition asked for mid-term poll and the ruling coalition resigned. Governor recommended President's rule.

Manipur (1972) When elevated to statehood did not have an Assembly. President's rule was as constitutional necessity before elections could be held.
Tripura (1972)  As in Manipur.
Andhra Pradesh (1973)  Party instructions.
Orissa (1973)  Ruling party lost majority by defections. Governor did not invite the leader of the second largest party; instead recommended President's rule.
Manipur (1973)  Defection wrecked the Ministry. Governor did not invite the opposition on the ground of there being 'professional defections' in Manipur and recommended President's rule.
Uttar Pradesh (1973)  Party instructions.
Nagaland (1975)  Defections; but President's rule continued beyond six months on the ground that
the implementation of the accord between the Naga underground and the Central Government had reached a crucial state and 'we should not do anything to vitiate the atmosphere by holding early elections.'

Tamil Nadu (1976) Dismissal by Centre on grounds of corruption.
Gujarat Defections.

It would appear from the above table that President's rule was not, honestly speaking, called for on all the thirty-six instances although in some cases it could perhaps have even come earlier. But on some cases it was not strictly necessary and what is more dismaying, in a large number of instances the return of popular Government was postponed more for political reasons than administrative ones. There is a crying need for sound guidelines to direct President's rule, so that constitutional obligations do not get subordinated to political expediencies. The country has
not cared very much to evolve sound conventions to regulate the use of Article 356, and it is permissible to speculate that this Article is likely to remain enmeshed in politics of a narrow perspective. Such a trend can be traced to the mid-sixties, and the instance of Tamil Nadu is a pointer to the opening up to still newer dimensions for the clamping of President's rule in the States.

Integral to the theory and practice of the President's rule is the discretionary judgement of the Governor and even more of the Central Government. There is a need for suitable conventions and protocol regulating norms governing Presidential take-over of State Government. These should include the following:

(1) The place for testing the majority of the ruling party or alliance is the Assembly, and Assembly only.

(2) The Governor should enjoy the power to convene the meeting of the State Assembly at his
discretion whenever he had doubts about the ruling party's majority.

(3) When a Ministry falls the Governor must invite the leader of the second largest party or alliance in the Assembly to form the Government and should not give in to his proclivities while performing constitutional duties. The invitations's validity must cease after a period which must be fixed on the basis of a national consensus and which must be adhered to by all the Governors and must not be questioned by political parties.

(4) The Governor should recommended President's rule only when no party is able or willing to form the Ministry.

(5) The Central Government should wait for the Governor's report before initiating action. The Governor, being the person on the spot, should have complete discretion about the contents of his report to the President.

(6) The Central Government's action should
be the modelled on lines recommended by the Governor in his report.

(7) It would be good if the introduction of President's rule is ordinarily preceded by a warning to the erring State so that it has a chance to rectify its affairs. The Centre must sound the alarm bells ringing fairly in advance before deciding on the use of Article 356. The observation made by B.R. Ambedkar should as far as practicable be acted upon.

(8) The date for the termination of President's rule ought not to exceed six to eight months.

(9) The election to the State Assembly should be held at a short notice and the whole procedure prescribed by the Election Commission for filling of nominations, withdrawal etc., should be reasonably modified to make election less time consuming.

(10) It should be the Governor's constitutional duty to keep President's rule non-partisan, and the Central Government should do nothing to make his tasks difficult. Good administration alone should be the
overriding consideration of his actions and preferably he should channelise all efforts to rescue his State from conditions which led to President's rule. Simultaneously, the political parties must accept with complete grace and without any reservations the introduction of President's rule in the State.

PRESIDENT'S RULE IN TAMIL NADU:

President's rule in Tamil Nadu (1976) discovered altogether new and novel dimensions for the application of Article 356 of the Constitution, making it, in the process, a completely open-ended one. To recall, the DMK Ministry in Tamil Nadu was dismissed from office principally on the ground that it indulged in corruption and held out 'veiled threats of secession'. Without going into the merits of each allegation it is necessary to emphasize at the outset that these are indeed grave matters and pertain to no single Ministry or single State. Coming to the question of secession, there must be (indeed, already are) standing laws of the land to deal with it and that two with swiftness and severity. Similarly, the charges of
corruption against political leadership of the land have not been made for the first time. There must be a standing machinery in the country to look into them as and when they are made. Now level of government can be completely and eternally immune to corruption and arrogance of power. It is indeed, for this purpose that institution like ombudsman is demanded in the country. Lok Pals and Lok Syuktas are the institutional devices to probe into acts of mal-administration. But to invoke the tool of President's rule against a State on such charges is to set up a dangerous precedent in this filed. In brief, regular institutional mechanisms must be installed to examine the kinds of charges levelled against the DMK Ministry in Tamil Nadu, and a constitutional provision like Article 356 must not have any place in such cases.

COALITION GOVERNMENTS :

Out of 36 ministries that have gone under President's rule, 20 have been coalitions. The first coalition to have formed the Ministry and later to have succumbed to President's rule was in Pepsu. But
it was only after the fourth general election of 1967 that political India became so coalition-intensive that, for some time, the entire belt consisting of Punjab, Haryana, Uttar Pradesh, Bihar, West Bengal, Madhya Pradesh and Orissa became coali­tional. Although the Congress has also formed partnership Governments in several States despite the fact that it finds a coalition unflattering to its traditional image and ego, this has been a favourite form of Government primarily with the non-Congress political parties. This is understandable. Political parties other than the Congress are generally weak and have to enter into collaboration to form this Ministry.

The coalition ministries may be classified into two broad categories. Some came into existence after the election while a few had formed an alliance and formulated a commonly agreed programme before the poll and thus unitedly went to the hustings and later even formed the Government. Many coalitions, especially those formed during the period 1967-69, swam to political power with the negative determination to
keep the traditionally ruling party, the Congress, at bay. They generally lacked a positive and realistic programme and what is more, genuine determination to implement it; at any rate they constituted an ideologically heterogeneous combination such that they could not pull on for long. Nor did they have a state-wide perspective, much less an over-all view of things immersed as they were in their own narrower pursuits. Each of the constituent unit was generally more eager to improve its own political stock than to promote harmonious functioning of the coalition. One may here give an example to highlight the motivating force of a coalition Ministry of this period. Apparently giving a high priority to road construction programme in the State, one coalition ministry in Uttar Pradesh sanctioned a scheme under which each of the supporting legislators' constituencies was to get a couple of kilometres of road. Even where the coalition partners have unitedly passed through the regions of election and are ideologically compatible, when confronted with the actual tasks of administration, they may find the going rather difficult. More so when it is a multi-
party coalition with only a limited majority; a thin majority is apt to make the coalition highly vulnerable to pressures, especially from Independents whose frailty is generally more notorious than even that of women. This highlights the criticality of the human factor in coalitions. Its importance is all the more because Indian politics is perhaps too excessively personalised and very inadequately institutionalised. At any rate, an ideologically compatible coalition has led to a reasonably stable Government as in the case of Orissa and even Kerala. Another factor contributing to the stability of a coalition Ministry is that the partners in it should find anchorage in a party which enjoys considerable strength in the Legislature. Coalitions are likely to prove unstable in the absence or denial of this kind of anchorage by the party capable of providing it.

The President's rule in U.P. in 1970 put in sharp focus the position of the Chief Minister in a coalition Ministry. According to the view of Gopala Reddy, the Governor of U.P., the Chief Minister belonging
a minority party ought to resign when the majority party in the coalition withdraws its support. This view is open to serious objections, and may not be tenable. The Constitution makes no mention of coalitions or of majority Governments or minority Government. All that it says is that the Council of Ministers shall be collectively responsible to the Legislature. Thus the real test is whether the Chief Minister enjoys the majority support in the Assembly or not. It should be left to the Legislature to answer this. The gubernatorial action to supplant or circumvent parliamentary processes is apt to weaken the roots of democracy.

A brief description of the administrative devices which keep together the various constituents of the coalition Ministry is necessary. While each coalition Ministry evolved its own details, the broad structure was more or less similar. What the Samyukta Vidhayak Dal (SVD) of Uttar Pradesh (1967-68) did is discussed here. The six political parties which had come together to form the coalition Ministry had constituted a coordinating committee at the apex level to
formulate common programmes to be taken up by the SVD Government and, further, to bring about synchronisation of efforts among the various constituent parties. The coordination committee used to hold its meetings regularly. There was also a general body of the SVD which used to meet occasionally. The Samyukta Vidhyak Dal (SVD) Government began facing problems soon after its coming into power. The constituent units felt that they were not being taken sufficiently into confidence in the running of the Government and they were unanimous in their determination that the coordination committee should have supreme authority over the cabinet, just as a party high command has over the Chief Minister in a one-party Government. Likewise, the decisions of the coordination committee were final and binding on all the constituent members of the coalition. Indeed, the Samyukta Vidhyak Dal formally passed a resolution to affirm that the coordination committee would be the supreme policy making body of the SVD and the SVD Government was bound to carry out its unanimous decisions. However, the precise relationship between the coordination committee and the
general body of the SVD was not made very clear. Who could elect the leader of the SVD remained a moot point. While some constituents of the SVD argued that it was the prerogative of the Coordination Committee, others considered this to be the right of the general body.

MINORITY GOVERNMENTS:

One may also say a word about the invisible coalition termed as 'minority government'. There have been four cases of minority ministry in India: P.C. Ghosh Ministry in West Bengal (1967-68), B.P. Mandal Ministry in Bihar (1968), L.S. Gill Ministry in Punjab (1968) and Sheikh Abdulla Ministry in Jammu-Kashmir (February-April 1975). Each of them had a short life. This kind of arrangement did neither command any respect nor ensure efficiency in administration.

DEFECTIONS:

Except where President's rule was either voluntarily courted or imposed by the Centre in its role as the nation's consciencekeeper, Article 356 has come into force in the event of (a) floor crossing by
legislators belonging to the ruling party of alliance or (b) formal break-up of the ruling coalition. At least 11 out of the total of 36 ministries fell on account of defections by party or alliance members. Although it was for the first time in 1954 that defections caused the President's rule (in Andhra), the problem of change of party allegiance by legislators assumed disturbing dimensions only after the fourth general election held in 1967. This election marked a land mark, even if temporary, in the Indian political system. The Congress Party emerged with much reduced majority in the Lok Sabha (283 members in a House of 520). The reduction in its number was much more at the State level. Its losses were the gains of the opposition but none of the other parties could get a commanding position in the State Legislatures, not unexpected in a multi-party system. The political picture became confusing as the result of the emergence of a large number of Independents; their number in all the State Assemblies shot up from 261 (out of 3225) in 1962 to 375 (out of 3486) in 1967. In the emerging context of political fluidity reflected in the razor-thin majorities of ministeries in most States, the
individual legislator came to realise, perhaps for the first time, his importance as a key figure in the making and unmaking of governments and each party was put under terrific pressures from its members. In the short period between March 1967 and February 1968 at least 438 defections by legislators took place most of them being for personal gains. In a period of three years, between 1967 and 1970, about eight hundred State Legislators changed their party allegiance. Each President's rule caused by floor-crossing by footloose legislators reflects the strains under which the parliamentary system in India has been functioning. In the absence of any convention evolved and enforced by the political parties or law regulating change of party allegiance by legislators, the electorate alone can punish them for their unprincipled behaviour. Although suggestions have from time to time been made to provide for recall of legislators, to limit the size of the council of Ministers, to bar the appointment as minister of a defecting legislator for a prescribed period or until he goes back to the electorate and gets re-elected, etc., no concrete steps in this regard have so far been taken.
FAVOURITE SEASON OF PRESIDENT'S RULE:

The months of February and March have proved to be fatal for many a Ministry, particularly the ones surviving on a slim majority. As many as 15 of them have given way to President's rule in these months alone. This is the time when the State Legislature remains in its budget session, which is the longest one. Not only do the internal conflicts surface more copiously at this time but also the toppling game is pursued with deadly seriousness. On quite a few occasions the popular ministry did not even succeed in having the annual budget passed and as a result the Parliament was called upon to vote for it. There have been instances of the State Assembly not passing even a 'vote on account' before its dissolution under President's rule. Above all, this session, which may not be adjourned abruptly, offers extended opportunities of defeating the ruling party, thereby paving way for the application of Article 356.

SUSPENSION OF THE LEGISLATURE:

In seven out of the total of 36 occasions of
President's rule in the country, the Legislative Assembly was kept in a state of suspended animation. This number 7 does not take into account those occasions when an Assembly was suspended to begin with but dissolved subsequently. These seven cases are: Punjab (1966), Rajasthan (1967), Bihar (1969), Andhra Pradesh (1973), Uttar Pradesh (1973) and Uttar Pradesh (1975). In all except one case the Ministry which assumed office when Article 356 was revoked was the Congress one. When President's rule is accompanied by suspension of the Legislature, it is designed as a doubly temporary feature, intended for very short periods. The political activities remain sustained, often intensified, but are solely directed towards the formation of a ministry in the State concerned. It is also noteworthy that the legislators have not been treated alike in all these seven occasions. In the case of President's rule in Rajasthan (1967) the salaries of the Speaker as well as legislators were suspended. But in other instances of President's rule the legislators have continued to get their salaries, free housing, free medical treatment and travelling coupon
facilities. There is absolutely no justification for duality of practices in this regard, and there must be a uniform treatment to legislators of suspended Assemblies. But the ministers cease to be ministers and their salaries and housing facilities do not exceed those enjoyed by legislators. They have also to give up their cars and vacate the official residence unless they wish to pay the higher rental.

**DURATION OF PRESIDENT'S RULE**:

President's rule must be viewed as a crisis measure and as such the restoration of responsible Government must be expeditious. At any rate, it must terminate within six to eight months of its introduction. It may also be considered whether it is feasible to have election to the State Assembly organised at a shorter notice. The issues involved in such a mid-term poll are generally limited and clear; and, moreover, have already been quite sharply focussed and debated. Therefore, the normal programme of election prepared by the Election Commission for holding
of general elections may be suitably modified, and a shorter notice may suffice. A possible argument against this proposal is that the smaller parties may find themselves at a disadvantage, generally lacking the resources and the organisational skill of the Congress. At any rate, it needs to be discussed more widely and a national consensus must be evolved on this question.

**PRESIDENT'S RULE AS CURE FOR PARTY FEUDS**

On at least 5 occasions the President's rule has been invoked to rescue the ruling Congress party from its internal wrangles, a device which did not in the least infringe the formalities associated with President's rule but whose morality was doubtful. The first ever President's rule in India was politically contrived. The Congress Party in Punjab (1951) under the Chief Ministership of Gopi Chand Bhargava enjoyed undisputed majority in the Legislature but the national leadership of the Congress Party directed him to resign in view of the factions within the State level party and thus seek President's rule in Punjab. Again, Kamlapati Tripathi, the Congress Chief
Minister of Uttar Pradesh in 1973, was directed by the national leadership of his party to step out of office and seek President's rule, for the Central leadership of the party could not in the mean time make up its mind about his successor. Another instance of this nature occurred even more recently. In November 1975 H.N. Bahuguna, Congress Chief Minister of Uttar Pradesh resigned on a directive from the national party leadership but the latter, anxious to seek some more time to decide on his successor, induced Bahuguna to resign thus leaving the Governor with no option but to seek the application of Article 356 in the State.

It is arguable whether a party put into a majority by the electorate step down from office, recommend President's rule including the suspension of the Legislature and, finally, form the Government just on the eve of the poll. When a party goes to the people for vote, and does get put into power, it enters into a kind of contract with the electorate. Not to run the Government while still in majority and yet to keep the Legislature suspended, thus denying them an opportunity of entering into a fresh contract,
is a violation of the contract itself and besides unethical.

PRESIDENT'S RULE AND PARLIAMENTARY COMMITTEES:

The Parliament takes upon itself the role and functions of the State Legislature but in practice wide gaps may be easily discerned in parliamentary interest and concern. As at the Centre, the Committees of the State Legislature, especially the Public Accounts Committee, the Estimates Committee and the Committee on Public Undertakings, carry out in-depth scrutiny of aspects and segments of State public administration. With the dissolution or even suspension of the Assembly, these Committees too become extinct or (in the case of suspension of the Legislature) inactive and this role is not in practice taken over by the corresponding Parliamentary Committees. Technically, the latter are not barred under President's rule from investigating sectors of State administration but the agenda of parliamentary committees is already too heavy to permit the taking over of new work. In short, under President's rule the State
administration remains, in practice, immune from parliamentary investigations. The Parliamentary Committees may perhaps consider whether it is possible to set up sub-groups which could address themselves to the problems of the State under Presidents rule.

**IMPARTIALITY OF PRESIDENT'S RULE AND ONE PARTY DOMINANCE SYSTEM:**

President's rule faces a dilemma not quite easy to resolve. This rule is expected to be completely impartial. In official circulars and notifications issued on the introduction of President's rule, the civil servants are specifically asked to be absolutely objective in their dealings with members of the public as well as of the political parties. This, however, appears to be easier said than done. As the same political party, namely the Congress, is most likely to return to office in the single party dominance system of the country and, moreover, as virtually the same faces are likely to occupy ministerial positions, many civil servants have learnt to accommodate, to varying degrees, the demands and encroachments of
these 'erstwhile masters' (as one high-ranking civil servant told the author). Also, the political colour of the Centre is of late increasingly projecting itself in its response to the State under Article 356, and viewed in this context, President's rule runs the risk of opening up yet another but most powerful channel for New Delhi's influence. Of course, the Governor may act as a buffer between the bureaucracy and these outside forces. Indeed, the stuff the Governor is made of is the most critical single factor determining the effectiveness and objectivity of President's rule. Whether persons having the necessary independence and personality would be preferred for the gubernatorial office, however, is a moot point. While discussing this aspect one is irresistibly reminded of a Central innovation made in 1971 of appointing a minister in charge of the State under President's rule. This device is briefly discussed here.

**CENTRAL MINISTER FOR THE STATE UNDER ARTICLE 356 :**

Simultaneously with the imposition of President's rule in West Bengal on 29 June 1971, the Central
Government announced the appointment of Siddharth Shankar Ray, the Education Minister, as the Minister without Portfolio in charge of West Bengal Affairs. Announcing this appointment in the Lok Sabha, Prime Minister Indira Gandhi said: 'The Central Government are anxious that all problems relating to West Bengal which are within their competence should be dealt with expeditiously. Very serious problems and an abnormal situation have been created in West Bengal and some other States by the massive influx of refugees in so short a period. These matters need to be given special attention and tackled urgently. It has, therefore, been decided to appoint a Minister of Cabinet rank as minister without portfolio with immediate effect.' Explaining to the press the nature of his office, Siddhartha Shankar Ray said that he was to function as the representative of the Central Cabinet and to exercise the Presidential power of 'superintendence, control and direction' which the President does on the advice of the Council of Ministers, in respect of issues that were within the competence of the Central Government. On the face of it, this made his position
higher than the Governor, at least in that sphere which he decided to handle directly, thereby leading to a power conflict with the later.

The appointment of a Central Minister to deal with the affairs of a State under Article 356 was first of its kind in the history of President's rule in India. The appointment of a Minister in charge of West Bengal came in for severe criticism both in Parliament and outside. This was viewed as undermining the status and standing of the Governor as President's delegate under President's rule. Its constitutionality, therefore was subject to serious questioning. Nor was the soundness of this practice very apparent. By interposing a functionary between the President and the Governor it contained within itself seeds of dyarchy and discord. What is more, President's rule should remain devoid of political colours as far as possible, but the appointment of a Minister in charge of West Bengal Affairs raised doubts over the political neutrality of such an administration. Hiren Mukherjee considered this appointment as constitutionally not
'above board'. Writing under the title 'To be Seen as just' The Stateman pointed out: 'As West Bengal's super Chief Minister under President's rule, Mr. Siddhartha Shankar Ray can add to the credibility of the President's non-partisan role. What West Bengal needs and has indeed needed for a long time is a new Governor and not a Central Minister to take over the Governor's functions. Although the Governor, S.S. Dhavan, was soon replaced by A.S. Dias who was a professional administrator himself, Siddartha Shankar Ray continued as the Minister for West Bengal Affairs and even had an office in Calcutta to look after his work in the State.

NATURE OF PRESIDENT'S RULE:

President's rule may not be a mere caretaker Government, but it is most certainly not on all fours with a popular Government. A popularly elected regime has to necessarily invoke the political and legislative processes while formulating policies and when assured of this support it is both politically and morally upright for it to decide on major policies.
and take up their execution. Not so anointed is the President's rule which is characterised, more than anything else, by a deliberate suspension of the democratic processes in the State. The argument that Parliament steps in the moment the Legislature is snuffed out of existence is not convincing because the former is no substitute for the normal State-level political institutions and processes. But at the same time, the other extreme of administrative immobilism and letting grass grow under the feet till the return of democracy is also to be avoided. The President's rule must, therefore, take up the delicate task of maintaining a balance between issues of long-term nature and matters requiring short range decisions and execute the latter. Equally pressing is the need for identification of problems entailing political implications and keeping away from them. By the same token, it must not ordinarily attempt to undo the policies and programmes set in motion by the previous popular Government. President's rule must not be viewed as a corrective mechanism. Otherwise, democracy will have to inducement to evolve and apply self-discipline.
Allied to the foregoing discussion is a proclivity to employ President's rule to rescue the ruling political party which was unable or unwilling to make embarrassing choices. The case of Punjab under the Chief Ministership of Ram Kishan in 1966 is an apt one. Before its bifurcation into the two States of Punjab and Haryana, Punjab had the Congress Ministry under the Chief Ministership of Ram Kishan. The State Government had at this moment of time to take decisions on many trickly matters such as division of assets and liabilities between the two emerging States which the popular Ministry was loath to do. It, therefore, resigned, forcing President's rule on the State. Should a popular Government shy away from tasks of governance even if these are difficult or embarrassing in their nature? In all fairness, President's rule should not be invoked to accomplish the 'dirty' work of administration.

The aspect of accountability of State Government under President's rule has already been discussed in a separate chapter but one has to revert to it
because of its pressing importance in a democratic system. Under President's rule the accountability becomes remote, feeble, uneven, and blurred. The duration of President's rule should, therefore, be kept as short as possible. Additionally, the Consultative Committee of MPs, which begins to function as a mini-Parliament, needs to be re-structured to make it a more active body. Not only should it include all the Members of Parliament representing the State under Article 356 but its proceedings should also be publicised and reported in the press to educate the public opinion.

President's rule should shun another danger to which it has of late exposed almost as a deliberate part of public relations. An obsession with the ruling elite to build up a bright image of President's rule and, by contrast, to score points over the preceding popular rule has occasionally led it to play political and administrative stunts such as large scale administrative transfers, out of proportion punishment to a few, etc., the effects of which may prove to be gravely harmful in the long run. Indeed, such actions
have become so common of late that many civil servants really do not know at the time when President's rule is announced whether they are on their head or their heels. Such an administrative surgery breeds a tendency towards window-dressing which has an effect on diverting the civil servants from going to the roots of the problems. Nor should highly coloured success stories of Presidents rule be encouraged or connived at, for all this is bound to have an unsavoury backlash. President's rule in a democracy is a necessary evil and must continue to be viewed as such. If a State Government is fallible so is the Centre. The Central Government is equally subject to political pulls and pressures. After all, recruitment to the political cadres of the Central and State Government takes place from the same source and it would be manifestly incorrect and unfair to ascribe political foibles to the State levels only. Except for weakening the stature of State Governments in the country's constitutional system, President's rule can hardly claim any long-range effects. This, of course, is subject to one correction, which is discussed below.
However distasteful it may sound, the very political use of Article 356 contributed towards a sort of stability in the States. Legislative floor-crossing gets encouraged when a party other than the party in power enjoys a fair prospect of forming the Government. As demonstrated with telling effect by the Orissa episode of 1973, this is firmly discouraged with President's rule, especially floor-crossing from amongst the ranks of the ruling party. Normally, legislators defect only when the alternative is a new Government, not President's rule.