CHAPTER - III

FACTORS RESPONSIBLE FOR THE GROWTH OF DEFECTION POLITICS AND EFFORTS TO PREVENT THEM

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CHAPTER - III

Factors Responsible for the Growth of Defection Politics and Efforts to Prevent them

3.0 To start with the words of Prof. Balraj Madhok, "Defections are not something unheard of or unthinkable in a multi party Parliamentary Democracy".¹

Generally speaking there are two kinds of defections:

1. Defections based on genuine and conscientious ideological differences or considerations of public interest like those which impelled Sir Robert Peel to defect from his Party or made Late S.P. Mookerji to resign from Hindu Mahasabha. They are inherent in a system which draws sustenance from freedom of thought, belief and conscience. Such defections can't be ruled out in any democratic set up.

2. Defections prompted by narrow consideration of personal or factional gain and encouraged by appeal to basic instincts of man. It is defection of this kind which have created a feeling of revolution against them in all right thinking people in the country. There is imperative need of putting a check on them if peoples' faith in democracy, democratic institutions, political parties and politicians is to be restored and maintained.

In order to find an effective solution to the problem of unprincipled defection, it is imperative to look into the causes and motivation which help grow the defections in our country.

¹ A Note on Defections And How to Check Them by Prof. Balraj Madhak as published by the Ministry of Home Affairs on the Committee on Defection, p.200
3.1 Causes and Motivations:

3.1.1 Absence of ideologically coherent and well-knit national political parties:

Congress which was the sole ruling party upto 1967 is, strictly speaking, not a political party. It is a continuation of the broad movement built by countries patriots to wrest freedom from the foreign hands. As such it is a conglomeration of individual and groups with different socio-economic outlook and approach. Even on basic questions of concept of Indian nationalism and requirements of Indian unity and security it has different and distinct streams of thought and groups based on them which are kept together by one supreme consideration of preserving and sharing power. So long as Congress provided the only road to power all such disparate elements willy nilly kept together. That situation changed after 1967 when new roads to power were opened.

As per Mr. P.M. Kamath, the main cause of defection is the character of the Congress Party which is the premier political organisation in the country. This party has been, and still is the umbrella party representing conflicting personalities, policies and programmes. This feature has not undergone any major change in spite of splits in the party in 1969 and 1978. This character of congress party has made the political environment in the country conducive for defections.²

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To make it more explicit, the Congress has been neither an ideology-based nor a clear policy-based party. Moreover individual and groups in the Congress who never had any ideological hand with the ideology of its dominant section began to defect from it without any qualms of conscience.

On the eve of the first phase of active defections (1967-70), the ability of the Congress Party to provide political consensus and stability had declined. Mrs. Gandhi's credibility as an effective national leader was seriously impaired. While the dissatisfied regional, communal and ethnic groups were quite aggressive in imposing their claims on government, the congress party confronted by new demands on an already stained patronage system was losing its capacity to function as an umbrella organisation. Such a conflicting base of the Congress, which had so far occupied the place of political centre, was the basic factor responsible for the defection at the relevant period.3

The Jana Sangh (now BJP) and the Communist Parties are the only really distinct parties in the country. But, the ideological understanding of all their legislators is not of the same order and they have not remained totally unaffected by the general scramble for power in the country.

### 3.1.2 Lack of a deep rooted convention

Democracy is run on conventions rather than the letter of the law and constitution. The congress Party had the rare opportunity to set the right conventions without any fear of losing power. But, it failed to do in pre 1967 years. Even after 1967 elections it set the

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ball of defections rolling in Rajsthan. This absence of right conventions has also contributed a good deal to unprincipled defections.

3.1.3 The general fall in values and lack of idealism

The general fall in values and lack of idealism resulting from too much stress on material side of life. This has affected politicians and legislators no less than the common man. Therefore, the lust for power and money has often led to large scale defections. The worst case of bulk defection was seen on a motivation for reward of office or other allurements. For example, the floor crossings by Rao Birendra Singh in U.P., Gobind Narayan Singh in M.P., Charan Singh in Uttar Pradesh, Sarat Power in Maharastra, Janata Members in Himachal Pradesh, G.M. Shah in Kashmir and Bhaskar Rao in Andhra Pradesh, all have defected either for ministerial portfolios or for financial gains. Those defectors would not have left their parties, if the opposition had not offered Chief Ministership to them. Hence, the personal ambition, more than any other factor, has played a significant role in the politics of defection.

Accordingly to Morarji Desai, "The general lack of character among present day politicians is the root cause of defections in India. In adversity, great leaders emerge and in prosperity or complacency only Bhajan Lal and Bansi Lal Flourish. No doubt, the lack of national character is the bane of Indian politics which is openly treated as "exchange and merit". Our legislature have been known to behave like a vendible commodity up for sale to a high bidder in a low Bazaar."

3.1.4 **Factional infighting:**

Factional infighting in the parties have also been a major cause of political defections. On the eve of the Fourth General Elections, the internal disputes over the allocation of party tickets in Madhya Pradesh led to large scale political defections in the Congress Party. In several states there was a complete breakdown of party discipline as dissidents manoeuvred "day and night" to oust the leadership from office. Thus factional infighting and defection brought about a sudden collapse of Congress Ministries in Andhra Pradesh in January, 1973 and in Orissa in March, 1973. In Bihar, Gujurat and Mysore, the struggle for power among rival groups led to renewed toppling activities that saw the reshuffling of ministries to accommodate rival factions.⁶

At times, family feuds among the top influential political leaders have caused political defections. Col. Ram Singh's defection and re-defection from the Congress(I) can be attributed to no other factor than his dispute with Rao Birenda Singh, a Minister in the Union Cabinet. The defections in Kashmir, which brought about the collapse of Farooq's Government were, in the main, the result of Farooq's differences with his sister and her husband G.M. Shah. The removal of the then Chief Minister Mr. N.T. Rama Rao after his second marriage to Smt. Laxmi Parbati and the elevation of Mr. N. Chandrababu Naidu, the son-in-law of Mr. Rama Rao can also be attributed to the conflict in Mr. Rao's family.

3.1.5 **Low calibre of Legislator:**

There is no provision in the Indian constitution for some minimum educational qualifications for intending candidates. Many

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⁶. *Fronkel R. Francine, Indian Political Economy* ed., p.346-347
of them are as ignorant as their electorate or even worse. Therefore, they can't be expected to be very much conscious of democratic niceties and code of behaviour.

3.1.6 Indifference of the Electorate:

Indian electorate, though it is much more awakened now than ever before, still continues to be indifferent to political behaviour of its representatives. The wide areas of the constituencies and vastness of electorate in each constituency also contribute to the growth of this general indifferent of the electorate, particularly after the elections are over.

3.1.7 Too much importance given to office and status:

Indian Society is too much status conscious. Ministerial office gives both status and power. The emoluments and other facilities given to Ministers and wide gap between the positions of Ministers and ordinary legislators has also contributed to defections to gain ministerial position.

3.1.8 Intolerant Leaders:

For most of the period between 1967 and 1984, Mrs. Gandhi was the Prime Minister of India. Being intolerant of the non-Congress governments in the states, she never disapproved the defectors' roles. Rather she welcomed those who defected to her camp. It was she who not only allowed the notorious defector Bhajan Lal but also allowed him to continue as Chief Minister for more than five years without seeking the fresh mandate from the electorate. During Andhra crises of August 1984, she did not say a word of condemnation for the plotters. Rather, she seemed to
believe that the only way to run the Indian States was the way Bhaskar Rao sought to run it for a month⁷.

3.1.9 Role of Governors:

There is reason to believe that some Governor's have also at times misused their office at the behest of the centre to secure defections. In the case of Mr. N. T. Ramarao, the Governor's role was partisan. He not only refused to accept the request of Mr. Ramarao but also had him and his supporters arrested in Raj Bhavan when they went to convince the Governor that they still enjoyed a majority. The role of the then Governor of Kashmir, Mr. Jagmohan, was also not above board. In both states, the Governors installed minority governments after dismissing popular ministries and gave the new Chief Ministers a month time to prove their majority on the floor of the Legislative Assembly. This period was obviously to be used for buying defectors from the opposite camps. While this trick succeeded in Jammu and Kashmir, it backfired in Andhra Pradesh with the result that the then Governor Ram Lal had to resign⁸.

3.1.10 Role of Caste and Religion:

The caste and communal consideration have also been a factor to be exploited in the game of defections. In the states where caste lobbies have been active and strong, bitter internal disputes over the allocation of party tickets have often led to large scale defections that splintered the organisation around the factional and caste groupings at its core. There is no dearth of such cases in the history of Hariyana, U.P. and Bihar.

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⁷ Nandy Ashis, Supra f.n.5
⁸ Masodhar B.A., Law Relating to Electoral Disqualification - From Disability to Defection, p.17.
Moreover, CPM which had no doubt established its secular credentials also played a dubious role. In the matter of religious based politics, the role of the Communist Parties over the years has been as depressing as that of the Congress. They too have been allies of the Muslim League in Kerala and Jan Sangh in Punjab. Besides, in spite of the fact that there has been no dearth of secular, rational and humanitarian elements, they have not been able to bring them together to defeat the communal and other disruptive forces. Their opportunistic approach towards the communal parties has done a great disservice to the national cause, as well as to the popular image of the left parties.

3.1.11 To sum up as to what motivated such a large number of legislators to change their party affiliations, it is worth mentioning to reproduce verbatim, Dr. Subash Kashyap's analysis of the causes of political defection in India.9

1) History and nature of political parties in India particularly the Indian National Congress.

2) Aging leadership bossism and the growth of establishments with vested interests in the status quo in almost all the parties.

3) Lack of ideological orientation and polarisation among the political parties.

4) Low level of popular involvement in the membership, objects and activities of political parties and the virtual indifference of the people to acts of defection by their representatives.

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5) Infighting and Factionalism in the parties which lead to group defections when, for example, party tickets are denied to members of a district faction.

6) Marginal and unstable majorities in State Legislative Assemblies after the 1967 elections and the large number of independents ready to trade their label.

7) Conflict of personalities and temperamental incompatibilities between a legislator and his party bosses.

8) Temptations of office, money, status and the like or denial of the same.

9) Tremendous gap between the emoluments, status and other benefits available to the office of a minister compared to that of an ordinary legislator.

10) Existence of powerful lobbies and pressure groups that command loyalties to political parties.

11) Unwillingness of the Congress party during 1967-69 to share power and enter into workable coalitions with like-minded parties, and

12) Hypocrisy in Indian Politics - the wide gulf between profession and practice, between false ideas and political realities in a country with such dismal poverty and illiteracy.

3.2 Impact of Defection Politics:

The country had to pay a very heavy price for the politics of defections. The phenomenon of "Aya Ram, Gaya Ram" devalued
and defaced the Indian democracy. The frequent defections and counter defections drained the energies of the elected Governments, and left them impotent to solve the current problems of food shortages, rising prices and unemployment. Besides, the shaky Governments found it difficult to pursue and implement public policies with consistency and due interest. In Bihar, where each Government lasted only about 4.2 months during 1967-71, none of the seven Governments passed a legal measure relevant to the people of that state.10

Since the politics of defection did not ensure stable Governments in the States, it has tended to develop a preference for stability in Indian Politics. For good reasons or bad, the people of India have come to believe that stable government is better suited in India's need than a government marred by internal squabbles; however inspiring its programmes, or however good its performance. During its brief spell of power, from early 1977 to mid 1979, Janata Dal had much better record of both programme and performance than the Congress in any similar duration of time. Yet, in the Parliamentary elections of 1980, the people handed Mrs. Gandhi a convincing victory because the Janata Party could not ensure stable Government due to its factional infighting. According to Pran Chopra, when the country went to poll in Dec. 1984, it did not worry too much about which party would provide a more effective Government. Hence contrary to the popular view that this was a vote of sympathy for the bereaved son of an assassinated mother, it was a vote for stability which the Congress perceive of. It was also a vote for Rajib as a person and not as a leader who

10. Sikri S.L., Supra f.n.3, p.333
had very quickly emerged as the undisputed leader of the Congress, and who had also emerged from the three days of Continuous exposure on television as a stable looking and clean looking individual.11

The general situation of lawlessness in the States is, in no small measure, is the outcome of the politics of defection. In States like West Bengal, Gujarat and Bihar, the factional disputes of 1970s culminated into powerful agitation which were marked by looting of food and oil shops, arson at municipal milk booths and full scale riots (in Gujarat), political murders (in West Bengal) and a sort of anarchy (in Bihar), thus the seeds of chronic instability were sown by the politics of defection.12

Therefore, Indian politics can not be conducted as a business proposition in the "red light area".13 The inspiring force behind India's freedom struggle and the Constitution has been high principles and ideological commitments for the greater good of people and the country. In order to preserve those principles & ideological commitments, the Parliament took the lead role in establishing a law which would set right the high morals & values of democratic Constitutionalism.

3.3 Attempt to Check defection through Legislation:

Parliament's concern for the need to curb the malady of defection was reflected for the first time when a senior member of the Congress party in the Lok Sabha, Mr. Venkata Subbalah introduced a resolution demanding that the Government should set up immediately a high level committee consisting of representatives of political parties and

13. Jaisingh Hari, India's Defection Bazaar - Need to end spoils system, the Tribune, Chandigarh dt. 8th Nov., 1997.
Constitutional experts to consider the problem of legislators changing their allegiance from one party to another and their frequent crossing of floor in all its aspects and make recommendations in this regard.\textsuperscript{14} The Indira Gandhi Government lend support to this resolution which reads:

"The House is of opinion that a high level Committee consisting of representatives of political parties and Constitutional experts be set up immediately by Government to consider the problem of legislators changing their allegiance from one party to another and their frequent crossing of the floor in all its aspects and make recommendation in this regard".\textsuperscript{15}

The resolution was adopted by the Lok Sabha on 8th Dec, 1967. The Committee was constituted three months later and it included on its membership Y.B. Chavan, the then Union Home Minister, P. Govinda Menon, the then Union Law Minister, Ram Subhag Singh the then Union Parliamentary Affairs Minister, Balraj Madhok of Jan Sangh, Madhu Limay of SSP, Surendra Nath Dwivedi of PSP, Bhupesh Gupta of CPI, N.C. Ranga of Swatantra Party, N.C. Chatterjee, M.C. Setalval and K.C. Daphtary were the members of the Committee as constitutional experts. Dr. H.N. Kunzru and Jaya Prakash Narayan were chosen from public life.\textsuperscript{16}

Prior to the setting up of the committee on Defections, two Union Ministers, Home and Law had drawn up two separate reports on the practice of defections, and had made certain suggestions to curb the evil of defection. The Home Ministry's report suggested that in order to serve as effective barriers to floor-crossing, the

\textsuperscript{14} Lok Sabha Debates, December 8, 1967
\textsuperscript{15} Lok Sabha Debates, November 24, 1967
\textsuperscript{16} Of the persons originally requested to be on the Committee one Mr. H.M. Seevai had regretted his inability to accept to be a member on the ground that he could not find the time required to attend the Committee Meetings.
Prime Minister and Chief Ministers should here the right to seek the dissolution of the Lok Sabha and State Assemblies respectively to check defections and not only as hitherto done, when they commanded no majority in the House. Its second major suggestion was that the size of the Council of Ministers should be limited, and no defecting MLA should be provided a place in it. The third suggestion it offered was that defectors should be excluded from other high offices either by legislation or convention. The law ministry examined the issue from the legal and constitutional angle, and its report suggested that the acceptance of a gratification in the form of pecuniary advantage or office of profit as the price of defection from a political party should be made a criminal offence. It should also apply to independents. Any Legislation passed for the purpose should cover, it was suggested, members of both House of Parliament as well as members of State Legislatures.

The Committee on Defections studied and examined the reports of both Ministries and then made its own recommendations in Jan. 1969.\footnote{The report was signed on January 7, 1969 and presented to Parliament on February 18, 1969.} The first recommendation was that political defectors should be debarred from occupying any office, such as minister, speaker, deputy speaker or chairman of any statutory corporation for a period of one year from the date of defection. The second recommendation was that the size of a ministry in a state should be ten percent the strength of the assembly where there was a bicameral legislature and eleven percent where there was a unicameral legislature. Another recommendation of the committee was that defectors should be barred from becoming ministers up to one year from the date of defection unless they got re-elected after resigning.\footnote{Pattnaik B.K., Politics of Floor Crossing in Orissa, p.55}
The Home Ministry prepared a draft legislation incorporating the above recommendations. The Prime Minister made an appeal to the leaders of opposition parties that they support the bill that was based on the national consensus evolved by an all party committee. But, during October - November, 1969, a split took place within the Congress party. Dr. Ram Subhag Singh who was a member of the Committee on Defections, went over to the organisation Congress and changed his position on the Committee's recommendations. He stated that those recommendations had become "Out dated" as some "new-trends" had emerged in the country's politics. Making a reference to the phenomenon of voting according to "conscience" (the theory advocated by the then Prime Minister Indira Gandhi on the eve of Presidential Election in August 1969) and defying the party discipline, Dr. Singh asserted that the proposed legislation should take care of the breach of party discipline by legislators as also by those who advocated the "Conscience" theory. He further asserted that those who changed party loyalties were as much guilty as the MLAs. The law should also provide for punishment of independents who Dr. Singh held, changed their position for the sake of office or other gains. He took the view that parties should subscribe to a code of conduct not to accept defectors.

The Jan-Sangh, which was represented in the Committee on Defections by Balraj Madhak, also reopened the issue. Its the then President Atal Behari Vajpayee, took the view that it was not enough to prevent a defector from becoming a Minister for one year. The straight course for a defector was to resign and seek a fresh mandate of the people.

19. Lok Sabha Debates, August 12, 1969
20. The Times of India, August 19, 1969
21. The Hindustan Times, October 6, 1969
S.N. Dwivedi of the PSP; who too was a member of the Committee, expressed his concurrence with Vajpayee. He went a little further and suggested that the electors should be given the right of "recalling" a defecting legislator. The leader of the CPI (Marxist) M. Rammurthy suggested that a defector should be disqualified from the membership of the legislature and should seek fresh election. He felt that defectors could be "kept busy" in various ways during the one year ban period until the promised reward was given to them. If there was to be punishment, it ought to be deterrent. The BKD leader, Prakash Vir Shastri, felt that ministerial posts or other lucrative jobs could not be the only allurement to defection. Even cash could be paid for a year until a defector was "qualified" for various appointments. He suggested that all political parties should accept a code not to admit defectors till at least the proposed legislation was adopted.22

The then Prime Minister directed the law Ministry to examine these suggestions and to recommend whether or not these could be incorporated in the proposed Bill. The Ministry did that and pointed out the difficulties involved in the suggestions. About the suggestion that a defector should be disqualified from the membership of the legislature, the difficulty found was that the reasons for disqualification laid down in the constitution were personal and did not cover political beliefs or association.23 On the other hand the constitution of India under Article-19 guaranteed complete freedom of conscience in the matter of speech, opinion and association. In the suggestion that the size of the ministry should be limited and defectors should not be taken therein, the

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22. Pattnaik B.K. - Supra f.n. 18, p.56
difficulty noticed was that the constitution did not contemplate any such limitation and any restrictive legislation might be declared by the Supreme Court as unconstitutional. In the eyes of the Constitution, vide Art.170, the legislators represent their territorial constituencies and not political parties. The parties are extra constitutional spoke.24 Moreover, Parliament could not pass such a bill in respect of states, and it was doubtful whether the state legislatures would be willing to do so. On the suggestion that the electors should be given the right to recall a defecting legislator, the difficulty noticed was that the term of office of the legislators had been laid down in the constitution and a legislator could not be recalled earlier than that term without amending the constitution. On the suggestion that a defecting legislator should be made to resign and seek a fresh mandate from the voters and that for this purpose each newly elected legislator should deposit with the leader of his party an undated letter of resignation that could be used in the event of his defection. The difficulty pointed out was that the member concerned could at any time write to the Speaker, or Chairman as the case might be, to cancel his letter of resignation.25

In some quarters it was suggested that all political parties should be compulsorily registered on the basis of their aims and objectives or that only such parties whose membership reached a specific percentage of the electorate should be recognised for the purpose of elections and all candidates should belong to one such party. This suggestion appeared violative of the fundamental right

24. Rule 5 of the Representation of People Act
25. Patnaik B.K., Supra f.n. 18, p.57
of freedom of speech and association, and Parliament could not, it was pointed out, pass a law providing for compulsory registration of parties.

The appeal of the then Prime Minister, Indira Gandhi, to the opposition parties that they should support the bill on defections evoked an unfavourable response from them. The suggestion of the opposition leaders was found to be full of difficulties and constitutional anomalies. In such a situation, the Home Ministry abandoned the idea of introducing the bill in the Parliament at that time.

3.3.1 Alternate suggestions to deal with Political Defections

The instability of the ruling party at the centre as also of the opposition parties for whatever the reason for effecting a ban on political defections through legislation caused serious concern to some public men. Jaya Prakash Narayan called defections a "fraud upon the electorate".

Addressing a conference of Sarvodaya workers at Bhopal, early November 1971, he alleged that since the Congress was the principal beneficiary of the game of political defections it was not willing to bring forward the legislation to ban defections. As an alternative he suggested the setting up of "Societies for defence of Democracy" that should built up strong public opinion against defections and against the autocracy of ministers, legislators and political parties. Those societies should be organised to educate and guide the voters in voting for the right kind of candidates.26

26. Patnaik B.K., Supra f.n. 18, p.58
J. J. Singh, a distinguished public man welcoming this suggestion held that such societies would have a salutary effect on those who are standing for election because they will then know that there is an organisation which will put their record before the voters. The Participation of the citizens, in the political process, he felt, would make the legislators more alert and less indulgent in their selfish conduct. Ajit Bhattacharjea, the then editor of the Hindustan Times in his article entitled "Attacking the Root", suggested that public opinion should be mobilized "against such opportunism" and for this purpose "the record of legislators and candidates to public office must be put constantly before the electorate". This task, he thought, could be best performed by an impartial, non-party research organisation devoted to the defence of democracy. He quoted the names of some organisations in the United States, such as the Congressional quarterly and the Citizens' Research Foundation of Princeton, New Jersy, which collected background information about the aspirants to the American Congress and made it available to the voters on the occasion of elections. The same practice, Bhattacharjea suggested, could be tried in India to check "degradation of public life".

The 1968 Committee which studied in-depth and without any party bias had recommended that legislators crossing the floor should forfeit their membership of the concerned legislature and should also be disqualified from being members of an Assembly or the Lok Sabha for six years. It also regarded defection as a corrupt electoral practice for which punishment as described above has been provided in the Representation of the People Act of 1951. It, however, rejected the idea of making defection a penal offence which would involve a jail term for the defector. It was argued that such a provision would offend Art.19(1-C) of the constitution by
affecting a Fundamental Right of the citizen. It thus drew the line between the responsibilities of a legislator and the rights of a citizen.\(^\text{27}\)

The Committee's approach was guided by the principle that the party system was the bedrock of Indian polity. It thus limited the proposed punishment only to members of a political party recognised by the Election Commission. Accordingly, the Commission issued a reserved symbol only to those persons duly nominated by a recognised party. As such, they needed to be treated differently from Independents and those belonging to non-descript groups not recognised by the Election Commission.

Thus, a legislator belonging to a recognised political party would be deemed to be a defector if he or she left the party which sponsored him or her and joined another recognised party. It was not clear whether a legislator leaving a recognised party and remaining independent would also be a defector. Fragmentation of parties and splintering of the polity had not been on the horizon then and so the experts naturally laid emphasis on the party system and its preservation. Nor did the committee apply its mind to a legislator voluntarily resigning his or her seat after leaving his or her party so that the resultant by-election could provide him or her either an opportunity to prove the endorsement of the action by the electors.\(^\text{28}\) In pursuance of the recommendations of the Committee, a draft legislation on the subject was prepared by the Government. The draft proposal, however, could not be brought before the Parliament due to one reason or the other.


\(^{28}\) Ibid.
Finding that the malady of defections had become alarming, the Punjab Assembly adopted on 8 March, 1973, a unanimously passed all-party non-official resolution asking the State Government to approach the centre to impose statutory ban on defections. On 16th May, 1973, in order to give effect to the recommendation of the committee and the Punjab Assembly's resolution the Government of India introduced the Constitution (Thirty Second Amendment) Bill, 1973 by the then Union Home Minister, Uma Sankar Dixit, in the Lok Sabha. The bill was the final outcome of the Lawyers' committee report and a Home Ministry document based on it. The bill provided, *inter alia*, that the Prime Minister and the Chief Ministers would cease to hold their offices if they did not get elected to the Lok Sabha and Vidhan Sabha respectively within a period of six months of their assuming the charge of their office. The bill laid down that a member of Parliament, the State Assembly or the Legislative Council would be disqualified for membership of the respective bodies if he voluntarily gave up his membership of the political party on whose ticket he was elected or voted or abstained from voting in a manner contrary to the directions issued by his party. This disqualification, however, was not to apply to a member of Parliament or the State Legislature if he resigned from the party following a split. A legislator could also claim immunity from disqualification if following a split in the original party he resigned from the party and he, along with a group of members belonging to the original party, organised and formed a separate political party recognised by law or by the Speaker or the Chairman of the Council as the case might be.29

29. Patnaik B.K., Supra f.n. 18, p.60-61
The bill evoked a good deal of criticism from opposition parties, particularly the Jan Sangh and the C.P.M. For about eight months, the Lok Sabha took no action on the Bill. In its 1973 Winter Session it referred the bill to a Joint Select Committee of 60 members so that some better proposal and suggestions could emerge and a consensus could be reached.

The text of the Anti-Defection Bill thus came as a source of great disappointment. Though it contained provisions saying that the Prime Minister at the centre and the Chief Ministers at the State level shall belong to the lower or popular chambers, it says nothing about the limit on the size of the ministries that has been the real source of attraction for the working heads of the Governments to swell their ranks with the induction of more and more defectors.30 Surprisingly, it has occurred in violation of the same recommendation given by the Chavan Committee that desired a ceiling on the size of the Council of Ministers. Moreover, though this bill provides for punishment by disqualifying a person from the membership of the House in the event of his defection, it fails to make the scope of defection broad enough so that all sorts of defectors can be suitably punished. Further, it gives a definition of the term "Political Party"31 that virtually amounts to regimentation of a particular kind in this regard. For these reasons, the Bill has been criticised by distinguished leaders and public men in their own way. N.A. Palkhivala hits at the "savage part" of the bill relating to the abrogation of freedom to vote in the House in the following words.

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31. The term "Political Party" as defined in this Bill has been mentioned in the Chapter-I.
"No greater insult can be imagined to members of Parliament and the State Legislatures than to tell them that once they become members of a political party, apart from any question of the party constitution and any disciplinary action the party may choose to take, the constitution of India, itself expects them to have no right to form judgement and no liberty to think for themselves, but they must become soulless and conscienceless entities who would be driven by their political party in whichever direction the party chooses to push them. Even to introduce such a bill in Parliament is itself a breach of the privilege of the House, since it is a serious affront to the intelligence and integrity of the members.  

In criticising the bill, Mr. Hiren Mukherjee observed "The idea of the Bill is to put the whole concept of political parties into constitutional amendment, which brings up a hell of other problems and that in rather unwise".  

Whatever may be the criticisms, the Anti-Defection Bill continued to hang on the agenda of Parliament, and even with its absolute majority the Congress Government did not push it through. No doubt some insurmountable legal and constitutional difficulties stood on the way of an Anti-Defection legislation as it would be a violation of Art.19, 105 and 194 which guarantee a citizen's right of freedom of speech, expression and association and Art.75 and 164 under which no legal limit could be imposed on the number of ministers that the Prime Minister or a Chief Minister may advise the President or a Governor to appoint to the Council of Ministers.

However, the main reason for not giving effect to the bill was and continues to be political expediency. The Lok Sabha headed by the Congress Govt. dissolved in 1977 and the ousted Congress Party did not want to ban or discourage defections in order to perpetuate its authority. But, in 1978, when the Janata Party came to power, yet another attempt was made to bring forward a Bill seeking to ban defection.

During the Janata Govt., the Congress Working Committee on 4.8.1978 made a plea for enactment of the Anti-Defection Bill to "Maintain the democratic health of the nation, promote evolution of party politics and discard political opportunism." The Janata Party in its executive meeting on 11th April 1978 at Delhi discussed Mr. Morarji Desai's suggestion of introducing a bill in the Parliament to curb defections.

The proposed Anti-Defection legislation intended to disqualify members of Parliament of State legislatures for defection from one Party to another. The Janata Government proposed to amend six articles to ensure that political defection from one party to another is checked effectively.

In category-1 of the proposed Bill, substantive amendment were being proposed to Art-102 and 191 of the constitution to provide for the disqualification of a member who defected and the definition of what would constitute defection. For this it was proposed to add one new clause (3) and explanations to Articles 102 and mutandis to Article 191 of the constitution on the following lines.

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34. The Statesman, April 9, 1978
35. The Statesman, April 11, 1978
"A person shall be disqualified for continuing as a member of either House of Parliament if he voluntarily gives up his membership of the political party to which he belongs, or by any person or authority authorised by it in this behalf without obtaining the prior permission of such party, person or authority".\(^{36}\)

So, the 1978 version of Anti-Defection Law prepared by Shanti Bhushan, the then Law Minister, stated that a legislator who sought or obtained prior permission for not voting or opposing a legislation should not be disqualified and that legislators who defied the party whip would be disqualified only if they were expelled from the party within thirty days. Still, Madhu Limaye denounced the legislation as "a fascist bill lifted straight from the repressive armoury of Indira Gandhi".\(^{37}\) Moreover the Bill was opposed even at the introduction stage, when Mrs. Gandhi came to power on 1980, she promised a legislation to check defections. But she did nothing to redeem her pledge.

Ultimately, it was the Congress Government under the leadership of late Shri Rajib Gandhi which succeeded in getting a law passed in 1985 by Parliament which sought to put an end to the evil of defections. Dr. S.C. Dash said that the country was so shocked with the assassination of Mrs. Gandhi that the three fourth majority achieved by the Congress(I) under the leadership of Mr. Rajib Gandhi in 1984 election could be considered as a politicking of the opposition and as he was not as charismatic as her mother was, Rajib was quick to introduce the constitution (Fifty-Second Amendment) Bill in the Lok Sabha at the very first session of his

\(^{36}\) The Statesman, April 13, 1978
\(^{37}\) Bhargaba G.S., Supra f.n. 27
ministry i.e. on 24 January, 1985 even though he was carrying a commending majority with him at that time. All its three readings were completed in one day on January 30, 1985. The Rajya Sabha passed it the next day. The Bill was passed by both the Houses of Parliament of India on 15th February, 1985 and became the law of the land. The law came into operation on 1st March, 1985 with the notification made by Mr. Ashok Sen, the then Law Minister.

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39. The Samaj, 3rd March, 1985