PREFACE

"All progress is born of inquiry. Doubt is often better than over-confidence, for it leads to inquiry, and inquiry leads to invention" is a famous Hudson maxim in the context of which the importance of research can well be understood. The significance of legal research in the process of law reform is, by now, well known to all those who have something to do with law. This research appears in the background of a worldwide realization that the defection has rapidly risen in importance to become one of the foremost concerns of the democracies in general and in India in particular due to its severity in India. There are instances where governments have fallen due to defection from or split in a political party. In India also even after the Anti-defection law came into operation, Governments have fallen in various States due to political defections as in the case in Goa in 1989, Sikkim in 1994 and Arunachal Pradesh in 1999 and 2003. This study is a sincere attempt in this direction.

Quite often well all hear that "A problem clearly stated is a problem half solved." This statement signifies the need of defining the objectives of research. The objectives of this research work are: to gain familiarity with the phenomenon of Defection and to achieve new insights in to it, to make an exploration in depth of the position of Anti-Defection Law in India, to find out the course of Anti-Defection Law evolution, to find out the existing statutory law and case law on Anti-Defection, to find out what the law is in other countries and considering whether it can be drawn upon, with or without modification, to collect the primary and secondary data to show the working of Anti-Defection, to find out the defects in the existing law and suggesting reforms, to study how much relief is available under those avenues, to study role of Anti-Defection Law in India in democracy, to study and evaluate Anti-Defection Law as an efficient, speedy and effective system, to study the factors responsible for growth of defection in India and lastly to study the image of Anti-Defection Law in the minds of common people and politicians.

Regarding the organization, the present treatise has been divided into 6 Chapters.

Chapter 1 at the outset introduces the concept of defection. At the beginning meaning and definitions are stated and then the Defection in India and UK are described. The Rationale behind the Anti-Defection Law is elaborately discussed. The Extent of Anti-Defection Laws has been given. Out of one hundred and ninety three nations only forty one nations had floor-crossing laws. Laws against crossing
the floor are sometimes not mere "laws", they are often enshrined in national constitutions. The present researcher has also given the historical background in detail. Views of Legislators and Public Men on Crossing the Floor have also been given. Reports and Recommendations of Committees on Defection have been analyzed. The Constitution (Ninety first Amendment) Act, 2003 and Issues in Anti Defection Law have made this study more up to date. A Comparison has been made with other countries of Indian Anti-Defection Legislation.

The present researcher has attempted to trace the Constitutional Provisions Relating to Anti-Defection Law in Chapter 2. The purposes for enacting the Constitution (Fifty-second Amendment) Act, 1985 i.e. incorporation of the Tenth Schedule and other amendments are outlined. Constitutional provisions and their Interpretations by Speakers are also analyzed. The scope of Tenth schedule along with Art. 105 have been examined. An attempt has been made to view scope of judicial review and the meanings of political party and legislature party have also been analyzed. Comments and Case laws have been elaborated in detail. Status of a member being 'unattached', voluntarily giving up Membership and meaning of join have also been studied. Whip or direction and split have also been traced. Scope of speaker's power of review and review of speaker's order and bar of jurisdiction of courts have also been examined. Defection rules of states have also been given.

Chapter 3 entitled "Disqualification, Split and Merger: A Study of Some Prominent Cases in Indian Parliament" explores the cases under the Tenth Schedule to the Constitution that broadly fall under three categories, namely petitions seeking disqualification of members, claims of splits and mergers. At the outset the Disqualifications of various members in Lok Sabha is stated. A bird's eye view of opinion of Attorney-General of India has been given a close look and Six Janata Group Defections and Other Party Splits i.e. Defections to the Congress like Shiv Sena, Telugu Desam, Nagaland People's Party (P), Jharkhand Mukti Morcha, Notice of Privilege, M.P. Vikas Party, Congress(I), AIADMK, Congress(I), N.C.P. and RJD etc. have been examined in full detail. An attempt has been made to critically analyze the Cases of disqualification in Rajya Sabha. At last, statements of Disqualifications, Splits and Mergers have been given.

Chapter 4 entitled "Disqualification, Split and Merger: A Study of Some Prominent Cases in State Legislatures" intends to evaluate cases in state legislatures. Notwithstanding the Anti-Defection Law, some of the
Governments, inter alia, in Nagaland, Mizoram, Andhra Pradesh, Tamil Nadu, Pondicherry, Manipur, Arunachal Pradesh, Goa, Gujarat, Meghalaya and Sikkim were brought down through defections. Andhra Pradesh to West Bengal have been examined at length. In this chapter, an endeavour has been made to compile and analyze the cases of defection in Indian States. Statements of Disqualifications, Splits and Mergers of Haryana Vidhan Sabha have also been given.

The formal courts dispensing justice have not lost ground and still play a major role in interpretation and laying down rules of law and justice. Judicial Approach towards Defection has been undertaken in chapter 5. The various judgments of the Hon'ble Supreme Court of India and various other High Courts of different states in India given in this chapter will help jurists, lawyers and students in understanding the concept and law relating to Anti-Defection Law in India.

Chapter 6 addresses the conclusions and suggestions arrived at as a result of discussions in the previous chapters. In conclusions, an appraisal of whole study is given. In fact, it is the final summing up. It is earnestly hoped that the conclusions drawn and the suggestions presented on the basis of the critical study in this discourse will be a real contribution to the field.

The methodology of research differs according to the subject. “If we dig a garden, we use a spade, if we search for oil, we employ a rock drill. In other words, the choice of tools depends on depth to which we intend to probe.” The study is doctrinal in nature but wherever feasible data is supplied to make the study real and effective. This is the only approach to study the functioning and effectiveness of Anti-Defection Law in India. Therefore, this monograph is an attempt to draw a complete picture of Anti-Defection Law in India. The authorities, both Indian and foreign, that have been relied upon and used as a source material have been referred to and acknowledged in foot-notes. The sources of information are duly recorded in Select Bibliography which may be useful for the more inquisitive readers.

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Virender Singh