Anti-Defection Law

What is the issue?

- Political hustlers over the years have evolved a new practice to bring down the government.
- They have displayed an uncanny flair to subvert the Anti-Defection law to their advantage.

What is the new practice?

- It is now no longer necessary for the party in opposition to bring down a government by splitting the ruling party.
- This was a practice that this law had effectively curbed by mandating that two-thirds of the legislators have to leave in order for it to be a legitimate split.
- The new-age hustlers circumvent this provision by getting the required number of ruling party legislators to resign.
- This shrinks the size of the House to the extent that the opposing party numbers form the majority.

What is an example?

- In Karnataka, last year 17 MLAs from Congress, JD (S) and one provincial party resigned.
- This adequately shrank the size of the House for the BJP party to gain majority.
- Of 17 MLAs who toppled the Congress-JD (S) coalition government, 14 were re-elected to the Legislative Assembly on a BJP ticket.
- The Speaker disqualified the MLAs under the 10th Schedule, barring them from seeking re-election for the entire term of the Assembly.

What did the SC rule on the Karnataka crisis?

- The Supreme Court (SC) had rejected the ruling of the Speaker of the Karnataka Assembly.
- Indeed, the Speaker had exceeded his ambit here as the Representation of the People Act (RPA), 1951 does not provide for such disqualification.
- But the Supreme Court can create the law here if it so chooses.

What did the SC do previously?

- The SC has effectively amended the RPA law earlier in an attempt to reform the political arena.
- In Lily Thomas case (2013), it had ruled that a member of any legislature who is convicted of a crime involving 2 years imprisonment, loses membership of the House.

What could be done?

- **Barring the legislators** from seeking re-election for an entire term of the Assembly would check smartly engineered defections.
- There is a need for a **legal solution** to the political cynicism of the day.

Source: Business Line

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