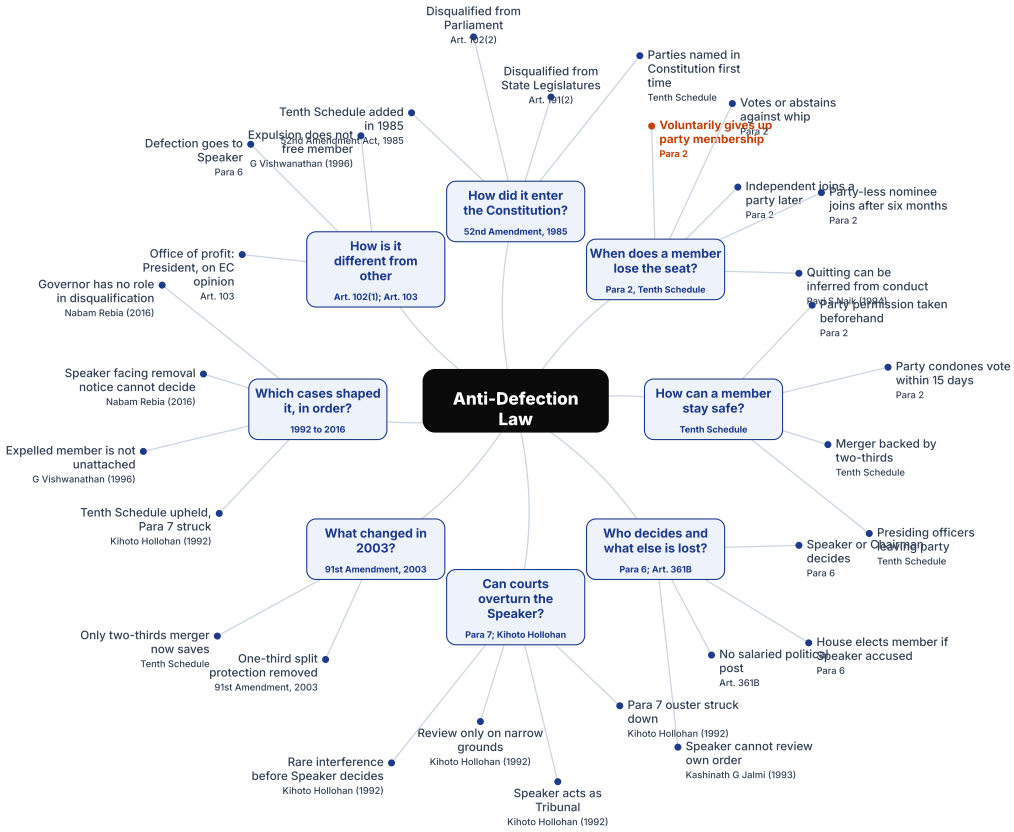
Anti-Defection Law (Tenth Schedule): Mind Map

CONCEPT MAP

Revise Anti-Defection Law in two minutes. The highlighted point is the one examiners test most. Read the full explainer: Anti-Defection Law explained.



Remember: Remember 15 days, 6 months, two-thirds: condone a whip breach in 15 days, a party-less nominee may join a party within 6 months, merge with two-thirds. Exam trap: the one-third split protection is gone since 2003.

- How did it enter the Constitution? (52nd Amendment, 1985)
  - Tenth Schedule added in 1985 (52nd Amendment Act, 1985)
  - Disqualified from Parliament (Art. 102(2))
  - Disqualified from State Legislatures (Art. 191(2))
  - Parties named in Constitution first time (Tenth Schedule)
- When does a member lose the seat? (Para 2, Tenth Schedule)
  - **Voluntarily gives up party membership** (Para 2)
  - Votes or abstains against whip (Para 2)
  - Independent joins a party later (Para 2)
  - Party-less nominee joins after six months (Para 2)
  - Quitting can be inferred from conduct (Ravi S Naik (1994))
- How can a member stay safe? (Tenth Schedule)
  - Party permission taken beforehand (Para 2)
  - Party condones vote within 15 days (Para 2)
  - Merger backed by two-thirds (Tenth Schedule)
  - Presiding officers leaving party (Tenth Schedule)
- Who decides and what else is lost? (Para 6; Art. 361B)
  - Speaker or Chairman decides (Para 6)
  - House elects member if Speaker accused (Para 6)
  - No salaried political post (Art. 361B)
  - Speaker cannot review own order (Kashinath G Jalmi (1993))
- Can courts overturn the Speaker? (Para 7; Kihoto Hollohan)
  - Para 7 ouster struck down (Kihoto Hollohan (1992))
  - Speaker acts as Tribunal (Kihoto Hollohan (1992))
  - Review only on narrow grounds (Kihoto Hollohan (1992))
  - Rare interference before Speaker decides (Kihoto Hollohan (1992))
- What changed in 2003? (91st Amendment, 2003)
  - One-third split protection removed (91st Amendment, 2003)
  - Only two-thirds merger now saves (Tenth Schedule)
- Which cases shaped it, in order? (1992 to 2016)
  - Tenth Schedule upheld, Para 7 struck (Kihoto Hollohan (1992))
  - Expelled member is not unattached (G Vishwanathan (1996))
  - Speaker facing removal notice cannot decide (Nabam Rebia (2016))
  - Governor has no role in disqualification (Nabam Rebia (2016))
- How is it different from other disqualifications? (Art. 102(1); Art. 103)
  - Office of profit: President, on EC opinion (Art. 103)
  - Defection goes to Speaker (Para 6)
  - Expulsion does not free member (G Vishwanathan (1996))

The Tenth Schedule, added in 1985, takes away the seat of an MP or MLA who voluntarily gives up party membership, votes or abstains against the whip, or joins a party as an independent. A member is safe if the party permits or condones the vote within 15 days, or if two-thirds of the legislature party merge; the one-third split protection ended in 2003. The Speaker or Chairman decides, and a defector also cannot hold a salaried political post under Article 361B. Courts can review the Speaker's order only on narrow grounds after Kihoto Hollohan struck down paragraph 7. Later cases settled that conduct can show defection, an expelled member stays with his party, and a Speaker facing a removal notice should not decide.

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