

Constitution Day

The cost of ignoring the Constitution

SHAKHAWAT LITON

OUR history is full of glaring examples of how narrow political interests of successive military and political governments have undermined the fundamental spirit of our Constitution considered the fruit of the historic Liberation War.

The enactment of the Constitution within seven months of the independence of Bangladesh was a matter of great pride. The Constituent Assembly adopted the Constitution on November 4, 1972. When people were celebrating the first anniversary of Victory Day on October 16, 1972, the Constitution came into force with an emphatic recognition of their sovereignty, declaring them the supreme authority over all powers of the State.

In its preamble, the Constitution pledged that the high ideals of nationalism, socialism, democracy and secularism would be its fundamental principles as these ideals had inspired our heroic people to dedicate themselves to, and our brave martyrs to sacrifice their lives in, the national liberation struggle.

The Constitution made these high ideals fundamental principles of State policy. And it announced that the State shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed. People's fundamental rights got pre-eminence in the original Constitution.

In less than a year that the Constitution came into force, however, the first attack on people's fundamental rights came in the form of the second amendment in September 1973 introducing emergency provisions. The original Constitution did not leave any scope for suspension of people's fundamental rights in any situation and no law could be made abridging those rights even by amending the Constitution. But the emergency provisions introduced by the second amendment empowered the government to suspend some of the fundamental rights by declaring a 'state of emergency'. In similar fashion, a new provision was included in the Constitution, empowering the Parliament to bring constitutional amendments conflicting with people's fundamental rights.

Then the infamous fourth amendment in January 1975 reversed the whole system. Through this amendment, the country was switched to a presidential form of government from the parliamentary system; one party rule was introduced through the national party-Baksal; independence of judiciary was trampled. In the Hamidul Huq Chowdhury vs. Bangladesh case, the Appellate Division of the Supreme Court

observed: "The first three amendments do not appear to have altered the basic structure of the Constitution. But the fourth amendment of the Constitution clearly altered the basic structure of the Constitution."

Six months after the fourth amendment, the assassination of Bangabandhu Sheikh Mujibur Rahman and overthrow of his government on August 15, 1975 paved the way for more vicious attacks on the Constitution. Martial law was declared; the Constitution was made subservient to the martial law proclamation and orders. Through proclamations, martial law rulers Justice Sayem and General Zia frequently

Parliament's power to amend the Constitution.

The country was again put under martial law in March 1982, suspending the Constitution. The military ruler General Ershad followed the same path of Zia to validate all of his unlawful deeds, including grabbing power by ousting an elected president. All of his wrongdoings were ratified through the seventh amendment of the Constitution.

The Constitution has been amended 16 times since 1973. But none of the amendments were able to fortify people's fundamental rights and improve the mechanism for democracy. The 15th

enact any law to hold the trial of war criminals. The third amendment in 1974 empowered the government to implement the July 1974 treaty between Bangladesh and India on border demarcation and exchange of enclaves. For Justice Sattar, the then vice-president, the sixth amendment was brought in 1981, allowing him to contest the presidential election. The eighth amendment was brought in 1988 to set up permanent benches of the High Court in six places outside the capital and made Islam the state religion.

The ninth amendment in 1989 limited the tenure of the offices of president and vice-president. The 10th amendment in 1990

opposition parties alleged that the government increased the service age of judges to make it legal for then Chief Justice K.M. Hasan to lead the upcoming caretaker government. They refused to accept Justice Hasan as the Caretaker Chief, which led to a political turmoil by the end of 2006 and a state of Emergency was declared in January 2007. The 16th amendment in 2014 empowered Jatiya Sangsad to remove SC judges on grounds of misconduct and incapacity.

Of them, three amendments - 5th, 7th and 13th - were completely scrapped by the Supreme Court, as those were enacted by the Parliament, disregarding the constitutional limitations imposed on Parliament. The eighth amendment was partly cancelled by the SC as it violated the basic structure of the Constitution. The 11th amendment was deleted by the 15th amendment as it was made wrongly. Recently, the High Court scrapped the 16th amendment. Two other amendments, the 6th and the 9th, have no effectiveness.



Shilpacharya Zainul Abedin presenting the first illustrated copy of the Constitution to Bangabandhu for his signature.

amended the Constitution. During the martial law period, the principle of secularism was completely deleted from the Constitution and replaced by absolute trust and faith in Almighty Allah. Even above the preamble of the Constitution, the phrase, "In the name of Allah, the beneficent, the merciful" was inserted. The ban on religion based politics was withdrawn, allowing the anti-liberation Jamaat-e-Islami and other Islamic parties to resume their activities. Thus, martial law ruler General Ziaur Rahman finally made politics difficult for the politicians. All of their misdeeds were validated by the fifth amendment to the Constitution in 1979 by abusing the

amendment in 2011 is even more unfortunate, as it blocked the door for further advancement of people's fundamental rights. This is because this amendment imposed restrictions on amendments of around 56 Articles, including those dealing with people's fundamental rights. The 15th amendment also abolished the election time caretaker government system, triggering political unrest which led to a one-sided parliamentary election in January 2014.

Other amendments
The first amendment in 1973 provided the Jatiya Sangsad with sweeping authority to

increased tenure of seats reserved for women in Parliament. The 11th amendment in 1991 validated then Chief Justice Shahabuddin Ahmed's taking charge of the interim government after the fall of autocratic Ershad. The 12th amendment in 1991 restored the parliamentary form of government from the presidential form which was introduced in 1975. The 13th amendment passed in 1996 introduced the election-time caretaker government system amid growing distrust and confrontational culture of politics over the polls.

The 14th amendment in 2004 increased the retirement age of Supreme Court judges, generating a political crisis. The then

Democratic deficiency exposed
Article 142 gives power to the Parliament to amend any provision of the Constitution by way of addition, alteration, substitution or repeal. Legal experts state that a Constitution is meant to be permanent, but as all changing situations cannot be envisaged and amendment of the constitution may be necessary to adopt future developments, provision is made in the Constitution itself to effect changes required by the changing situations.

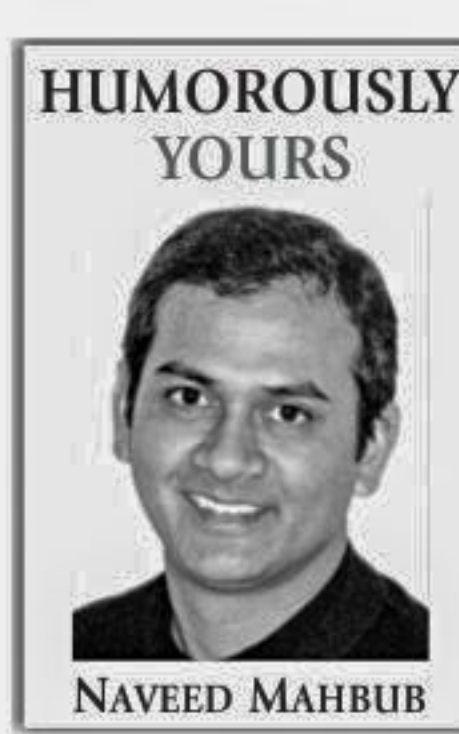
But, the changes made so far have contributed little towards the betterment of the country's citizens and further refinements of their constitutional position, as most of the amendments were not for that purpose.

A severe deficiency in democracy in political parties running the government and their disobedience to the supreme law betrays people's aspirations and undermines their rights as enshrined in the Constitution. The continuous disregard for the basic spirit of the Constitution has not done any good for the people, rather it has led to political unrest and poor governance.

Those who carried out the cruel attacks on the Constitution have committed offences, according to the Supreme Court's verdict on the Constitution's fifth amendment case as the Apex Court stated: "If the Constitution is wronged, it is a grave offence of unfathomable enormity committed against each and every citizen of the republic. It is a continuing and recurring wrong committed against the republic itself. It remains wrong against future generations of citizens."

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PC



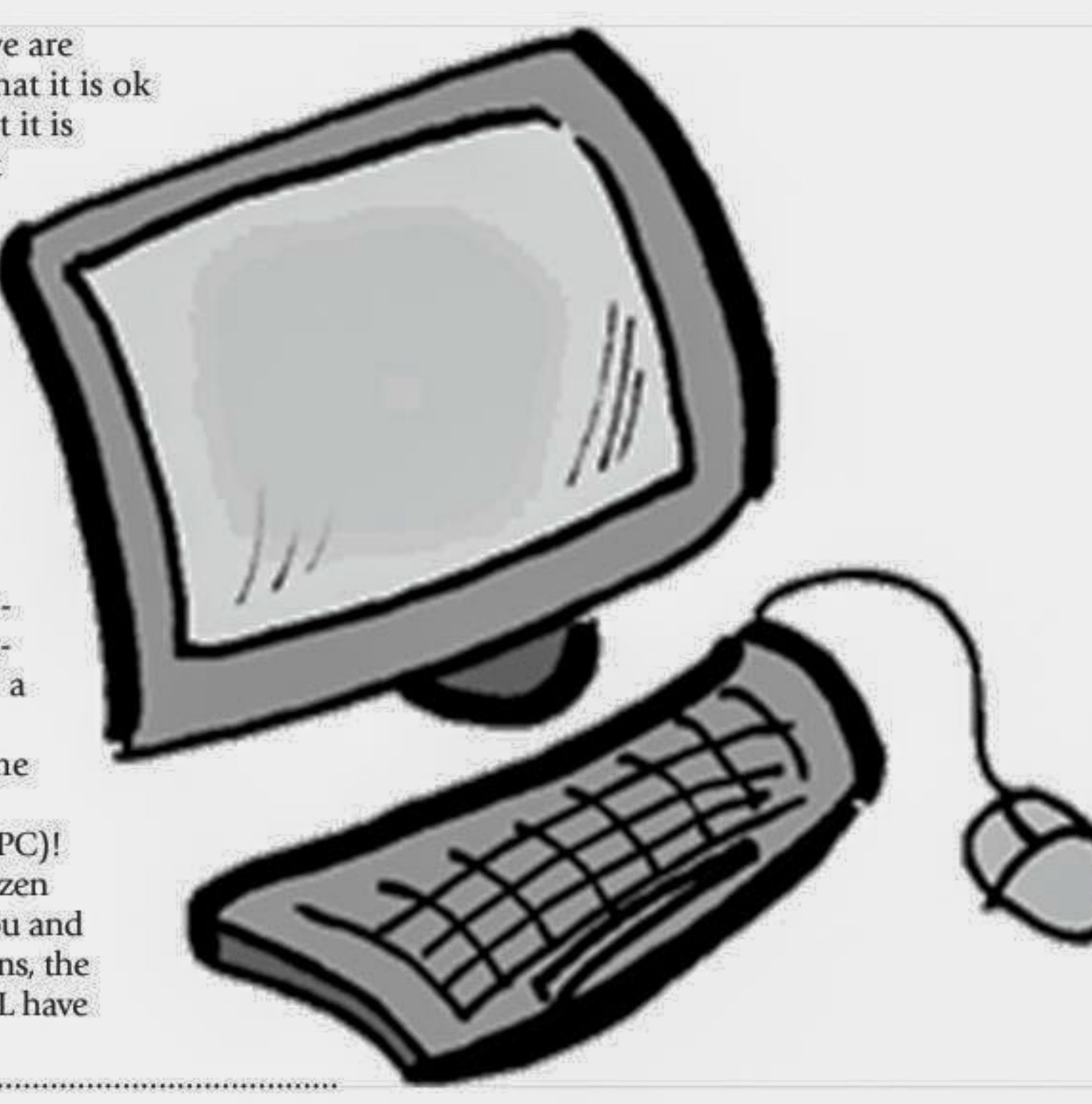
HUMOROUSLY YOURS
NAVEED MAHBUB

THE revolution of the Power Couple (PC) Bill Gates and Steve Jobs gets computers to become Personal Computers (PC). Thus comes the freedom to roam the word from the Personal Couch (PC) and hence comes the issue of PC - Political Correctness. With easy access to the Personal Computer (PC) while keeping Political Correctness (PC) under control, now comes memes, images and photos on social media, and we have the issue of Photo Credits (PC), aka, PC III. That is if we are kind enough to acknowledge the fact that some Poor Character (PC) did the Picture Capture (PC), while the rest of us are Plottingly Clever (PC) enough to not being Politically Correct (PC) and thus let the world make the assumption by my Photoshopping Cleverly (PC) the image to get rid of the identity of Photo Creator (PC) that I am the one deserving all the Proper Credits (PC). After all, if I can take all the credit, why bother acknowledging?

The English (Raj). The meme goes viral. I put it up on my Facebook wall stating "PC (Photo Credits): Unknown, Facts: Now known to the world, Brain of meme creator: Exceptional". I soon discover who the actual creator is and edit my post with due credits. Introducing the Plagiarism Con - yes, another PC. But of course, the act is brushed under the carpet as no Punishable Crime (PC). After all, we grow up with the definition of acing an exam when it's Proshno Common (PC), i.e., the questions have been 'seen' before. I don't mean 'seen' in the 'question leaked' sense, but that the question has been encountered during Preparatory Classes (PC). Needless to say, the Prepping Crew (PC) has supplied with environmentally friendly recycled 'notes'. Thus a 5.0 GPA is a guaranteed recipe for success in life, assuming of course that life comes with Problems Common (PC). And of course, while we are preparing for this PC (wait, which PC? Oh, Problems Common...), we push the envelope of our eye balls to master the art of taking a Power Catnap (PC) in class during lecture while keeping the eyes open. Having mastered that, it's exam time with those same eye balls now rotating a full 90 degrees sideways with the head anchored at the zero degree bearing so as to Perfectly Copy (PC) the answer sheet of that of my neighbour during finals. All done, we high five and Pound the Chest (PC) like King Kong at acing in life's Premier

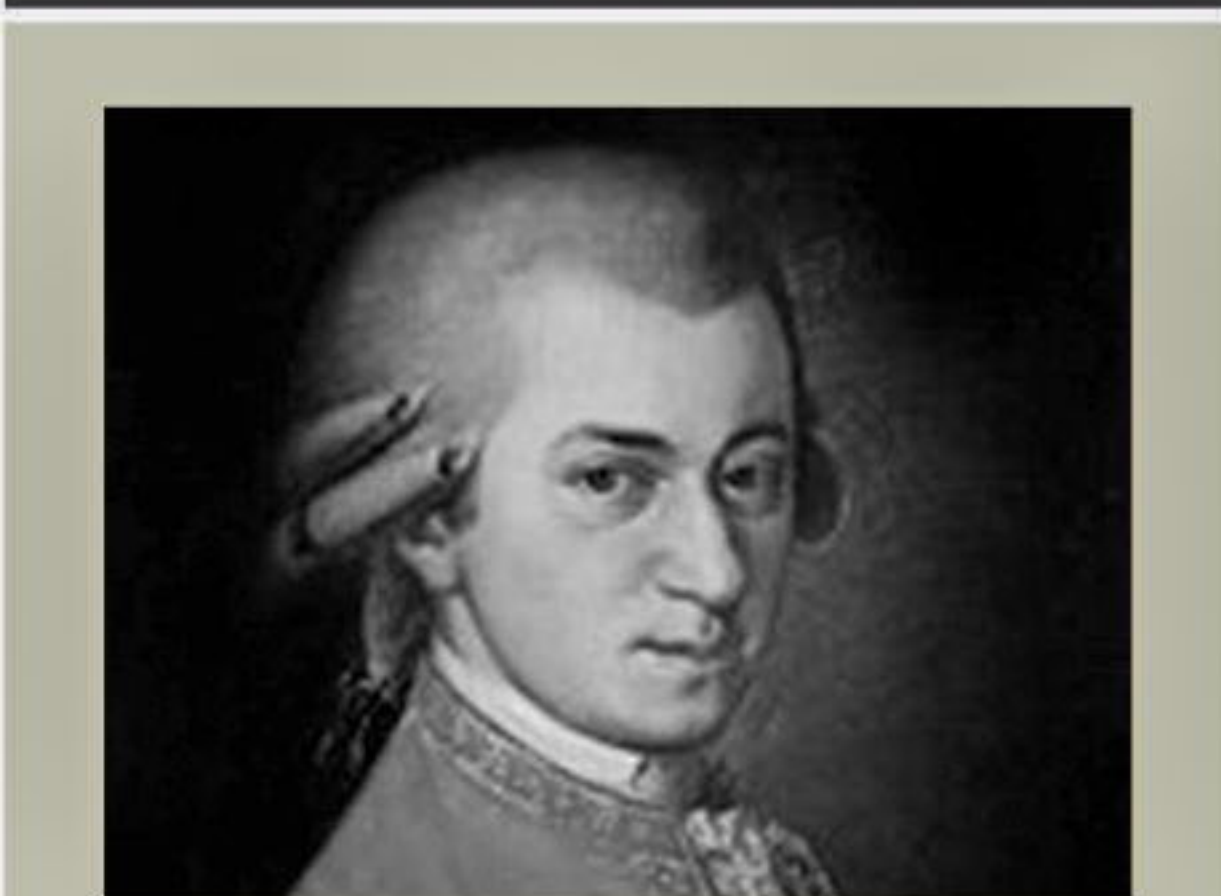
Cheating (PC). With time, we are Principled 'Correctly' (PC) that it is ok to Photo Copy (PC) and that it is a Politically Correct (PC) act when it's Penitence-less Cheating (PC). And Plagiarise with Class (PC) while Post san Credits (PC)? That is nowhere near any morbid sin. And why should it be - if land grabbing is legit, plagiarism is as sweet as the Philharmonic Choir (PC). Meanwhile, I will do comedy on stage only to be heckled that I took the joke from a meme, the latter never acknowledging that the meme took the joke from me. Welcome, Pirate Champs (PC)! You are now a Permanent Citizen (PC). But thank you, thank you and thank YOU Tigers and the Lions, the Perfect Cats (PC) that we STILL have Perfect Cricket (PC)...

The writer is an engineer at Ford & Qualcomm USA and CEO of IBM & Nokia Siemens Networks Bangladesh turned comedian (by choice), the host of ABC Radio's Good Morning Bangladesh and the founder of Naveed's Comedy Club. E-mail: naveed@naveedmahbub.com



This is not the only PC in town!

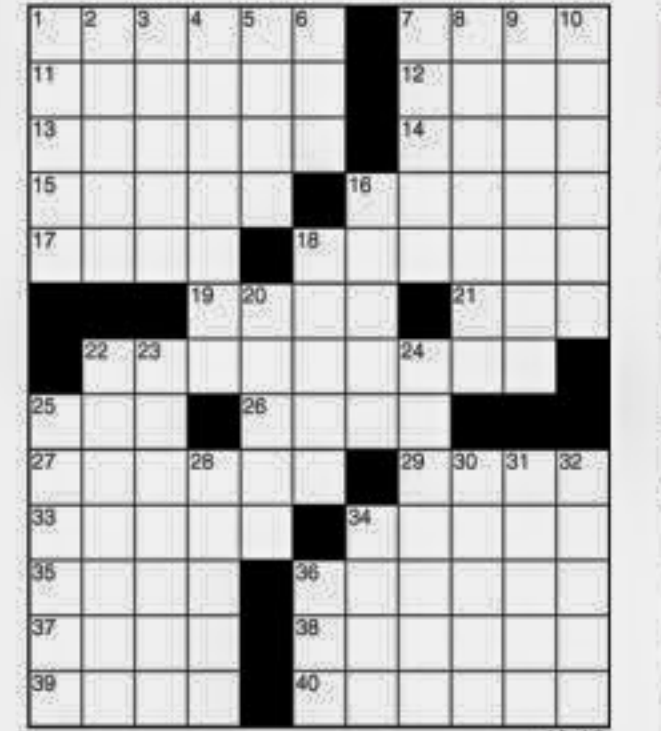
QUOTABLE Quote



WOLFGANG AMADEUS MOZART
The music is not in the notes, but the silence in between.

CROSSWORD BY THOMAS JOSEPH

- ACROSS
1 Like many loaves
7 Peak
11 Designer Norma
12 Take wing
13 Stuck
14 Casserole staple
15 Incite
16 Gaggle output
17 Lively folk dance
18 PG Wodehouse character
19 Harrow rival
21 Cut off
22 Speaker's aid
25 ---Magnon
26 New driver, usually
27 Musical shows
29 "Apollo 13" org.
33 Starts business
34 Kicked off
35 Fuse together
36 Repairing
37 Secluded spot
38 Astaire and Simpson
39 Marquee name
- 40 Dry expanse
- DOWN
1 Aspen aficionado
2 "Sweet Dreams" star
3 Pol's concern
4 Wheedled
5 Verve
6 Slow-witted
7 Silents star Mary
8 Diner fixture
9 People as a whole
10 Made blank
16 Therefore
18 Goes a bout
20 Heads of France
22 Words of emphasis
23 Short book
24 Wings
25 What ochlophobes fear
28 Anesthetized
30 Sprightly
31 Less lony
32 Uneasy feeling
34 Await
36 Craze



YESTERDAY'S ANSWER

RACES PECKS
OZONE ALONE
NAMES COMET
ALE ABE EAT
LEI MUD ODE
DANCES RUSE
TESTKIT
SHOW SEPTET
TAB WIT ONE
RUE INC PGA
ALIAS HULAS
FENCE USAGE
EDGER PAYER

BEETLE BAILEY by Mort Walker



BABY BLUES by Kirkman & Scott

