



## Readers' Forum



### Our Asinine Electoral Laws

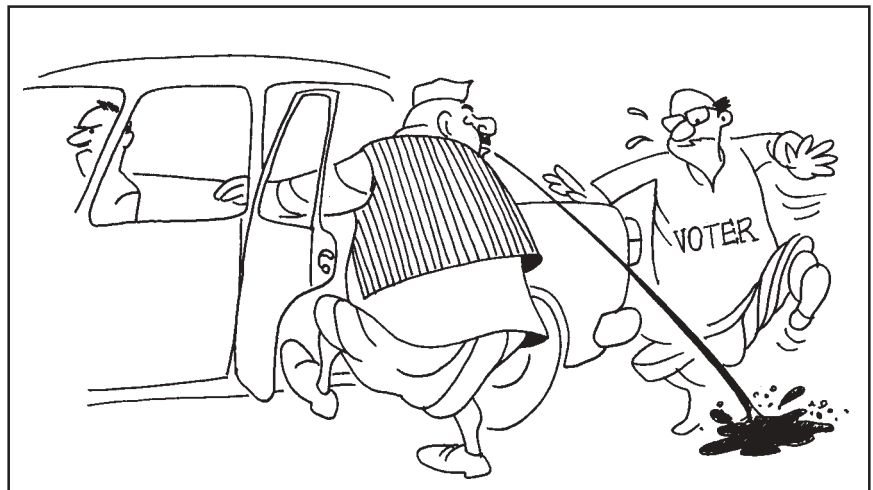
The ass is sturdy animal. It is predictable. It is reliable and very strong. Though gentle by nature and incapable of competition there are few that would find it worthwhile to rub it the wrong way. Those that do have rarely recovered from its kick. The problem with the ass is that it has to be moved, sometimes by threats, sometime by lure – it rarely acts on its own. It does not like to be disturbed. It can carry on doing its job without any enthusiasm yet without relenting. It doesn't mind criticism any more than it responds to praise. Even though it cannot match the fleet footed horse nor has any of the strength of the mighty bison it is indispensable in those parts of the earth where the going is rough, the rewards none. Those who live by it and those who know have told me that it does not get nervous. It does not take note of rapidly changing times. They attribute these characteristics to its stupidity.

It is little wonder that a master who had great knowledge of human existence wrote a dialogue about the law, which ends thus: "If that be the law sir, then the law is an ass."

Political parties make alliance before elections to seek votes. After the people have voted for them in the hope of having a government, albeit a coalition, the legislators invoke the "principle of situational ethics," and withdraw support to topple the government. And after a round robin of asking the next largest parties to form a fragile majority you may have at the end another short-lived government whose constituents create premature liabilities. Or worse, fresh elections. No sane man wants the disruption to everyday life which too

frequent elections cause and the compulsory exposure to devious and sometimes violent methods employed for getting votes. I daresay the canvassing of votes often causes damage to the social well-being which takes long to heal. Wounds can and do heal in five years. That is a long enough period to assess whether the victors of the last battle should be returned to power. The Constituent Assembly thought so too. They said that the term of Parliament, in particular the Lok Sabha "unless sooner dissolved" should be five years. I doubt if they ever considered these unstable coalitions that result in such frequent elections as likely.

A great judge has acknowledged that the law must be stable, yet it cannot stand still. One must therefore motivate the gentle, reliable ass to do something sensible. Why should there not be a law that a party which seeks votes whether formally or informally in an alliance with another party must be compulsorily deemed to have an alliance with that party for all purposes in Parliament during the duration of the Parliament, and that the provisions of the anti-defection law shall apply to any of the members of the alliance who act contrary to the interests of the entity which is a product of that alliance? In short, if you decided to support another



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party at any stage of the electoral process, whether by mere speeches or by manifesto, and if people have voted for you, you must stay together for the life of that Parliament. If after the elections you have decided to sit together, whether supporting the government from “outside” or within, you must stay together during the life of that Parliament. The law must treat all constituents of the alliance as one. Anyone who desires to buck it can only do so on pain of disqualification. It doesn’t matter if one-third of the total members of the alliance decide to leave. This is not a restriction on the freedoms of legislators. It just means you must exercise your freedom before you ask for the vote of the people and not after they have given their mandate to you and your allies. If you have differences amongst yourselves, resolve them or bury them. People do not believe anymore that there can be any irreconcilable differences because we have seen strange bedfellows in politics and Parliament. If you still cannot get along, bad luck; stay out of Parliament for six years. You need that time to realign yourself with your constituency and your principles.

This will in all probability save the President the task of testing the majority of a group himself, and also save him the extremely hazardous task of relying on the tally of the Prime Minister-in-waiting. Neither the body of brilliant legislators and lawyers

which constituted the Constituent Assembly nor the Parliament convened soon thereafter could have thought of and found a solution to this problem. One assumes they did not imagine that politicians elected to Parliament would so often do what they have to in government. A statement made by a legislator to the President of India claiming the support of other legislators for the purpose of forming a government must be truthful and reliable and if found false or made dishonestly with the intention of seeking a call from the President to form the government must be visited with penalty, imposed by the President in his sole discretion, or better still by operation of law, without judicial review. There is, I am conscious, a great deal of law, good law, which does not permit the exclusion of review of an administrative decision, particularly one which has penal consequences. One is also conscious of several matters relating to Parliament, and arising within it, which are not reviewable by courts. The important thing is that if we seek genuine stability, if we are to have a Parliament which is free to devote its best talents and energies to legislation, and to secure to all its citizens their fundamental and other rights and take the country to new heights, something by way of legislation on the lines discussed above must be passed. Are we willing to accept the discipline of the law?

**Sharad Bobde, Nagpur** □

## *And now I want to drink whiskey on the rocks like my mother*

*My mom wasn't woman enough for me.  
Her sister's kitchen gleamed brighter,  
the dresser drawers boasted a system.  
My mom didn't drink sherry or 7-up  
at cocktail parties like my friends' mothers.  
She didn't even bother with **karva-chauth**.  
And when she sat in her Sunday trousers  
and let her legs uncross to relax in that V,  
it disgusted me.  
One time I asked, "How come you  
don't fast for daddy?"  
She said, "I'll fast for your dad  
when he fasts for me."*

**Rohena Gera**