



SERMON BALAK:¹ **BLESS US WITH THE THREEFOLD CONVENTION**

Rabbi Gabriel Kanter-Webber, Saturday 9 July 2022
Birmingham Progressive Synagogue

- 1 The pomp and circumstance and language surrounding the royal family is something to which, as Brits, we become inured. But take a moment to step back from your immersion in British society and think about just how odd it all is: bow, curtsy, kneel. Phrase after phrase of Latin or, sometimes, English so obscure that it may as well be Latin: Captain of the Honourable Corps of Gentlemen at Arms, Lord Privy Seal, tra la la. But sometimes there's a fascinating meaning hidden behind the strange traditions.
- 2 When a piece of legislation receives royal assent, Her Majesty signifies this, naturally, in Norman French, with the words: "La Reyne le vault", 'The Queen desires it'.² If it's legislation that increases taxes, she expands it to: "La Reyne remercie ses bons sujets, accepte leur benevolence, et ainsi le vault", 'The Queen thanks her loyal subjects, accepts their bounty, and wills it so'.³ In



the exceptionally rare and exciting cases where a monarch refuses royal assent, which last happened here in 1707, the fatal words are: “La Reyne se avisera”, ‘The Queen will think about it’.⁴

- 3 Even in ancient times, and even with absolute monarchs, there has always been a discomfort about exercising power baldly and explicitly. Tax-raising legislation was never introduced with the words ‘give us yer money’, but a soft and polite and euphemistic phrase was substituted instead.
- 4 This Shabbat’s parashah sees God, too, being reluctant to say an outright ‘no’. God gives Balaam permission to hire himself out to Balak’s agents,⁵ but two verses later we read:⁶ “God was incensed at his going.” How do we explain this apparent contradiction?
- 5 The 13th-century French commentator Chizkuni suggests⁷ that, although God had technically consented to Balaam’s proposal, that consent was not **רְשׁוּת בְּפָנִים מְאִירוֹת**, a whole-hearted approval and green light to go ahead, but rather a reluctant ‘if you really insist’.



- 6 What Chizkuni there envisages is, in effect, a Divine version of what is known in the British constitution as the ‘tripartite convention’:⁸ the monarch’s threefold right “to be consulted, to encourage and to warn”.⁹ Walter Bagehot, the scholar who came up with this formulation, added: “A monarch of great sense and sagacity would want no other rights.”¹⁰ The flipside is that, where a monarch’s warnings fall on deaf ears, they are obliged to take their ministers’ advice, no matter how distasteful they find it. When they do this, they are of course unlikely to do so with **רְשׁוּת בְּפָנִים מְאִירוֹת**, a whole-hearted approval and green light to go ahead, but rather a reluctant ‘if you really insist’.
- 7 Something that unites both Judaism and the British constitution, however, is gaps and ambiguities.
- 8 In the case of the latter, one big ambiguity is called Prince Charles: it is wholly unclear to what extent he, alongside his mother, has the right to encourage and warn governments. He has a reputation for being outspoken when it comes to a whole range of issues from



farming¹¹ to architecture¹² to, most recently, the deportation of asylum-seekers to Rwanda.¹³ Are these political interventions a proper part of Prince Charles's preparation for kingship¹⁴ – educating him in how to encourage and warn ministers when he comes to occupy the throne – or are his actions “no more than those of any citizen (albeit an important one) who, by pressing his ideas on ministers, is doing what is open to all”?¹⁵

- 9 Whatever the answer, Prince Charles has indicated forcefully and clearly that he is unwilling to live a life where he simply reads the script given to him by the government of the day. In that regard, he is rather like Balaam, who forcefully resisted cursing the Israelites as Balak had ordered him, and who even found the voice to issue a stinging rebuke against Balak himself.¹⁶ Balak, in turn, was outraged by this act of defiance from someone who he considered bound to act on his instructions,¹⁷ or, at the very least, to refrain from going against it: “Very well, you will not curse them; but do not bless them either.”¹⁸ He clearly did not consider that Balaam had any right to be consulted or to give warnings.



- 10 The fact is, Balaam was in an invidious, Prince Charles-like situation, caught between pressure from above (his personal sense of duty) and pressure from below (his institutional role as someone commissioned to deliver a curse).

- 11 Ultimately, when a curse of serious magnitude was on the horizon, God stepped in to resolve the logjam, and exercised a reserve power in favour of the Israelites. But God's 'no' – or at least God's 'se avisera' – only came about thanks to a partnership with Balaam, who did what he could to resist the evil schemes of Balak.

- 12 A figure with conscience – even an eccentric figure! – is a powerful asset to any social system, and even if they have no explicit power of their own, their ability to give warnings is a worthwhile one.

¹ Numbers 22:18-28

² Rodney Brazier. "Royal assent to legislation", *Law Quarterly Review* 129 (April 2013), 184-204: 187.

³ Ibid: 187.

⁴ Ibid.

⁵ Numbers 22:20



⁶ Numbers 22:22

⁷ Chizkuni ad loc.

⁸ This term comes from *Evans v Information Commissioner* [2012] UKUT 313 (AAC) at [77].

⁹ Walter Bagehot. *The English Constitution* (1867; repr Cambridge: Cambridge University Press, 2001): 60. More generally, see Anne Twomey, *The Veiled Sceptre: reserve powers of heads of state in Westminster systems* (Cambridge: Cambridge University Press, 2018): 92-114.

¹⁰ Ibid.

¹¹ Justin Rowlett. "Prince Charles' warning over survival of small farms", BBC (14 July 2021): <<https://www.bbc.co.uk/news/uk-57826560>>

¹² Alireza Sagharchi. "Prince Charles was right to speak out, now architects must listen", *Architects' Journal* (8 May 2009): <<https://www.architectsjournal.co.uk/archive/prince-charles-was-right-to-speak-out-now-architects-must-listen>>

¹³ Harry Taylor. "Prince Charles criticises 'appalling' Rwanda migrant scheme: reports", *The Guardian* (10 June 2022): <<https://www.theguardian.com/uk-news/2022/jun/10/prince-charles-criticises-appalling-rwanda-scheme-reports>>

¹⁴ *Evans*, ibid, at [89]-[112].

¹⁵ See, generally, Rodney Brazier, "The constitutional position of the Prince of Wales", *Public Law* (1995), 401-416: 404.

¹⁶ Numbers 24:14ff

¹⁷ Numbers 24:10-11

¹⁸ Paraphrase of Numbers 23:25