

## **Dr. Robert Vannoy, Deuteronomy Lecture 8**

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### **Present State of the Covenant Form in the Old Testament**

#### Review

Last week we were discussing Romans numeral III on your outline. That's page two, "The Covenant Form in the Book of Deuteronomy and its Historical Implications." But just to refresh our minds, "A" was, "The Structural Integrity of the Book often in Question." The usual approach to Deuteronomy is to find it with an original core but a lot of supplementary incursions and a double introduction. Von Rad, "B", called attention to the significance of Deuteronomy's structural pattern in 1938. In 1938, Von Rad looked at the book and said there is a coherent structure to this thing. Remember, I gave you an outline of that. He once looked at the form critically and he thought the whole did display structural unity. But then "C" Meredith Kline utilized the form critical methodology honoring the integrity of the book that should open a new perspective on the structure to Deuteronomy, which in turn has implications to its interpretation and date.

We spent most of our time on "C" last week. Points 1 through 12 was my attempt to try to summarize Kline's argument on that treaty-covenant analogy and then the implications of that analogy for date. That brings us to the top of page 3 which is "D," "The Covenant Form in the Old Testament and its Historical Implications: the Present State of Affairs in the Deuteronomy Debate." Now, probably this "D" will take us most of today. I hope I can finish this up today, and that leaves us two weeks to go on to the centralization of worship question. But that's where we begin then, with "D". And under "D" I have 1. "The Nature of the Covenant Form and its Origin: Cultic or Historical."

#### General Comments on Exod. 19, Josh. 24 and 1 Sam. 12

Before getting to 1, let me make some general comments on the heading, "The Covenant Form of the Old Testament and its Historical Implication: Present State of

Affairs of the Deuteronomy Debate.” I think there is widespread agreement today that there is a discernable covenant form to be found in the Old Testament, and that form can be found in the structure of the book of Deuteronomy. It can be found in a number of other places as well. Most of the people who have discussed this find it in Exodus 19 to 24. That’s the Sinai material where the covenant was originally established. Most find it in Joshua chapter 24. Joshua 24 is where Joshua calls all Israel to Shechem to renew their allegiance to the Lord. I think Joshua 24 can rightly be called a covenant renewal ceremony. It’s at the end of Joshua’s life; he calls the people to renew their allegiance to the Lord at the point of his imminent death.

You have a transition of leadership very much as you have at the end of Deuteronomy, which is at the end of Moses’s life. This transition in leadership attempts to provide for covenant continuity, you might say, through that time of transition of leadership. But you find in Joshua 24 those same elements of the treaty form that you find in the book of Deuteronomy. Then if you go on to 1 Samuel 12, my dissertation dealt with 1 Samuel 12, you find the same, or at least a number of, the same elements of the treaty form, the covenant form. That chapter is at the close of Samuel’s life where he is providing for the transition to the monarchy for the establishment of Saul’s kingdom. My own view is that 1 Samuel 11:14 through 12:25 is a covenant renewal ceremony of Gilgal, called “covenant continuity” with the change from the period of judges to that of the monarchy and to provide for that transition.

Covenant and History: Baltzer et al.

My point is that there is quite a broad agreement that you can find the covenant form in Exodus, Deuteronomy, Joshua, and 1 Samuel 12. Not by any means unanimous, but a fairly good consensus on that. However there is no corresponding agreement on the origin of the form and consequently on its historical implication. That’s where you get into more of a dispute than a discussion. Many will recognize the form is there, but what is its origin? What are the historical implications of the form? Some scholars have

resisted attempts to draw historical conclusions from the presence of the literary form. They just want to look at the form, but they don't want to draw historical conclusions from it. In my book, page 144, note 30, a man named Baltzer, who wrote the book called *The Covenant Formulary* commenting on Mendelson's article "Law and Covenant in Israel in the Ancient Near East," says of Mendelson, "He is more interested in historical questions while the present work limits itself to the more critical approach. No doubt, further conclusions in the historical sphere can be drawn on the basis of this beginning, but I consider it methodologically dangerous to bring both sets of questions together prematurely." What Baltzer is doing is hesitating to draw historical conclusions on the presence of the form. He says it's methodologically dangerous to bring both sets of questions together prematurely.

Then there's a German scholar there that says, "The historical channels by which one can explain the similarities of the Hittite covenant treaty to formulation of the Old Testament covenant are still quite unclear." The historical connection between the Hittite treaty form and covenant, he says, is quite unclear. Then another fellow says speaking of Baltzer, he says, "Baltzer exists throughout on a sharp separation between his form critical investigation and the historicity of the episode narrator. This reserve towards matters historical, which still lies far short of skepticism, owes its vigor to an influence of von Rad. In this way, Baltzer has successfully avoided hasty and premature conclusions. An author has a right to limit his scope of material, but it is disappointing that Baltzer refuses historical conclusions."

#### D. J. McCarthy

Then D.J. McCarthy says, "No doubt too much has been claimed from this analogy, and especially illegitimate historical conclusions have been drawn from it. Still this does not negate the evidence as there is for the analogy." In other words, keep the analogy, but be careful about drawing historical conclusions from the analogy. Well, I think the caution is certainly in order when you get into form critical questions. I think that's where the form critical method is often abused. You get a certain form, and you

make very speculative kinds of reconstructions of the setting that produced the form, and historical conclusions drawn may be very questionable. See, the whole thing about the form critical methodology is if you have a certain literary form, it presupposes a certain historical setting that gave rise to the form. That's the technical term *Sitz im Leben* that gave rise to the form, and you want to get back and understand what that situation was that produced that form.

It seems to me that a judicious attempt to delineate the historical setting of a particular form can be a useful interpretive tool and it seems to me here we have a certain form, and judiciously we can ask what was the setting that gave rise to it, and that can help in understanding the significance and interpretation of the form in question. If you were to avoid that, you would impoverish the study of the form. I think here, when we're talking about the covenant form and its historical implications, that certainly we need caution; but we shouldn't refuse to go with historical implications of the covenant form.

# 1. The Nature of the Covenant Form and its Origin: Cultic or Historical.

Ok 1. "The Nature of the Covenant Form and its Origin: Cultic or Historical."

Now, I've put that heading that way because the cultic and historical do not need necessarily to be opposites. Something can be cultic and historical at the same time, but in a very real sense I think this form is cultic and historical. The covenant was established at Sinai in a situation where the covenant was ratified. There were sacrifices, sprinkling of blood and so forth, so you could say it's cultic, but at the same time it's historical. The reason I put it that way is because of what von Rad has done with this.

Remember last week, and even previous to that, we noted that von Rad spoke of a structure to the book of Deuteronomy way back in 1938. I think I gave you that last week: the way he outlined the book and the structure he saw. He proposed that that structure was derived from the cult, and he felt that the structure was preserved in Israel and was passed on in Israel and found its place in the book of Deuteronomy from the preaching of the Levites, and it was of cultic origins or reform.

Now that was in 1938. That was before anyone called attention to the treaty-covenant analysis: long before that. Mendenhall's article was in 1954, so it was quite a bit later. With the more recent treaty material being brought to light, von Rad has not changed his position, although he recognizes and accepts the treaty-covenant analogy. If you look in his *Old Testament Theology*, which was published in 1957, this is the first volume of that, page 132, he says, "Comparison of Ancient Near Eastern treaties, especially of those made by the Hittites in the fourteenth and thirteenth century B.C. with passages in the Old Testament, has revealed so many things in common between the two, particularly the matter of form, that there must be some connection between the suzerain treaties and the exposition of the details of Yahweh's covenant with Israel given in certain passages in the Old Testament." Then he gives his review of much of what we've discussed: the structure of the treaty and how that compares to the biblical material. He says this is found in a number of passages, including those that I just mentioned. He continues, "Even if there are still many questions of details of the answers, there is at least no doubt that the two kinds of material are related to one another. The treaty and the covenant are materials, and the relationship in the respect of form can be traced down in the text of post-apostolic times. Here, of course, Israel took over, but we remember the age of some of the relevant Old Testament material. When we remember the age of some of the relevant Old Testament material, we have to reckon that Israel became acquainted with this treaty schema very early on, perhaps even as soon as the time of the Judges." Now it's interesting: he says about the basic structure that Israel must have become acquainted with this very early in her history. Perhaps as early as the time of Judges. But that was in 1957 in his *Old Testament Theology*.

Von Rad finds in Joshua 24, for example, the beginning of that covenant-treaty period. He relates this in his *Theology* in 1957. In 1964 he published his commentary on Deuteronomy. He again discusses this, but now in connection with Deuteronomy. On pages 21 to 23 he says, "Finally we must mention one type of composition used in Deuteronomy, which scholars have only recently recognized, namely, the formulary used for covenants. The discussion of this has only just begun. It's been known for some time

that potentates in the Ancient Near East, especially the Hittites, used to draw up their treaties with their vassals according to a definite pattern. But it was astonishing to realize that this treaty pattern can be traced in not a few parts of the Old Testament, and amongst others, in Deuteronomy." Again he discusses that form, which I won't repeat. But he says, "At the time of Deuteronomy, this pattern had long been used freely for literary and homiletic purposes; even individual units used very sporadically places beyond all doubt they are modeled on the full form already mentioned." But then he says the question is still quite open how and when Israel came to understand its relationship to God in the form of these early Near Eastern treaties with vassals.

The question is still open: How and when did Israel come to understand its relationship to God in the form of these early Near Eastern treaties with vassals. Later on he says if we ask what *Sitz im Leben* is demanded by the pattern in accordance with which Deuteronomy is arranged, it can have been taken only from a cultic celebration. See, there are these cultic origins ideas. "It can be taken only from a cultic celebration. Perhaps from a feast of renewal of the covenant. This conjecture is supported by the insertion of a formal covenant making, Deuteronomy 26: 16 – 19. Thus the classical pattern of the regular covenant formulary appears in Deuteronomy, in any case, only in mutilated form. Its setting is the cult in which the form of Deuteronomy was originally rooted but has been already abandoned in the book as we now have it. That is because its contents now appear in the form of homiletic instruction to the laity." In other words, what he's saying is, even though you find that treaty-covenant analogy in the structure of the book, the basic form of Deuteronomy is in the form of homiletic instruction to the laity.

He gets right back into his "Levitical Theory" that the Levites preserved this covenant form in preaching, and it's their recollection of ancient traditions preserved in the cult and passed on down the generations. So then when it comes to his conclusion of the dates of Deuteronomy, page 26, he says, "We shall suppose one of the northern sanctuaries, Shechem or Bethel, to be Deuteronomy's place of origin, and the century before 621 must be its date. There's no sufficient reason for going further back." In other

words, it's the century before 621 B.C.; that would be in the 700's. That's fairly late, and he feels that the form that you find in Deuteronomy is the form derived from the cult and preserved by the preaching of the Levites. So you see, it's really of a cultic derivation for the origin of the form, even though he recognizes the parallel with the Hittite treaty material.

### Vannoy's Analysis of the Cultic Origin Hypothesis

Now, it seems to me that the cultic origin hypothesis really doesn't give an adequate explanation for the nature of the form in question and its use in the Old Testament. It really doesn't answer the more basic question of the occasion and reason for the initial utilization of the form. When was that? He doesn't really address that.

The Bible presents the initial utilization of the treaty-covenant as being in the presentation of the covenantal materials given by God to Moses at Sinai. That is the origin of it. So as Kline says, "God used the legal instrument of the Hittite treaty form, which was the known form of it's day, as a means of presenting this covenant to his people and structuring it along the lines of that known legal instrument."

J.A. Thompson in an article called "The Cultic Credo and the Sinai Tradition" (it's on page five of your bibliography) in the *Reformed Theological Review* says this: "There seems little reason to doubt that the historical prologue in the secular treaties was the basic aspect of any treaty. Nor need we doubt that it represented, albeit perhaps in some enhanced form, a correct outline of the preceding historical events, which were paraded as a strong argument for the acceptance of the treaty by the vassal. The Historical Prologue in the treaties gives us real history, tells us of previous relationship between the great king and the vassal which provides the basis of obligation on the part of the vassal toward the great king." Alright, he says, "Von Rad does, of course, take note of the historical recital of the Sinai events when he discusses Deuteronomy and Exodus 19-24." The first part of Deuteronomy, which functions as historical prologue, goes back and reviews Sinai.

But, for Von Rad, this historical narration is merely a cultic legend of very

doubtful historicity. But the question should be asked whether a cultic legend could serve the purpose demanded. See, the way a historic prologue functions is these things really have to happen if they are going to be the basis for the ongoing relationship. Thompson says, "It ought not be assumed that a cultic liturgy should be divorced from the underlying historical events." I think that's the point. Maybe there was a preservation that's formed in the cult. That's somewhat speculative, but you see, where did it start? Where did it originate? What was the historical basis of the thing? It seems to me that that point from von Rad's cultic derivation view is insufficient. That relationship--the covenant relationship--was established on a specific *historical* occasion. The form presupposes that there was a specific historical occasion when the covenant was originally and formally established. So, under 1. "The Nature of the Covenant Form: is it Cultic or Historical," it seems to me that von Rad doesn't do justice to that question of the origin of the form. We go back to Sinai to find the setting, or the initial introduction to that form of Israel's religious traditions and beliefs.

## 2. The Evolution of the Treaty Form and its Implications for the Date of the Book of Deuteronomy

Alright, 2. We're talking about the present state of affairs in the Deuteronomy debate, 2 is: "The Evolution of the Treaty Form and its Implications for the Date of the Book of Deuteronomy." When we discussed Kline's view last week, I hope it became clear to you that a great part of his case for a Mosaic origin lies with his claim that the treaty form went through an evolutionary development in the sense that there was a classic Hittite pattern that was not duplicated in later treaties, particularly the Esarhaddon treaties and the Sefire treaties. Now, I want to look at that question a little closer precisely because that is a point that has been questioned and there is a lot that rests on it.

### a. The Vassal Treaties of Esarhaddon compared with the Hittite Suzerain Treaties

So, let's go to a) "The Vassal Treaties of Esarhaddon compared with the Hittite Suzerain Treaties. And one introductory remark: The vassal treaties of Esarhaddon were



discovered in 1955 by a British archaeologist in what is present day Iraq in a place called Nimrud. The tablets were found in a throne room of the temple of Nabu amid debris resulting from destruction of the building by fire in 612 B.C. by the Medes. These texts were found and identified as a treaty by a woman named Barbara Parker. It was a treaty made by Esarhaddon, king of Assyria in 672 B.C. There was more than one treaty but the text was the same. It's just that the treaty was concluded with the number of different individuals, and the name changes: not Esarhaddon's, but the subordinate name changes. The texts were duplicates, differing only in the names of the various rulers with whom the treaties were made. So, the treaties really were treaty texts with Esarhaddon and with various vassal states. But D. J. Wiseman published them in the volume that's called *Iraq*, volume 20, in 1958. *Iraq* is the name of the journal, volume 20, 1958.

If you look at those treaties, you'll find that certain elements are very much like those of the earlier Hittite treaties. So there are some resemblances. But in spite of those similarities, there are also some important differences. You'll see that difference immediately if you look at the structure. If you look at the structure, you'll see it follows those six elements: first, the preamble; second, gods as witnesses; third, stipulations; fourth, curses; fifth, oath of allegiance; and then sixth, another section of curses, curses in the form of similes.

Now let me make a few comments on each of those. First, the preamble: In the Hittite treaties it introduces the parties to the treaty, and in the case of these Esarhaddon treaties, it then pinpoints the purpose of the document. Esarhaddon says, "Concerning Ashurbanipal, the crown prince, son of Esarhaddon, King of Assyria." The point of this treaty was to insure that when Esarhaddon died, this particular son, the crown prince, would succeed him. So, it had to do with succession to the throne of Assyria. The purpose then was concerning Ashurbanipal, crown prince, son of Esarhaddon, King of Assyria. And this treaty was to be binding over all the rulers that Esarhaddon held power over in the Assyrian empire. There are a number of copies with different individuals that have been found. Alright, that was the preamble.

Gods as witnesses is the second section, in which you have a list of the gods in

whose presence the treaty was concluded. There's indication in the text of the ceremony in which the images of these gods were brought and before whom the treaty was officially enacted and put into effect. Seventeen deities are enumerated. So you have that list of gods.

Then there are the stipulations. The stipulations are rather narrowly focused in this sense: they are designed to ensure the permanence of the rule of Ashurbanipal as he is designated successor to Esarhaddon; that's the concern of the treaty. So what the stipulations attempt to address is every conceivable kind of situation that might be a threat to Ashurbanipal's position as successor. You almost have to read the treaty to appreciate the extent of the provisions and the contingencies they cover.

There are thirty-three clauses that the vassal swears to keep. They can be classified into five groups. First, those that ensure the loyalty of the vassal to Ashurbanipal as Esarhaddon's successor. Second, those that outline action to be taken against rebels. Third, those that preclude attempts to usurp the throne. Fourth, those that prohibit intrigue with other members of the royal household aimed at dethroning Ashurbanipal. For example, not to respond to any approaches to turn Esarhaddon against Ashurbanipal as crown prince, and not to be influenced by anyone claiming personal power to report to Ashurbanipal any plot to make division between Ashurbanipal and his brothers. Fifth, it emphasizes the perpetual and binding nature of the oaths taken. Stipulations are narrowly focused; it all has to do with security: the right of succession and the continuing power of Ashurbanipal after Esarhaddon's death.

After 355 lines of stipulations governing the vassal's relationship to Esarhaddon and Ashurbanipal, then you have the document protected by the pronouncement of the curse on anyone who changes, neglects, or transgresses the oaths of the tablet, or erases it. Each god is separately named and a particular curse characteristic of the activity of each particular god is pronounced. You had all these deities listed with the curses, and each of those deities is listed again with a particular curse linked to each one. For example, "May Shamash the light of the heavens and earth not judge you justly saying, 'May it be dark in your eyes. Walk in darkness.'" Shamash is the sun god, so you have a

curse connected with the particular characteristic of the deity involved. So you have the wrath of many of these deities invoked on someone who has transgressed the stipulation. Then fifth, an oath of allegiance. The vassals in this section swear allegiance to Esarhaddon and to Ashurbanipal, and the language here switches to the first person plural, which indicates the document was to be used in public ceremony in which people say, “We will do it.”

Sixth, there are curses in the form of similes after the oath of allegiance. You return to curses. Most of these are formulated in a style that uses similes from common observation. For example: “Just as male and female kids and male and female lambs, are slit open and their entrails rolled down over their feet, so may the entrails of your sons and daughters roll down over your feet.” It’s a long section with similes of that sort called “curse similes.” D. J. Wisemen suggest that a number of them, if not all of them, may have been demonstrated before the people to vividly illustrate the results of the breaking of the treaty. In other words, maybe pieces of the entrails of male and female kids rolling down over their feet. They may have sliced some of these animals open to demonstrate and show what will happen to you. You almost have to read this to get the picture. For example, “Just as rain does not fall from a brazen heaven, so may rain and dew not come upon your fields and meadows. May it rain burning coals instead of dew on your land. Just as a starving ewe puts the flesh of her young in her mouth, even so may you feed your hunger with the flesh of your brothers and your sons, your daughters. Just as a snake and a mongoose do not enter and lie down together in the same hole and think only of cutting each other’s legs off, so may you and your women folk not enter the same room without thinking about cutting off each other’s lives.” After that section the treaty ends rather abruptly with the date and a brief statement of the treaty’s concerns, and that is Ashurbanipal being appointed crowned prince and successor then to Esarhaddon. That’s a brief survey of the form.

### 3. The Absence of the Historical Prologue

Number three of the outline begins to draw some contrasts and the differences

between the Assyrian treaty pact and the Hittite. Number 3 is: “The Absence of the Historical Prologue.” As we noted earlier, the Hittite treaties have a rather consistent form with little deviation. The most striking contrast between the Hittite treaties and the Assyrian is that second section of the Hittite treaty form is not found in the Assyrian treaty form. Remember the Hittite treaties went like this: preamble, historical prologue, stipulations--basically detailing curses, witnesses, and blessings. The Assyrian treaties do not have the historical prologue. Now that’s an important difference for this reason: the historical prologue in the Hittite treaty sets the tone of the treaty. It’s on the basis of the benevolent act of the great king that are numerated in the historical prologue that the vassal has a sense of responsibility and obligation to obedience through the treaty’s stipulations. So you get the historical prologue, which is followed by the stipulations. The historical prologue provides the sense of obligation on the part of the vassal to the benevolent great king.

So it’s on the basis of those beneficent acts that the great king justifies the demand for observance of the stipulations. There is a historical prologue, or at least room for one, on broken texts of every presently available Hittite treaty. Now I say that even though that’s a point of debate.

The initial study of the Hittite treaties before Mendenhall called attention to the analogy between the Old Testament covenant materials and the Hittite treaty set. The treaties had actually been published long before that and had been studied, but the connection had never been made with the covenant underlying the Old Testament. There was previously a Hungarian fellow, Victor Korosec, who published a volume in 1931 in Germany discussing the Hittite treaty texts. There was a standard treatment of the Hittite treaty text that this book had without the biblical comparison. Korosec said in 1931 of the historical prologue, “The constant recurrence of such expression shows that in Hattusa,” (capital of the Hittite empire,) “one regarded it as an essential element of every vassal treaty.” In his study of the texts, that was his conclusion.

Now more recently throughout the work of D. J. McCarthy, they published this volume, *Treatment of Covenant*, I believe that’s on your bibliography, which has now

come out in a later edition even than this one. The top of page 5, *Treatment of Covenant*, 1978, McCarthy contests the idea that every Hittite treaty has a historical prologue. And he says some of them don't have a historical prologue, and consequently he says the historical prologue was not an essential element in treaty form.

#### H. Huffman's Response to McCarthy

Now you get involved in a lot of detailed discussions about that issue, but let me just call your attention to McCarthy who says it is not an essential element in the form. Herbert Huffman disagrees with McCarthy on that. I don't have it on your bibliography, unfortunately, but Herbert Huffman wrote an article called, "The Exodus, Sinai, and the Credo" in the *Catholic Biblical Quarterly*, Volume 27, 1965 pages 109-110. And he interacts with McCarthy on this question. He supports Korosec. Huffman says, "The omission of the historical prologue, and the tendency for more elaborate and colorful curses in the first millennium treaty," (that is the Esarhaddon treaty,) "represents a basic change in the concept of the treaty relationship. Power replaces persuasion such that although the treaty form continues to be the same in many respects, it is misleading to state that the treaty remains basically unchanged, contra D. J. Wiseman and McCarthy, who minimize the difference in the treaties."

Now, I won't take the time to go into the detailed discussion of that, but let me just mention McCarthy says five of the treaties, the early treaties, do not have a historical prologue. And so he says history was not an essential element of the treaty form. Now Huffman points out, if you look down here at the five treaties that McCarthy says are missing a historical prologue, Huffman analyzes all five of them and concludes that McCarthy really doesn't have a basis for the conclusion he's drawing looking at those treaties.

For example, the first one, the treaty between Mursilis II and Nicmetpah of Amurra, Huffman says it does have a prologue, but it is a very short one. It says, "As for you Nicmetpah, I restored you to your country and caused you to sit as king on the throne of your father." That's a historical prologue. It's one sentence, but you can see what

Huffman's saying is, the historical prologue is there even though McCarthy says it's not. I think Huffman is right.

The second one, the treaty between Mursilis II and Kiaseilis, is a fragmentary treaty; it doesn't have a prologue in the expected place, but Huffman says that's not decisive. He says although McCarthy states that in no instance does the historical prologue occur anywhere except between titles and stipulations, he has overlooked the Hittite version of the treaty between Suppiluliuma I and Arziras in which the sequence is preamble, stipulation, prologue. Now he finds there is a prologue in this text, but it's in a different order; it doesn't follow the standard order.

The third one, the treaty between Suppiluliuma and Hukkanas does have a prologue, again it's brief. "See, you, Hukkanas, I have received you as a simple but capable man, have honored you and have received you and Hattusas in the midst of the people and have introduced you in a friendly way. I have given you my sister for a wife." This functions as a historical prologue.

So I won't go through four and five, but with all of them you get into a rather technical debate. Does the treaty have a prologue or not? McCarthy says no, but then Huffman has shown that they do. There's a reasonable response. So that the absence of the historical prologue is a deviation from the Hittite form and it's an important one, as I mentioned before, because the prologue sets the tone for the treaty. Instead of a loving, trusting relationship between the treaty partners, when you get to the Assyrian treaties, there is no historical prologue. There are no benevolent acts of the great kings that are enumerated first; instead you have the imposition of raw power on the vassal. The vassal has to do all these things or else you have a double list of curses that he's to be plagued with if he doesn't.

So the lack of a historical prologue is not only the difference in literary form, but it also sets a very different spirit in connection with the relationship between the treaty partners. So the quality of the relationship established between the suzerain and his vassal is quite different.

We need to take a 10 minute break and then we'll come back and look at this some more.

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