

Robert Vannoy, Deuteronomy, Lecture 7

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Historical Implications of Covenant Form, Sitz im leben

Review

We were on page 3 of the outline down through 2b. We spent most of last week discussing 2. “The Evolution of the Treaty Form and it’s Implication for the Date of the Book of Deuteronomy,” and under that we looked at “a” and “b” which was “A Closer Look at Both the Assyrian Treaties of Esarhaddon and the Aramaic Treaties,” which is “b” from Sefire and comparing the structure format of those treaties with the Hittite treaties. I think that’s where we stopped after “Conclusion after Looking at the Aramaic Treaties.” We didn’t discuss c. “The Implications of the Treaty Covenant.” I said in conclusion that Kline does have good reason to talk of the evolution of the treaty form.

C. “The Implications of the Treaty Covenant.” -- J. Thompson: Early Monarchy Dating Contra Kline

Then that brings us to this other thing with J. Thompson. You are reading Thompson, and in his IVP book in the Tyndale series, pages 51-52, he expresses some reservations about Kline’s conclusion. Thompson himself then argues for a date of Deuteronomy in the 11th-10th centuries B.C., which would be the period of Solomon and David. He sees Moses behind the work, but feels editorial processes have brought it to the point where it’s in the form we have it now. So as far as Thompson’s book is concerned, he certainly is not advocating the Wellhausen 7th century-621 B.C. kind of date. It’s either Solomon-David’s time, and substantial parts of it are even Mosaic, but the editorial processes involved took place in the time of the United Monarchy.

1. Deuteronomy’s Form Shaped Long After Moses

His reservations about Kline’s view, I think, are basically two: one is that, in his view, he feels that Deuteronomy could have been put in the shape of the treaty form by someone writing long after Moses’ time. That’s the bottom paragraph there on page 51.

“The possibility must be allowed that Deuteronomy was cast in the shape of an ancient treaty by someone who wrote long after Moses’ day.” Now, in that view, Thompson’s basic thesis is not much different than that of a man named Frankina—I believe it’s in your bibliography—if you look at page 4 of your bibliography, R. Frankina, “The Vassal Treaties of Esarhaddon and the Dating of Deuteronomy.” In that article, Frankina argues dependence, particularly of the treaty curses in Deuteronomy chapter 28, on Assyrian treaty curses, and he feels that that is something that is an argument for late date of Deuteronomy. It’s put in that treaty terminology and expression of late time. Frankina argued that, and also Moshe Weinfeld, whom I mentioned last week. That’s in Moshe Weinfeld’s book *Deuteronomy and the Deuteronomistic School*. He feels that the treaty form in Deuteronomy is to be ascribed to court scribes in the time of Hezekiah and Josiah, so that the form was imposed on the material at a late date. Now Thompson doesn’t go that late, down to Hezekiah and Josiah, but in principle, you see, what he’s saying is that “the possibility has to be open that the shape of the treaty form is given to Deuteronomy by somebody living long after the time of Moses.” So that’s one thing he says.

2. Thompson Doesn’t See Historical Prologue as Strong Date Indicator

Another thing in opposition to Kline’s argument has to do with the historical prologue. Thompson says that the historical prologue argument is not strong. What does the absence of the historical prologue argue? The historical prologue argument is that Assyrian and Aramaic treaties don’t have one and the Hittite treaties do and that’s one of the contrasts. It’s not the only contrast, but one of the contrasts, and certainly it’s an important contrast because it affects the tone and the character of the treaty as well as the treaty of the relationship. But he says, “that argument’s not sound because the Assyrian and Aramaic treaties may either have ‘assumed a prologue’ or it may have been stated orally.” In other words, you don’t see it there, but maybe it was assumed—which is quite an assumption on his part. He says maybe it was stated orally. Maybe there was some oral previous history given before the conclusion of the treaty arrangement. He suggests

further that with the Aramaic treaties from Sefhire, some of them are broken on the top. He says that maybe the historical prologue was there in the broken section that we don't have anymore. So he tries to weaken the historical prologue argument in that way.

In addition, he claims evidence of a 7th century text with a historical prologue. In other words, he seeks to turn the argument around. He finds evidence, he says, of a 7th century treaty text—which would be late—that does have a historical prologue. If you're going to argue then on the basis of the evolution of the treaty form that the early treaties had a historical prologue, the late ones don't, then you come up with a late treaty that does have one, it weakens the argument of the evolution of the treaty form as being conclusive. But those are his basic arguments. See at the top of page 52: He says, "But in fact, there is a 7th century B.C. treaty where the historical prologue occurs," and in his footnote he refers to A.F. Campbell for a historical prologue in a 7th century treaty text published in *Biblica*.

3. Response to Thompson and Late Treaty With Historical Prologue

So, in response to those two points of Thompson—first in response to that latter point: that text that he cites is a text that is disputed in itself. Whether that's clear evidence of a historical prologue in a 7th century text is not so clear. There's another article, it's in your bibliography, and this can get confusing because the article he cites is by A.F. Campbell, but there's an article by an E.F. Campbell. If you look on page four of your bibliography, they're right under each other. A.F. Campbell is the one he cites, but right under it there's an article by an E.F. Campbell called "Moses and the Foundations of Israel." E.F. Campbell in that article says, "The text in question [the one he is referring to] is very fragmentary, especially in the beginning, and the reading is far from clear." I haven't ever seen that text, but it's a disputable text, apparently.

More recently, the article you've been assigned to read is by K. A. Kitchen, which is basically an analysis of that book by Nicholson, *God and His People: Covenant and Theology in the Old Testament*. In Kitchen's analysis of that, page 132, note 37—he says, "The works of McCarthy and Weinfeld from which Nicholson draws, obscure the

clear differences between the 14th/ 13th century treaties in the first example. The former treaties have, while the latter do not have, historical prologues.” So again you see it’s that contrast. The early ones have it, Kitchen says, the latter ones do not have it. Then he has this footnote: He says, “The supposed space in the treaty of Ashurbanipal and Kidar is not a prologue. After the now lost title and witnesses, just one historical allusion occurs, used to justify Ashurbanipal’s dispositions that follow.” So Kitchen there is also arguing that this appeal that Thompson makes to the occurrence of a historical prologue in a 7th century text is really not a historical prologue. So I’m really not so sure that the point that Thompson makes there has a good foundation.

The other basic point that he makes that “Someone cast Deuteronomy in the shape of a treaty form long after Moses’ time.” That’s of course possible; you can’t rule that out, but it seems to me very unlikely that that’s a good explanation for the shape of Deuteronomy. And certainly that doesn’t disprove Kline’s thesis--it gives you another model--but it certainly doesn’t disprove Kline’s thesis that says it should be Mosaic because the materials to which it most closely corresponds come from the Mosaic era. I think that remains the strongest argument for Kline, and to say, “Well it’s been cast in that form by somebody much later,” anybody can make assertions like that, but certainly Thompson can’t prove that. It seems to me that the weight of the evidence goes in the direction of Kline.

Student question: Why would someone make such a hypothesis?

Vannoy: That’s exactly the point. I’ve wondered that myself. It surprises me that he does because Thompson’s generally fairly conservative in his views. I don’t know what is the decisive factor for him. There’s one other thing that he mentions that I’ll come back to in a minute, and that’s what he calls a Post-Mosaic element in Deuteronomy. That may be another factor. But those questions, I think, have been adequately discussed. I don’t know why he goes that direction. It seems to me that the weight of the evidence points in the Mosaic direction.

So it seems to me those two points--the prologue argument and the possibility that someone cast Deuteronomy in the shape of the treaty form long after Moses day--really

don't give Thompson a very strong case against Mosaic origin. Kline comments, in his *Structure of Biblical Authority*, page 10, "If it is once recognized that the Deuteronomic treaty must have been produced whole for a particular occasion, the pervasive orientation of the book to the situation of Israel in the Mosaic age, and especially the central concern of this treaty with, of all things, the dynastic succession of Joshua, is always awkward for advocates of a 7th century origin of the book. It becomes quite inexplicable for them." I think he's right in that. If somebody's going to push it later, why such emphasis on the succession of Moses to Joshua? It's appropriate for the time in which it represents itself to have been written, but meaningless after that.

4. McConville's Conclusion

McConville, you're reading his book, discusses this matter of the treaty form as well. In the conclusion to his entire book, page 159, he says this: "A final word is in place on the treaty form of Deuteronomy. We saw that the linguistic connections between chapters 1-11 and 12-18 as indeed the formal parallel between chapters 7 and 12, served to point up the relationship between Yahweh's action on Israel's behalf in chapters 1-11, and Israel's response to that action in chapters 12-18." So chapters 1-11 is basically historical material and the basic stipulations, whereas chapters 12-18 is Israel's obligation. So what he's saying is in the first eleven chapters you have Yahweh's action, and then in 12-18 you have Israel's response, and he says, "This shows that the discernment of the treaty's form in Deuteronomy is not the matter of identifying the extent of the various constituent parts of the treaty, rather the action-response characteristic of the treaty is found to be represented at a deep level in the language of the book. We expressed doubt in an earlier stage of our study whether the recognition of a form more or less equivalent to that of the Hittite treaties was really compatible with the belief necessitated by the Deuteronomistic theory that that form was only arrived at in the latter stages of the book's composition, around the time of the exile. We have found a number of reasons to challenge that theory [i.e., J E D P] in a fundamental way. It seems to the present author that Deuteronomy studies should in the future pay attention to the

implications of treaty form, which clearly have not been exhausted, rather than continue to seek the key to an understanding of the book in a theory which cannot survive close scrutiny.” So that’s McConville’s comments on this whole question.

5. Kitchen’s Conclusion

Then just one final quote from K. A. Kitchen’s other article that you are reading called “Ancient Orient ‘Deuteronism’ and the Old Testament” in the volume *New Perspectives on the Old Testament*, edited by J. Barton Payne. On page 4 of that article Kitchen says, “The present writer cannot see any legitimate way of escape from the crystal clear evidence of the correspondence of Deuteronomy with the remarkably stable treaty, or covenant, form of the 14th-13th centuries B.C. Two points follow here. First, the basic structure of Deuteronomy and much of the content that gives specific character to that structure must constitute a recognizable, literary entity. Second, this is a literary entity not of the 8th or 7th century, but rather around 1200 B.C. at the latest. Those who so choose may wish to claim that this or that individual law or concept appears to be of latter date than the late 13th century B.C. But it is no longer methodologically permissible gaily to remove essential features of the covenant form on a mere preconception, especially of 19th century A.D. vintage, of what is merely thought, and not proven to be late.” In other words, again, he’s challenging the whole Wellhausen idea of analysis of Deuteronomy on the basis of the treaty structure form.

6. Thompson’s Other Objections to a Mosai Authorship

a. Deuteronomy based on Prophets not vice versa

Now, Thompson’s reservations. First of all, he questions—as I’ve mentioned—this strength of Kline’s argument on the treaty covenant analogy. But then he also speaks of some other things that make him conclude that the book is not Mosaic. And he cites two arguments that have long been used by advocates of the late date for Deuteronomy. Those are first (this is on p. 52), that “passages in the prophets reminiscent of Deuteronomy don’t prove that the prophets knew Deuteronomy. It’s possible that

Deuteronomy was based on the prophets.” In other words, you find certain similarities of language and connection between certain sections of the prophetic books and the book of Deuteronomy. Of course, the argument has often been made that Deuteronomy was first and that the prophets reflect their familiarity with Deuteronomy. He says those passages don’t prove that the prophets knew Deuteronomy; it’s possible that Deuteronomy was based on the prophets. It suggests that prophets were first, then Deuteronomy comes later. Well, again, I think all that’s shown by that statement is how difficult of an argument that is to use. To prove priority is difficult even though with the prophets and Deuteronomy you often find allusions between two passages where you find similar terminology. Take the passage in Obadiah and the one in Jeremiah 49 about Edom, and that’s been argued both ways. Some say Obadiah is dependent on Jeremiah because the language is so similar. Others say Jeremiah is dependent on Obadiah. It’s a very hard argument to prove priority one way or the other with any kind of conclusiveness. So again, I don’t know why he says, “The argument is not conclusive for these parallels do not necessarily prove the 8th century prophets knew Deuteronomy, either in it’s developing form or its final form.” I think that’s true, but I think that the whole argument is a very difficult one to use in any kind of conclusive way.

He’s actually saying that if Deuteronomy is in the time of Solomon or David and the United Kingdom, this is pretty prophetic, and he’s not arguing against that. He’s arguing against those who use this analogy—he’s really just showing that this argument is not a conclusive argument. I wouldn’t take issue with that. It fits with a Mosaic date, but I don’t think you can prove a Mosaic date that way.

In Thompson’s large commentary on Jeremiah, that terminology is used in so many different ways. How does he define “Deuteronomistic school”? I’m not sure. If he is saying there were those around who were influenced by the book of Deuteronomy, who were in turn influenced by Jeremiah and the book of Jeremiah, that’s no problem. Which way is the influence going? Did Jeremiah influence the writing of the book of Deuteronomy? In other words, was his preaching that which helped develop this Deuteronomistic school that then produced Deuteronomy, or is it that Deuteronomy’s

influence came down through the centuries and helped structure the language of Jeremiah? It seems to me that there's no problem with that if the latter is what he means by it, but I'm not certain. I would hope that's what he means by it.

b. Post-Mosaic Additions to Deuteronomy

The second thing he says is that there are post-Mosaic additions to the book. This is further down on page 52. He says, "If a Mosaic authorship is accepted, the question arises as to what place, then, must be allowed to post-Mosaic additions? Some of those who contend for Mosaic authorship place these at a minimum. Clearly, the account of the death of Moses in chapter 34 must be post-Mosaic. Some of the geographical expressions in the book are of particular interest from this point of view. Apparently, the land of Canaan is viewed from inside Palestine. The expression "beyond Jordan" has often been taken as a post-Mosaic expression because it appears to imply that the speaker is standing in Palestine." He admits then, later on, that the expression 'beyond the Jordan' might mean "in the region of Jordan," the expression often lacks the definition. I think that's true. I don't think you can make an argument for that geographical expression "beyond the Jordan" in a conclusive kind of way that this expression must be post-Mosaic. Nor does the account of Moses' death being included in the book of Deuteronomy disturb me. I have no objection to that being appended to the end of the book after Moses' death. The whole book is leading up to that, and to put a final note there to tell you, "Yes, he did die," doesn't seem to me to be a major difficulty with accepting the Mosaic origin of the book.

That "beyond the Jordan" expression: Let's look at that a little closer. It occurs quite a few places, sometimes with reference to the eastern side of the Jordan, in other words, what we know as Trans-Jordan. For example, already in the first chapter, and this is why the thing has been discussed quite a bit (See in Deuteronomy 1:1), "These are the words which Moses spoke unto all Israel." King James says "on this side of the Jordan." In Hebrew, that's *beevar haYordan*. Now you see, some have translated that, "These are the words which Moses spoke unto all Israel beyond the Jordan." Where did he speak the

words of the book of Deuteronomy? In the plains of Moab. It says, “He spoke it beyond the Jordan.” Here’s the Jordan and here’s the plains of Moab. So it sounds like the viewpoint of the author is over here, on the west side of the Jordan from inside Canaan. And you have that used in Deuteronomy 1:1, and 1:5 again. The King James says, “On this side of the Jordan, in the land of Moab” but it’s the same expression. It’s in Deuteronomy 4:41, 4:46 etc.

However, to counter that, the same expression occurs in Deuteronomy 3:20 of the western side. See 3:20, “Until the LORD has given rest unto your brethren, as well as unto you, and until they also possess the land which the LORD your God has given them *beever haYordan*,” beyond the Jordan. “And then shall he return every man to his possession, which I have given you.” That’s speaking of the land given to the 2 ½ tribes that were going to stay on the east. But it’s talking about those going to the west, and “beyond the Jordan” there is the other way. That’s Deuteronomy 3:20. In verse 25, “Let me go over and see the land that is beyond the Jordan, that goodly mountain, and Lebanon.” That’s clearly speaking of the western side from the standpoint of the plains of Moab.

But then what even makes this more confusing, look at chapter 3. And you see that’s why I’m not even certain why he uses these arguments or why he says, “The expression is often lacking in definition and it’s a very hard thing to pinpoint.” What is even more interesting is it’s used 24 times in the Old Testament, this expression, with a qualifying clause, such as “towards the sea” which would mean west, or “towards the sunrise” beyond the Jordan towards the sunrise, which would mean east. In other words, those qualifying clauses added to it indicate that the phrase itself is not decisive with respect to the place of the speaker. It seems like it’s a rather ambiguous phrase. It seems like you just have to translate it depending on the context. Like in chapter three, it’s clear that one reference is referring to one side and the other reference is referring to the other, and you can’t then base much on the standpoint that the writer from looking at that expression.

It seems that it’s simply a phrase that is in reference to the Jordan but the phrase

can be used in either form to refer to both sides, generally meaning “in the region of the Jordan.” It’s almost like “Transjordan,” but applying it to this side or that side depending on the context. It doesn’t seem like it’s a particular place; it seems like it’s referring to a region. Either one side of the Jordan or the region on the other side of the Jordan.

Why is it that Thompson is arguing against Mosaic date? I’m not too sure because I don’t think he’s arguing against the treaty form or the bringing up of the death of Moses and this kind of expression—these things have been discussed for a long time and are not conclusive, but in any case, he argues against Mosaic authority.

Well, I don’t think Thompson’s case is convincing, and as far as I’m concerned, the treaty covenant analogy remains a forceful new argument for the Mosaic date of origin. I don’t think it’s proof; I don’t think you can talk in terms of proof, but I think it gives a forceful new argument that wasn’t around 20-25 years ago for Mosaic authorship.

c. Rejection by Some of the Treaty/Deuteronomy Analogy Altogether

The interesting thing is, and you all can pick this up from reading Kitchen, Nicholson has now come along just recently in 1986 and denied the analogy all together. That’s the thesis of this book, that there isn’t any analogy between the treaty form and the covenant form. Now, you will read Kitchen’s review of that, so I don’t want to get too into the details here. But he’s questioned not just the date at which Deuteronomy acquired the treaty form, which Frankina and Weinfeld and Thompson seem to do, but he questions the treaty covenant analogy itself. He rejects it and wants to go back to the typical Wellhausen. So it’s interesting. Anywhere you get the idea of covenant and Israel before the assumed late date of Deuteronomy he assumes it is retrojected back into earlier times. The idea of covenant-treaty itself did not exist earlier. That, however, flies in the face of all the evidence. It’s interesting what scholars can do with arguments like that because that seems to me treaty-covenant to be almost irrefutable. Kitchen makes that very clear; he has a good response. Apparently this is his initial response, and he’s going to elaborate on it and make a much more thorough treatment later.

d. Curses Debate

George Mendenhall, 1954, in an article in *The Biblical Archeologist* drew the first attention to this parallel between the Hittite treaties and the biblical covenant. That's part of Weinfeld's argument, in a sense. If you go to some of the treaty curses, for example, Frankina will cite from the Esarhaddon treaties some of the curses and show how close they are to the curses of Deuteronomy. Now, if you have the Hittite treaties, way back there in the 1200s, and the Assyrian treaties up here, say around the 700s, and then you find an Assyrian treaty parallel to Deuteronomy, Weinfeld and Frankina argue that Deuteronomy borrowed from the Assyrian treaty because the wording of curses is so close. Kline's counter to that is the formulation of things like curses—Kitchen does the same thing—formulations of things like the curses become so stereotyped as types of expressions that the formulation can continue on for centuries. So it's certainly possible that Deuteronomy can be formulated back in the 1200s and have a formulation of a curse to something you would find in an Assyrian treaty 700 years later because of continuity in the stereotype expressions that you find in things like curses. Kitchen illustrates that example in the Egyptian period where you see the same kind of phraseology demonstratively in texts that are centuries apart in time.

e. Reflections on the Overall Structure

But you see, what you're talking about here is not the whole structure of the time: What you're talking about are isolated elements within the structure where there might be a similarity--and it's true, they did find similarities--but the parallel in structure is early. The blessings and cursings are part of the structure, but it's only one unit of the structure.

I don't think you want to push these things too far forcing it—I mean, what you have in Deuteronomy compared to the Hittite treaty, you've got both similarities and differences. The basic outline and structure of it you find, but beside that you can get into a whole definition of how you define those elements. There's a sense in which you can say that the whole covenant relationship itself and the covenant form is a form of an oath. What is a covenant? It's an elaborate form of an oath. There are sanctions involved. So,

in a sense, the whole thing is an elaborate form of an oath. Israel repeatedly says at Sinai, “Yes, the Lord has said to us...” and that’s an oath where they accept the covenant. They do that again in Joshua 1:4. So I think you can find the oath early. Covenant and oath are almost synonyms.

f. Moses’ Words

Kitchen’s review says Nicholson ignores all the evidence from other covenants because the term is used in other literatures very early on, and Nicholson ignores it. The use of the term “Moses” may not refer specifically to the authorship, but may refer to the Pentateuch as a whole from Moses. The other two titles used as the analogies, that doesn’t suggest anything about authorship or responsibility for the material, but when it says “Moses,” it seems to me that they’re assigning responsibility to an individual by name.

I would say the evidence goes against what Thompson was suggesting that the servant Moses spoke certain words and also that he wrote certain words, but it’s extremely difficult to decide what words Moses recorded in Deuteronomy are his, or whether they are the record of Moses’ words through the process of transmission. This is a good place to take a break then.

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