

Andrew Rehfeld

Jephthah, the Hebrew Bible, and John Locke's 'Second Treatise of Government'



Abstract: The story of Jephthah (Judges 11–12) includes such political elements as a legislative power that appears to transfer its authority directly to a third party; a denial of the Ammonites' "native right" to intergenerational justice; and God's active intervention in the affairs of man to deliver the Israelites' victory in war. Perhaps the most famous aspect of the story is the vow that accompanies Jephthah's appeal to heaven, which ends up obliging him to sacrifice his own daughter. These central elements of the Jephthah narrative run counter to John Locke's political theory as set forth in his Two Treatises of Government, yet this work refers to the Jephthah pericope time and time again. This essay will present Locke's repeated employment of the tale of Jephthah, particularly in the 'Second Treatise,' as a multi-layered problem with significant implications for future scholarship on Locke's use of the Bible and for political Hebraism more generally.

But the Conquered, or their Children... may *appeal*, as *Jephtha* did, to Heaven, and repeat their *Appeal*, till they have recovered the native Right of their Ancestors....

—John Locke, "Second Treatise of Government," section 176¹

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¹ All emphases in the original unless otherwise stated. Spelling and capitalization in quotes from Locke's *Two Treatises* follow John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988).

1. LOCKE'S JEPHTHAH PROBLEM

References to the Hebrew Bible are relatively scarce in John Locke's "Second Treatise of Government"—relative, that is, to their prominence in his "First Treatise". Even if Locke's argument in the "Second Treatise" depends on God and natural law,² it does not depend on the authority of Scripture. On the contrary, the argument is an original one, mapping out the implications of natural law for political authority. Why, then, does Locke refer to the biblical story of Jephthah throughout the work?³ The use of the story is even more striking considering that, far from supporting the argument set forth in the "Second Treatise", it actually *undermines* Locke's key ideas concerning the scope of paternal authority, intergenerational justice, and the expectation of divine deliverance from human action.

One response to the apparent contradiction between the Jephthah story and Locke's ideas is simply to write off Locke's references as part of his quirky or careless interpretation of the Hebrew Bible. Such is the dominant approach within the secondary literature, treating Locke's use of the Bible as consistent with the rhetorical conventions of his age.⁴ But the fact that scholarship has tended to note, uncritically, *that* Locke referred to the Jephthah story, and has not considered the contours of the story itself, has meant that the problems the story presents for Locke have gone unexplored. Once explicated, the references to Jephthah become difficult if not impossible to dismiss as rhetorical flourish or mere "proof texts."

² Jeremy Walron, *God, Locke, and Equality: Christian Foundation of John Locke's Political Thought* (New York: Cambridge University Press, 2002).

³ The story appears in sections 21, 109, 176, and 241.

⁴ Fania Oz-Salzberger, "The Political Thought of John Locke and the Significance of Political Hebraism," *Hebraic Political Studies* 1:5 (2006), pp. 568–592; Richard Ashcraft, *Locke's 'Two Treatises of Government'* (London: Allen & Unwin, 1987); John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the 'Two Treatises of Government'* (Cambridge: Cambridge University Press, 1969); David Foster, "The Bible and Natural Freedom in John Locke's Political Thought," in Douglas Kries, ed., *Piety and Humanity: Essays on Religion and Early Modern Political Philosophy* (New York: Rowman & Littlefield, 1997), pp. 181–212; Peter Laslett, "Introduction," in Locke, *Two Treatises*, pp. 3–122. Exceptions to this tradition are Samuel Moyn, "Jephthah, John Locke, and Just War," *Cardozo Law Review* (forthcoming); and Michael P. Zuckert, "An Introduction to Locke's *First Treatise*: Locke and the Old Testament," in Zuckert, *Launching Liberalism: On Lockean Political Philosophy* (Lawrence, Kans.: University Press of Kansas, 2002), pp. 129–146. I discuss the secondary literature on Locke's use of the Bible in section 5.1, below.

What could explain Locke's odd use of the Bible in the "Second Treatise"? Historians of political thought must square the problem identified here with the well-established fact that Locke knew the Bible well and had definite views on how to interpret it.⁵ These scholars must either prove the problem illusory or explain, historically, what other purpose Locke had in mind in referring to such an ill-fitting narrative.

In what follows, I will do none of the above. The purpose of this article is merely to articulate a problem scarcely mentioned and generally unnoticed in the vast literature on Locke's work.⁶ I intend to address two distinct audiences. First, I hope to raise an intriguing new problem for Locke scholarship, all the more important because it appears in what is likely his most widely read text. Second, I hope to raise a set of problems for those interested in political Hebraism: the study of the use of the Hebrew Bible within political theory. These two strands are closely related. It is quite likely that the secondary literature on Locke has ignored the problem of Jephthah because it was presumed that the author was simply peppering his argument with common biblical allusions rather than taking their content seriously. Equally problematic, the new turn to political Hebraism is dominated by an uncritical cataloguing of the uses of the Hebrew Bible without analyzing them.⁷ The only way to advance these concerns—among Locke scholars and among those studying the use of the Hebrew Bible as political theory—is to identify hard cases at the margin. That is the purpose of this paper and the reason the articulation of the problem itself is worth pursuing.

The article continues over five substantive sections. For the benefit of contemporary readers, section 2 contains a summary of the Jephthah pericope as it appears in the book of Judges. Section 3 explicates the problems the Jephthah narrative poses for Locke in the particular places he employs it. Section 4 considers how the story undercuts Locke's argument. Section 5 ponders how Locke read the Bible and whether he likely knew that the tale in question involved the problems identified here. This section also considers the virtual silence of the secondary literature on this topic. Finally, section 6 paves the way for future research by presenting some initial hypotheses regarding why Locke used the Jephthah story.

⁵ John W. Yolton, *A Locke Dictionary* (Cambridge, Mass.: Blackwell, 1993).

⁶ Moyn, "Jephthah, John Locke," is an exception. Moyn agrees that the story has been ignored.

⁷ I illustrate this claim in section 6, below.

2. THE STORY OF JEPHTHAH

The story of Jephthah appears in chapters 11 and 12 of the book of Judges, the seventh book of the Hebrew Bible.⁸ In the first five books, the Israelites were formed as a distinct people, enslaved in Egypt, and delivered from slavery by Moses, who subsequently gave them their law. Following the nation's forty years of nomadic existence in the desert, Moses died, passing his leadership on to Joshua. The book of Joshua, the sixth book of the Hebrew Bible, recounts the Israelites' conquest of biblical Israel—in which God frequently intervenes on their behalf—and concludes with Joshua's assigning territorial portions to most of the tribes of Israel.⁹ Having opened with the invasion of Jericho, the book closes with the Israelites' having conquered the land, destroyed most of the peoples who had lived there, and emerged in relative peace.¹⁰

After reporting the death of Joshua and his generation, the book of Judges begins a new narrative. In chapter 2, the Israelites begin to stray earnestly from the path of their given law, doing “what was offensive to the Lord.”¹¹ They soon fragment as a people, and much of the book of Judges describes the moving back and forth between oppression by foreign leadership, anarchy brought about by civil war, and sporadic tranquility under the Israelites' own rule.

The fortunes of the Israelites ebbed and flowed, and more and more seeds of internal discord were sown. In Judges 9, we encounter the first civil war among the Israelites, begun by Abimelech (to be singled out by Locke in the “Second Treatise,” section 109). Abimelech was the son of Gideon, whose mother—a “concubine in Shechem”¹²—kept him from a share of his father's inheritance. Upon Gideon's death, his tribe was ruled by his seventy brothers. Seeing an opportunity for advancement,

⁸ This section is meant only for readers less familiar with the basic narrative of the Hebrew Bible, and the Jephthah story in particular. It is not meant to be a particularly original interpretation, although I do note points of interest to Locke's account along the way in the footnotes.

⁹ The tribes of priests and Levites were devoted to Temple service and as such were to receive no land. In Numbers 35 they were granted portions, but there are conflicting narratives in the book of Judges.

¹⁰ The brutality of the biblical conquest of the land (including forgoing negotiated settlements and destroying all men, women, and children—and often their possessions) is justified in the Hebrew Bible by divine promise and covenant. It is inconsistent with Locke's own views of the rightful acquisition of land, a point of some importance to the later Jephthah story.

¹¹ Judges 2:11. All biblical quotes and paraphrases are based on *The JPS Hebrew-English Tanakh* (Philadelphia: The Jewish Publication Society, 1999).

¹² Judges 8:31.

Abimelech appealed to his maternal family—the Shechemites—to help him unify rule over the Gideonites. “Which is better for you?” Abimelech asks his mother’s dynasty. “To be ruled by seventy men... or to be ruled by one man?”¹³ After he and his men slay sixty-nine of his seventy brothers (Yotam, we are told in Judges 9:5, went into hiding), “all the citizens of Shechem and all Bethmillo convened, and they proclaimed Abimelech king.”

Abimelech’s peace did not last long, but not for want of trying. After three years, a rebellion arose from within that he viciously repressed, killing “about a thousand men and women” by fire (Judges 9:49). When he attempted to burn down the tower at Thebez where “all the citizens of the town, men and women, took refuge,” Abimelech was struck by a millstone that a woman dropped on his head.

He immediately cried out to his... arms-bearer, “Draw your dagger and finish me off, that they may not say of me, ‘A woman killed him!’” So his attendant stabbed him, and he died. When the men of Israel saw that Abimelech was dead, everyone went home. (Judges 9:53–55)

Following the death of Abimelech, the Israelites lived in relative peace for forty-five years but “again did what was offensive to the Lord” (Judges 10:6). For eighteen years, the Bible recounts, “all the Israelites beyond the Jordan, in [what had been] the land of the Amorites in Gilead” were “battered and shattered” (Judges 10:8). Frustrated by their infidelity to his law, God declares, “I will not deliver you again” (Judges 10:13). But as the Ammonites gathered for a final assault on the Gileadites, determined to take back the land the Israelites had conquered, and as the Israelites re-committed themselves to serve Adonai, God’s will weakened, foreshadowing his deliverance of the Israelites once again: “He could not bear the miseries of Israel” (Judges 10:16). Meanwhile, the Gileadite leadership set the conditions that would establish Jephthah’s rule: “The troops—the officers of Gilead—said to one another, ‘Let the man who is the first to fight the Ammonites be chieftain over all the inhabitants of Gilead’” (Judges 10:18).

¹³ Note the similarity between this argument and Hobbes’ view in *Leviathan* that individuals would be better off under the centralized rule of a single ruler than under the threats and uncertainty of a multitude, a point Locke explicitly rejected: “He being in a much worse condition who is exposed to the Arbitrary Power of one Man, who has the Command of 100,000.” Locke, *Two Treatises*, II, § 137, p. 359. Admittedly, Locke was imagining the trade-off between one ruler and 100,000 equal citizens, and here the biblical story is contrasting a single ruler with multiple *rulers* within government. Nevertheless the logic is strikingly representative of the differences between Hobbes and Locke.

“Jephthah the Gileadite was an able warrior, who was the son of a prostitute” (Judges 11:1). Casting him out, his brothers deprive Jephthah of his inheritance: “You shall have no share in our father’s property, for you are the son of an outsider” (Judges 11:2). Fleeing the land, Jephthah soon associated with “men of low character,” who “went out raiding with him” (Judges 11:3).

Jephthah’s reputation for ruthlessness and cunning was apparently known among the Gileadites, for when facing the Ammonite onslaught, the elders¹⁴ approached him and offered him the terms the officers had laid out: “Come be our chief, so that we can fight the Ammonites” (Judges 11:6). Acknowledging Jephthah’s reasonable suspicions of the offer—after all, these people had banished him years before—they made the deal explicit. “Honestly, we have now turned back to you. If you come with us and fight the Ammonites, you shall be our commander over all the inhabitants of Gilead” (Judges 11:8). Jephthah accepted the offer, reiterating its conditions, “. . .if you bring me back to fight the Ammonites, and the Lord delivers them to me, I am to be your commander” (Judges 11:9). The agreement between the elders and Jephthah was ratified by the people only after the deal was struck. “Jephthah went with the elders of Gilead, and the people made him their commander and chief. And Jephthah repeated all these terms before the Lord at Mizpah” (Judges 11:11).

In the next sixteen verses, Jephthah would attempt diplomacy, asking the king of the Ammonites to state his claim: “What have you against me that you have come to make war on my country?” (Judges 11:12). The answer is an allegation of unjust conquest: “When Israel came from Egypt,” the Ammonite ruler explained, “they seized the land which is mine. . . ; Now, then, restore it peaceably” (Judges 11:13).

Jephthah rejected the Ammonites’ charge with a series of interrelated arguments. The land in question originally belonged to the Amorites, and so, Jephthah argued, the Ammonites as a third party to the conflict had no stake in it. Even if they had a right to aid another nation in redressing a claim of justice, no injustice had been done: the land came into the possession of Israel only after the king of the Amorites had denied Israel the right to pass through and then attacked the Israelites when they’d camped outside the land. Furthermore, God had delivered both the king and the land to the Israelites in this original battle. “Now, then, the Lord, the God

¹⁴ In Judges 10:18 it is the “officers,” not the “elders,” who declare that whoever leads them in battle should rule afterward. In any case, as noted below, neither elders nor officers have the right, by Locke’s own argument, to make such an offer without the people’s *prior* approval. This is so even if, as the story indicates, the people consent to the arrangement after the fact.

of Israel, dispossessed the Amorites before his people, Israel; and should you possess their land? ...we will hold on to everything that the Lord our God has given us to possess" (Judges 11:23). Finally, Jephthah wondered why the Ammonites waited 300 years to press their claims on behalf of the Amorites if they were good claims to begin with.

Jephthah ends the negotiations with the verse "I have done you no wrong; yet you are doing me harm and making war on me. May the Lord, who judges, decide today between the Israelites and the Ammonites!" (Judges 11:27). (Locke quotes this passage directly in his first reference to Jephthah in the "Second Treatise," section 21.) But on the eve of battle Jephthah makes a second appeal to heaven in the form of a vow. Because of the centrality of this moment to the argument that follows, I quote it here at length:

Then the spirit of the Lord came upon Jephthah. He marched through Gilead and Manasseh, passing Mizpeh of Gilead; and from Mizpeh of Gilead he crossed over [to] the Ammonites. And Jephthah made the following vow to the Lord: "If you deliver the Ammonites into my hands, then whatever comes out of the door of my house to meet me on my safe return from the Ammonites shall be the Lord's and shall be offered by me as a burnt offering." Jephthah crossed over to the Ammonites and attacked them, and the Lord delivered them into his hands. (Judges 11:29–32)

When Jephthah arrived at his home in Mizpah, there was his daughter coming out to meet him, with timbrel and dance! She was an only child; he had no other son or daughter. On seeing her, he rent his clothes and said, "Alas, daughter! You have brought me low; you have become my trouble! For I have uttered a vow to the Lord and I cannot retract." (Judges 11:34–35)

"Father," she said, "you have uttered a vow to the Lord; do to me as you have vowed, seeing that the Lord has vindicated you against your enemies, the Ammonites." (Judges 11:36)

With his daughter's own consent and urging, in Judges 11:39–40 Jephthah completes his vow to God.

After two months' time, she returned to her father, and he did to her as he had vowed. She had never known a man. So it became a custom in Israel for the maidens of Israel to go every year, for four days in the year, and chant dirges for the daughter of Jephthah the Gileadite.¹⁵

¹⁵ Both the King James version and the Latin Vulgate give every indication that Jephthah's daughter was killed, contrary to some Jewish commentators' views, and contrary to how Handel would re-interpret the story in his opera. The King James version closes as follows: "And it came to pass at the end of two months, that she returned

So ends the narrative to which Locke draws our attention. Jephthah rules over the Israelites briefly, until the chaos and civil war described in the remainder of the book of Judges once again take hold, to terminate only with the establishment of Saul's kingship.

3. A STATEMENT OF THE PROBLEM

The story of Jephthah is mentioned five times in the *Two Treatises*: once in the "First" (section 163) and four times in the "Second" (sections 21, 109, 176, and 241). In the first reference, Locke singles out the entire eleventh chapter of Judges. In the next reference, he specifies Jephthah's first, narrow appeal to heaven, which did not include the problematic vow. In the other three cases, Locke merely refers to Jephthah by name without citing chapter or verse. In most of these instances, the story appears to contradict Locke's argument. In this section I will take the specific citations in turn, leaving the more general problem of infanticide for section 4. (A table illustrating the differences between Locke's ideas and those emerging from the biblical account appears at the end of this section.)

3.1 *Jephthah in the "First Treatise": Choosing and Authorizing a Ruler*

Locke's first reference to Jephthah occurs in the "First Treatise" in the context of his argument against Filmer's claim that the children of divinely established rulers inherit their right to rule. In section 163, Locke maintains that in many prominent cases in the Bible, God grants political authority to an individual but not to his offspring. Moses and Joshua are cases in point. He continues:

Had not these Princes, having the Authority of the *Supream Fatherhood*, the same Power that the Kings had, and being specially chosen by God himself, should not their Issue have the benefit of that choice, as well as *David's* or *Solomon's*? If these had the Paternal Authority put into their hands immediately by God, why had not their Issue the benefit of this Grant in a Succession to this Power? Was the Power the same, and from the same Original in

unto her father, who did with her according to his vow which he had vowed: and she knew no man. And it was a custom in Israel, that the daughters of Israel went yearly to lament the daughter of Jephthah the Gileadite four days in a year." In the Vulgate, the last two lines are "*expletisque duobus mensibus reversa est ad patrem suum et fecit ei sicut voverat quae ignorabat virum exinde mos increbuit in Israhel et consuetudo servata est ut post anni circulum convenient in unum filiae Israhel et plangent filiam Iepthae Galaaditae diebus quattuor.*"

*Moses, Joshua, and the Judges, as it was in David and the Kings, and was it inheritable in one and not in the other?*¹⁶

Even if God did establish *some* leaders to rule over the people, and even if he had a hand in transferring power from one to another, Locke finds that there are cases in which no such grant from God appears. One such case, he claims, is Jephthah:

If... it be said, God always chose the Person of the Successor, and so transferring the *Fatherly Authority* to him, excluded his Issue from succeeding to it, that is manifestly not so in the Story of *Jephtha*, where he Articled with the People, and they made him Judge over them, as is plain, Judg. 11.

Yet pointing to Jephthah as a judge who rose to authority without God's assistance and who "articled with the people" contradicts Locke's argument in two ways.¹⁷

First, Locke ignores the role played by God in bringing Jephthah to power. This was highlighted by Algernon Sidney, who used this biblical figure as an example of a "holy [man] raised up by God."¹⁸ According to Sidney's reading, Jephthah was chosen by the leadership, raised up by God, and authorized but not chosen by the people. Perhaps Locke could counter that God's anointment was insufficient to establish authority; but it was certainly not irrelevant, since God's having delivered the

¹⁶ Locke, *Two Treatises*, I, § 163, p. 260.

¹⁷ Locke's argument here also misses Filmer's point significantly. In *Patriarcha*, Filmer explicitly distinguished between princes and kings, arguing that the grant of power only to the latter devolved upon the ruler's "issue":

God, out of a special care of them, chose Moses and Joshua successively to govern as princes in the place and stead of the supreme fathers; and after them likewise for a time He raised up judges to defend His people in tune of peril. But when God gave the Israelites kings, He re-established the ancient and prime right of lineal succession to paternal government. And whensoever He made choice of any special person to be king, He intended that the issue also should have benefit thereof, as being comprehended sufficiently in the person of the father, although the father only was named in the grant.

Sir Robert Filmer, *Patriarcha and Other Writings*, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), ch. 1, sec. 9 (hereinafter 1:9), p. 9.

Locke thus seems to ignore the very distinction Filmer is drawing between the limited grant of power to earlier judges and the latter grant to kings. All of which supports Zuckert's general argument that Locke's views were non-arguments against Filmer. Zuckert claims Locke's real target was Hobbes, which is quite plausible but in need of far more evidence than what is presented there. See Zuckert, "Introduction to Locke's *First Treatise*," pp. 134–137.

¹⁸ Algernon Sidney, *Discourses Concerning Government*, ed. Thomas G. West (Indianapolis: Liberty Classics, 1990), ch. 2, sec. 24, p. 228. See also p. 329.

Ammonites to the Gileadites secured the conditions for Jephthah's ascent. Even more striking, Locke uses Jephthah as an example though there are so many better illustrations of his point: the book of Judges is filled with rulers who rise up of their own authority without any mention of God's involvement.

Second, and even more difficult to explain, is that Locke's use of Jephthah here makes sense only by eliding the distinction between *choosing* and *authorizing* a leader: while the people *authorized* Jephthah's rule, they didn't *choose* him. Locke had made the distinction between choosing and authorizing an explicit part of his critique of Robert Filmer. As part of his defense of the divine right of kings, Filmer granted that the people often approve of their leadership: "It is plain by an evident text that it is one thing to choose a king, and another thing to set a king over the people. This latter power the children of Israel had, but not the former."¹⁹ In other words, Filmer never denied that the people of Israel had the power to install the king; he merely denied that the people had the authority to select anyone they wished. By contrast, in Locke's view both the *choosing* and the *authorizing* had to be done by the people, not by some third party. Locke explicitly incorporated choice and authorization as distinct acts in his discussion of the limits of legislative power in the "Second Treatise": "[N]or can the people be bound by any *Laws* but such as are Enacted by those, whom they have **Chosen, and Authorised** to make *Laws* for them."²⁰ While the people "articled" with Jephthah, making him judge over them, they had no hand in his selection to begin with, because it was first the officers and then the leadership who had chosen him. Locke rightly notes that the people articled with Jephthah, but he ignores the fact that they did not set the decision criteria, nor did they choose him in the first place. If anything, the Jephthah story supports Filmer's contention against Locke, that the people of Israel did not choose their own leaders, albeit with officers' taking God's place as the initial selection agents.

On all of these points, we might charitably note that the leadership chose Jephthah and that God appears only after the choice was made. While this works well enough to counter Filmer's claim that God does the choosing, it raises more complications for Locke. If we recognize that the legislative authority of the Gileadites was vested in the very leadership that implored Jephthah to take over, then this is a case in which the legislative arm of the people attempted to transfer its power to a

¹⁹ Filmer, *Patriarcha*, 1:8, pp. 21–22.

²⁰ Locke, *Two Treatises*, II, § 141, p. 363. Emphasis added.

third party.²¹ For Locke, though, “the *Legislative* can have no power to transfer their Authority of making Laws, and place it in other hands.”²² Admittedly, the Gileadite legislative branch did not formally transfer its power. But it is surely odd that Locke would use the Jephthah narrative considering that it contradicts his principles in three distinct ways: God raised Jephthah up to rule, the people authorized but did not choose their leader, and the legislature appears to have sought to transfer its power to a third party.

3.2 *Jephthah in the “Second Treatise”: God’s Intervention in the Affairs of Man*

Arguably, Locke’s most problematic use of the Jephthah story is when it is brought to illustrate an appeal to heaven. In the absence of a judge on earth, Locke argues, one must appeal to God, the supreme judge, as Jephthah did. This idea appears three times in the “Second Treatise” (sections 21, 176, and 241). Locke’s reference to “God as judge” is meant only to clarify the stakes involved in such an appeal and to conceptually establish a judge before whom such claims are made. For Locke, God’s intervention is not something upon which citizens can or should rely. The Jephthah story hardly seems like a pertinent example, then, as it tells of God’s intervention in delivering the Ammonites to the people of Israel in battle, as later confirmed by Jephthah upon fulfilling his vow. Nonetheless, Locke refers to Jephthah while insisting that God *will not intervene in the affairs of man*.

Jephthah first appears in the “Second Treatise” in section 21, at the end of the third chapter, entitled “Of the State of War”:

Had there been any such Court, any superior Jurisdiction on Earth, to determine the right between *Jephtha* and the *Ammonites*, they had never come to a State of War, but we see he was forced to appeal to *Heaven*. *The Lord the Judge* (says he) *be Judge this day between the Children of Israel, and the Children of Ammon, Judg. 11. 27.* and then Prosecuting, and relying on his *appeal*, he leads out his Army to Battle.

Note Locke’s emphasis on the fact that Jephthah was “relying on his *appeal*.” What does such reliance mean? Locke answers: God is the judge

²¹ Eric Jeuland first noticed the nature of this attempted transfer of power in a course paper he wrote for “Classics of Social and Political Thought” at the University of Chicago in the fall of 2000.

²² Locke, *Two Treatises*, II, § 141, p. 363.

in the machine, as it were, on whom people may rely for ultimate judgment at *the end of days*. Here on earth God will not intervene:

And therefore in such Controversies, where the question is put, *who shall be Judge?* It cannot be meant, who shall decide the Controversie; every one knows what *Jephtha* here tells us, that *the Lord the Judge*, shall judge. Where there is no Judge on Earth, the *Appeal* lies to God in Heaven. That Question then cannot mean, who shall judge? whether another hath put himself in a State of War with me, and whether I may as *Jephtha* did, appeal to Heaven in it? Of that I my self can only be Judge in my own Conscience, **as I will answer it at the great Day**, to the Supream Judge of all Men.²³

When a judge is absent here on earth we must *appeal* to God, even as we understand that God will not, in fact, render judgment in the affairs of man. God renders judgment at the end of days, and humans are the ones who must do the best they can in deciding, in their conscience, whether or not to act. To press this unoriginal point about Locke, his view is that relying on one's appeal is a matter of having confidence in the justness of one's cause to be judged at the proverbial end of days. It is explicitly *not* an appeal for divine intervention in human life.

In section 176, Locke again cites the Jephthah story as an example, at the same time arguing that an appeal to heaven is not meant to bring about God's assistance in this lifetime. The discussion in this section is of particular importance because it appears in the second part of chapter 16, entitled "Of Conquest," and, as Strauss has noted, the Jephthah narrative cuts against Locke's argument.²⁴ We will take up the matter of conquest later.²⁵ For now let us turn our attention to the timing of God's judgment. When harm is inflicted upon one generation, Locke warns, remedy may take awhile:

If God has taken away all means of seeking remedy, there is nothing left but patience. But my Son, when able, may seek the Relief of the Law, which I am denied: He or his Son may renew his *Appeal*, till he recover his Right. But the Conquered, or their Children, have no Court, no Arbitrator on Earth to appeal to. Then they may *appeal*, as *Jephtha* did, *to Heaven*, and repeat their *Appeal*, till they have recovered the native Right of their Ancestors...

²³ Emphasis added.

²⁴ Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953).

²⁵ I take up the question of conquest in section 3.3, below.

Again here we find that the appeal is to God but God's judgment will not be rendered until the end of days. Locke repeats this point a final time in section 241, two sections before the close of the work, emphasizing that such an affair is a matter between men.²⁶

But farther, this Question, (*Who shall be Judge?*) cannot mean, that there is no Judge at all. For where there is no Judicature on Earth, to decide Controversies amongst Men, *God in Heaven is Judge*: He alone, 'tis true, is Judge of the Right. But *every Man is Judge* for himself, as in all other Cases, so in this, whether another hath put himself into a State of War with him, and whether he should appeal to the Supreme Judge, as *Jephtha* did.

Again, the appeal Locke describes is conceptual: because there is a judge in God, we can understand such an appeal. But here on earth, we must trust our own judgment and not rely on God's intervention.²⁷

Note, then, that each time Locke employs Jephthah's appeal to heaven to solve the problem of political injustice, he attaches a caveat: the appeal is *to* God, even if no resolution will come *from God*. The central problem with recourse to the Jephthah story here is that Jephthah's appeal was immediately followed by God's intervention, which secured the Israelites' victory. Indeed, in the passage to which Locke refers, Jephthah appealed not merely to principles of righteousness, justice, or even divine judgment at some future time. Rather, his was an explicit cry to God to intervene *here and now*: "May the Lord, who judges, decide *today* between the Israelites and the Ammonites!" These are Jephthah's words, and that is how Locke quotes the biblical passage. Jephthah does not wait until the end of days. Even more striking is that in the biblical story God actively intervenes to deliver the Ammonites to Jephthah. If Locke sought to differentiate "God as ultimate Judge" from "God as active intervener in the lives of men," Jephthah's story is a counter-illustration. Using Jephthah to illustrate an unanswered appeal to heaven is simply the most bizarre problem of biblical citation in the "Second Treatise."

²⁶ As Laslett has noted in his introduction, the "First Treatise" we now have is probably missing some pages or more. Thus, it is not clear what should be made of the proximity of the first Jephthah reference in the "First Treatise" to the close of that work. Laslett, "Introduction."

²⁷ Given that Locke did not believe God would intervene in the affairs of men, it may appear that God is not necessary for Locke's account. On the importance of God for Locke, see Waldron, *God, Locke, and Equality*. It is, of course, possible to reconstruct much of Locke's political argument without relying on God, a project contained in John A. Simmons, *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992), pp. 36–46 ff.

3.3 Chaos, Conquest, and Delay

God's intervention following Jephthah's appeal to heaven is a dramatic counter-illustration of Locke's arguments, both contradicting the point it was used to illustrate and being repeated three times in exactly the same context. In three other instances in section 176, the Jephthah narrative also contradicts Lockean principles. The issues concern conquest, the delay of justice, and the chaos that follows such appeals to heaven. These three are not quite as problematic, because they all occur in one place in the "Second Treatise" rather than being repeated throughout the text; but each also contradicts Locke's point. I will take each in turn.

First we note Leo Strauss' point that Jephthah is on the wrong side of the land-rights issues as figured by Locke's theory of property and conquest.²⁸ Strauss writes that the Lockean law of nature

denies to the conqueror a right and title to the possessions of the vanquished: even in a just war the conqueror may not "dispossess the posterity of the vanquished"... In fact, it would seem that the opposite doctrine is at least as much warranted by Scripture as is Locke's. He quotes more than once Jephthah's saying, "the Lord the Judge be judge"; but he fails even to allude to the fact that Jephthah's statement is made in the context of a controversy about the right of conquest, as well as to Jephthah's entirely un-Lockean view of the rights of the conqueror. One is tempted to say that Jephthah's statement, which refers to a controversy between two nations, is used by Locke as the *locus classicus* concerning controversies between the government and the people. The statement of Jephthah takes the place in Locke's doctrine of Paul's statement, "Let every soul be subject to higher powers," which he hardly, if ever, quotes.²⁹

By Lockean standards, the Israelites had unjustly conquered the land on which they now resided, and it was this property-right claim that formed the very bone of contention between the Israelites and the Ammonites. As Locke writes at the start of section 176, "The Aggressor, who puts himself into the state of War with another, and *unjustly invades* another Man's right, *can*, by such an unjust War, *never* come to *have a right over the Conquered*." Whether or not Strauss' later explanation of the story's inclusion in Locke's work is to be accepted, the conflict between the narrative in Judges and Locke's theory of conquest seems clear, and it makes God's intervention even more problematic.

²⁸ See also Moyn, "Jephthah, John Locke," for a more developed view.

²⁹ Strauss, *Natural Right and History*, pp. 214–215.

Second, there is the matter of a statute of limitations. Jephthah questions the Ammonites' right to redress the injustice of the conquest, because too much time has passed. Yet by Locke's standards, it would appear that there should be no statute of limitations. Quite the contrary: sometimes one must allow future generations to redeem a claim that is irredeemable in the present. Again we see this in section 176, along with its conclusion:

If God has taken away all means of seeking remedy, there is nothing left but patience. But my Son, when able, may seek the Relief of the Law, which I am denied: He or his Son may renew his *Appeal*, till he recover his Right. But the Conquered, or their Children, have no Court, no Arbitrator on Earth to appeal to. Then they may *appeal*, as *Jephtha* did, *to Heaven*, and repeat their *Appeal*, till they have recovered the native Right of their Ancestors, which was to have such a Legislative over them, as the Majority should approve, and freely acquiesce in.

How odd for Locke to refer to Jephthah's actions in this context, since it was Jephthah who denied the Ammonites the "Right of their Ancestors" in pursuing the claim when they could.³⁰ Jephthah's assumption of a statute of limitations appears decidedly anti-Lockean.

Finally, Locke tries to assure skeptics that a native right of resistance will not lead to chaos and disorder. This was critical to assure Locke's readers that a right of resistance would not cause massive instability. Locke's assurance appears at the end of section 176, just after the passage mentioning Jephthah cited above:

If it be objected, this [right of resistance] would cause endless trouble; I answer, No more than Justice does, where she lies open to all that appeal to her. He that troubles his Neighbour without a Cause, is punished for it by the Justice of the Court he appeals to. And he that *appeals to Heaven*, must be sure he has Right on his side; and a Right too that is worth the Trouble and Cost of the Appeal, as he will answer at a Tribunal, that cannot be deceived, and will be sure to retribute to every one according to the Mischiefs he hath created to his Fellow-Subjects; that is, any part of Mankind. From whence 'tis plain, that he that *Conquers in an unjust War*, can thereby have *no Title to the Subjection and Obedience of the Conquered*.

³⁰ To be precise, and as mentioned above, the Ammonites were enforcing what Locke called the native rights of the Amorites, whose land the Israelites had conquered.

The claim that this right would not cause instability was in large part a response to Hobbes' similar concerns. Yet it is again bizarre to use the story of Jephthah in this context, since Jephthah's rule was brief and followed by chaos and civil war. Stability is not a hallmark of the book of Judges, and one would not want to hold up that book—let alone the story of Jephthah—as an example of stability and peace or a paradigm for the peaceful assertion of an appeal to heaven. It is anything but.

3.4 *Where Locke and the Biblical Narrative Concur*

The final use of the Jephthah story to be considered here comes in section 109 of the "Second Treatise," where Locke seeks to illustrate that for Israel, "the *chief Business of their Judges, and first Kings* seems to have been *to be Captains in War, and Leaders of their Armies,*" a fact that

...appears plainly in the Story of *Jephtha*. The *Ammonites* making War upon *Israel*, the *Gileadites*, in fear send to *Jephtha*, a Bastard of their Family, whom they had cast off, and article with him, if he will assist them against the *Ammonites*, to make him their Ruler; which they do in these words, *And the People made him head and captain over them*, Judg. 11. 11. which was, as it seems, all one as to be *Judge*.

Apart from again eliding the distinction between choosing and authorizing, the story poses only a minor problem: the very first thing Jephthah does as leader is try and negotiate a settlement with his enemy, *not* lead an army. This is not particularly problematic for Locke, as admittedly this is what supreme army commanders might do (though this is the first case of such diplomacy in the Bible).³¹ Significantly, this is the only time the story is used to illustrate a point unrelated to Jephthah's appeal.

3.5 *Summary*

The problems discussed in this section are summarized in the table below. If no single contradiction between the Jephthah narrative and Locke's political philosophy is enough to indicate a problem, taken collectively, they should raise some concern.

³¹ Moyn, "Jephthah, John Locke," also makes much of this point.

Political Issues in the Jephthah Narrative and in Locke's "Second Treatise"

Issue	In Jephthah Narrative	In Locke's "Second Treatise"
God has a hand in the establishment of rulers	Illustrated	Rejected
Legislative power may delegate authority to a third party	Illustrated	Rejected
The people may only <i>authorize</i> a leader; they need not <i>choose</i> that leader	Illustrated	Rejected
One may not redeem ancestral claims	Illustrated	Rejected
Following an appeal to heaven, God will intervene	Illustrated	Rejected
Patricide is sometimes permissible	Illustrated	Rejected
A people may take land by force	Illustrated	Rejected
Chaos follows appeal to heaven	Illustrated	Rejected
<i>Judges lead in war before ruling</i>	<i>Illustrated</i>	<i>Accepted</i>

4. THE MORE GENERAL PROBLEM OF THE JEPHTHAH STORY

4.1 *The Problem of Infanticide*

As we have seen, Jephthah appears to be an odd story for Locke to use given the contexts in which he references it, and we should thus not treat his use of this text—and by implication, the Hebrew Bible—as obviously *unproblematic*. Still, it is possible to understand why Locke used this story. If we were to accept the view of some that these missteps by Locke are not to be invested with much meaning—for he was human and could make mistakes too—then we could simply write them off as his sloppiness. Apart from the fact that Locke was not a careless writer, and the fact

that such an interpretive assumption pre-judges the very question we are seeking to answer—whether there was any intentionality behind the use of this biblical narrative—the mere suggestiveness of the case remains.

Yet, when we consider that Jephthah's broader appeal to heaven and his reliance on God entailed the sacrifice of his daughter, these problems amount to a far more serious one. The frequency with which Locke referred to the Jephthah story indicates its importance to him.³² And the tale's prominence makes Locke's silence on the consequence of Jephthah's particular appeal even more striking. The sacrifice of Jephthah's daughter is not a narrative "add-on" to the story, but a direct result of an appeal to heaven. This raises enormous problems for the narrative's general fit with Locke's argument.

Recall that Jephthah's sacrifice of his daughter recounted in the Bible was closely related to his second appeal, in which he issued a vow:³³

"If you deliver the Ammonites into my hands, then whatever comes out of the door of my house to meet me on my safe return from the Ammonites shall be the Lord's and shall be offered by me as a burnt offering." Jephthah crossed over to the Ammonites and attacked them, and the Lord delivered them into his hands.... When Jephthah arrived at his home in Mizpah, there was his daughter coming out to meet him, with timbrel and dance!

Jephthah was devastated, but his own daughter urged him to honor his vow. The story concludes:

...he did to her as he had vowed. She had never known a man. So it became a custom in Israel for the maidens of Israel to go every year, for four days in the year, and chant dirges for the daughter of Jephthah the Gileadite.

Later I will consider a few ways this ending might be made to fit with a Lockean view. First, though, I want to make clear the extent to which it is problematic for Locke's argument.

In the Bible, Jephthah's infanticide is apparently justified by the vow he took before God. By contrast, Locke throughout the *Two Treatises* argues that paternal right is limited to the care and nurturing of one's child:

For Children being by the course of Nature, born weak, and unable to provide for themselves, they have by the appointment of God himself, who hath thus ordered the course of nature, a Right to be nourish'd and maintained by their Parents, nay a right not only to

³² Laslett, on Locke, *Two Treatises*, II, p. 282, n. 17.

³³ I will consider the significance of the two separate appeals in section 4, below.

a bare Subsistence but to the conveniences and comforts of Life, as far as the conditions of their Parents can afford it.³⁴

As Locke argues throughout the "First Treatise" and again in chapter 6 of the "Second," parental power *never* extends to the life of a child. He repeats this point in the middle of the "Second Treatise":

The Affection and Tenderness, which God hath planted in the Breasts of Parents, towards their Children, makes it evident, that this is not intended to be a severe Arbitrary Government, but only for the Help, Instruction, and Preservation of their Off-spring. But happen it as it will, there is, as I have proved, no reason, why it should be thought, to extend to Life and Death, at any time, over their Children, more than over any body else.... And thus, 'tis true, the *Paternal* is a natural *Government*, but not at all extending it self to the Ends, and Jurisdictions of that which is Political. The *Power of the Father doth not reach* at all to the Property of the Child, which is only in his own disposing.³⁵

Considered against the argument in the "First Treatise," the problem is magnified here. Filmer had championed unlimited paternal right *even to the life of the child* to ground the claim that monarchs had absolute rights *even to the lives of their subjects*, since monarchical authority purportedly derived directly from Adam's paternal authority over his own offspring: "...all the duties of a king are summed up in an universal fatherly care of his people."³⁶

Indeed, it is as easy to understand as it is hard to overstate the importance Locke attaches to limiting paternal authority, devoting about 20 percent of the "First Treatise" to this idea. The logic is clear: if Locke could demonstrate that parents had only limited authority over their offspring, then even if governmental authority derived from paternal authority (as Filmer had claimed), it would be limited to the nurturing and caring of its subjects. This was clearly Locke's aim when the *Treatises* were published, and even a century later Rousseau referred to the "contrary proofs of Locke and Sidney" that *absolute* government cannot derive from

³⁴ Locke, *Two Treatises*, I, § 89, p. 207.

³⁵ *Ibid.*, II, § 170, p. 381.

³⁶ Filmer, *Patriarcha*, 1:10, p. 12. See also 3:1, pp. 35–36, for Filmer's defense of unlimited jurisdiction for kings. Filmer agrees with Locke that the use of the right by the king/father is supposed to be limited by natural duty and God's own will. The difference is that Locke was explicit that such a right would never extend to the life of a child. It is also curious that, in section 55 of the "First Treatise," Locke takes Filmer to task for not mentioning the joint parental authority the Bible grants both mother and father, though no mother is mentioned in the biblical Jephthah story.

paternal authority.³⁷ As is typical of Locke's argument in both *Treatises*, a multi-pronged approach is offered: even if Adam had a paternal right over *his* children, it does not follow for many reasons that subsequent parents have such a right over theirs.

In sum, against the content and structure of the argument in the *Two Treatises*, the choice of the Jephthah story seems truly bizarre, especially given the absence of biblical illustrations for most other points made in the "Second Treatise."

4.2 More Charitable Interpretations

There are more charitable interpretations of the infanticide that at first glance do not conflict with Locke's political philosophy in the *Two Treatises*. While these interpretations are plausible, they succeed only at the cost of creating more serious problems.

First, one could correctly note that Jephthah "appeals to heaven" explicitly (that is, using those particular words) only once, whereas his problematic vow comes in his second call to heaven, which is not described as an "appeal."³⁸ Indeed, as mentioned, the only place Locke refers to a specific passage in the Jephthah story is in section 21 of the "Second Treatise," where he singles out the passage in which the first appeal is made (Judges 11:27). All Locke's other references are simply to chapter 11 in general or to the biblical character Jephthah. So it might be argued that Locke sought to reference only this first appeal in which God's authority as ultimate judge is acknowledged, and no other part of the story should really concern us, least of all a troublesome *vow* that is not even described as an "appeal" to God, even if it was a *vow to God*.

However, such a view demands an extremely narrow reading of the story, limited to one appeal, without considering the other ways people may appeal to heaven. It also may conflict with Locke's own reading in section 176: "they may *appeal*, as *Jephtha* did, to *Heaven*, and repeat their *Appeal*, till they have recovered the native Right of their Ancestors." The author urges his readers to note the right to repeat an appeal to heaven. Ignoring the second "appeal" (i.e., the *vow*) would also make his claim that Jephthah *relied on his appeal* either specious or incomplete: in pursuing his attack on the Ammonites, Jephthah surely relied on his belief that he had made a *vow to God* far more than he had relied on his first

³⁷ Jean-Jacques Rousseau, *On the Social Contract*, ed. Roger D. Masters, trans. Judith R. Masters (New York: St. Martin's, 1978 [1762]), book 2, sec. 2, p. 73.

³⁸ I thank Frank Lovett, Samuel Moyn, and an anonymous reviewer for this journal, who raised the same point.

appeal in 11:27. Indeed, it is hard to understand why Jephthah would make a vow if he were relying on his *first* appeal alone *without reference to the vow*. Ignoring the vow rather than understanding it as a second appeal might solve the problem but only at the cost of introducing other problematic features of Locke's account.

Next, we might note that Jephthah's claimed right to kill his daughter was based not on *paternal* authority but rather on the vow itself, which formed an independent agreement between a judge of Israel and God. In this way, Jephthah's identity as "father" is almost irrelevant to his killing of the young woman.³⁹ Furthermore, the story shows Jephthah's distress in carrying out his vow, possibly illustrating the tenderness of father toward child that Locke so forcefully proclaims throughout both *Treatises*. Jephthah's daughter herself must convince him to fulfill his vow, and by doing so she explicitly consents to the deed. So although the story is one of a father's killing his offspring, the right by which he undertakes that sacrifice does not derive from his paternal authority and thus may not conflict with Locke's argument in chapter 6. Perhaps it should be viewed instead as a good illustration of (1) the limits of paternal authority (since Jephthah does not act out of such authority); (2) the tenderness of father toward child (since he is distressed by what he must do); and (3) the centrality of consent to Locke's political theory.

It seems, then, that the infanticide can be interpreted in a manner that does not conflict with Locke's argument. However, as with the rejection of the vow as a second "appeal to heaven," such a re-interpretation succeeds only by introducing more difficult puzzles.

First, even if Jephthah's sacrifice was not directly based on paternal authority, the terms of the vow that led to it implied non-Lockean paternal or property rights. Recall that Jephthah vowed, "whatever comes out of the door of my house to meet me on my safe return from the Ammonites shall be the Lord's and shall be offered by me as a burnt offering." Why specify "my house," unless referring to his own property gave him the right to use it in such a vow? And by this view, Jephthah *is* relying on his paternal authority, because only such authority would plausibly establish a right over his child's life, as property rights would have established Jephthah's claim had his goat or lamb been the first creature he saw. But this of course simply poses a new insoluble problem, since *people* may not be taken as property by Locke's own argument.

Second, the tenderness of which Locke speaks is a positive command to aid, assist, and above all nurture one's offspring. While indeed there

³⁹ Jephthah's daughter is not named in the text.

is evidence of tenderness in Jephthah's resistance to killing his daughter, this emotional aversion to slaughtering one's own child is hardly the kind of obligation Locke had in mind.

Third, and at first more promising, we might note that the daughter was complicit in the deed, consenting to her own death by urging her father to honor his vow. Such a view grants that Jephthah did not sacrifice his daughter by grant of paternal authority and places her individual consent at the forefront of the story, where, for a Lockean, it must be. Yet this approach violates Locke's explicit limits on what may, by right, be consented to. Suicide is simply beyond the pale. Individuals have a right to life, by Locke's account, by virtue of the fact that they are caretakers of God's property. Indeed, the right of self-preservation itself is premised on this fact: we have a right to harm *others* only insofar as we are protecting God's property (i.e., ourselves).

Accordingly, the only way the daughter's consent might be excused within this Lockean framework is if God willed it. Even though Jephthah claimed to his daughter that the killing was allowed because God had kept his part of the bargain in delivering the Ammonites to the Israelites in battle, the view that any reasonable person should accept this claim as a basis of right is anathema to Locke's own understanding of how to read the Bible⁴⁰ (and the natural world). As argued in the "First Treatise," God speaks to man and directs him "by his Senses and Reason... which he had placed in them to that purpose, to the use of those things, which were serviceable for his Subsistence, and given him as means of his *Preservation*."⁴¹ Indeed, God's communication to man is limited to what nature dictates as understood by man through reason, and these commands in Locke are described only in terms of doing what will preserve life, not take it. "For the desire, strong desire of Preserving his Life and Being having been Planted in him, as a Principle of Action by God himself, Reason, *which was the Voice of God in him*, could not but teach him and assure him, that pursuing that natural Inclination he had to preserve his Being, he followed the Will of his Maker..."⁴² Recall also that from the text we know only that God delivered Israel from the Ammonites; we do not know whether he did so as a partner to Jephthah's agreement, thus endorsing the sacrifice.

It is curious, then, that in section 168, chapter 14, of the "Second Treatise," Locke contends that an individual does not have the liberty to

⁴⁰ I will return to this point in section 5, below.

⁴¹ Locke, *Two Treatises*, I, § 86, p. 205.

⁴² *Ibid.*

consent to his own demise, *immediately following a reference to the appeal to heaven*. Note the striking similarity of Locke's language here and when the Jephthah story is invoked.

The old Question will be asked in this matter of *Prerogative*, But *who shall be Judge* when this Power is made a right use of? I Answer: Between an Executive Power in being, with such a Prerogative, and a Legislative that depends upon his will for their convening, there can be no *Judge on Earth*.... The People have no other remedy in this, as in all other cases where they have no Judge on Earth, but to *appeal to Heaven*. For the Rulers, in such attempts, exercising a Power the People never put into their hands (who can never be supposed to consent, that any body should rule over them for their harm) do that, which they have not a right to do. And where the Body of the People, or any single Man, is deprived of their Right, or is under the Exercise of a power without right, and have no Appeal on Earth, there they have a liberty to appeal to Heaven, whenever they judge the Cause of sufficient moment. And therefore, tho' the *People* cannot be *Judge*... yet they have... reserv'd that ultimate Determination to themselves... where there lies no Appeal on Earth, *viz.* to judge whether they have just Cause to make their Appeal to Heaven. And this Judgment they cannot part with, it being out of a Man's power so to submit himself to another, as to give him a liberty to destroy him; God and Nature never allowing a Man so to abandon himself, as to neglect his own preservation: And since he cannot take away his own Life, neither can he give another power to take it.

So even if we accept that Jephthah did not kill his daughter by virtue of paternal authority, we are still left with the problem that neither he *nor his daughter* had the right to sacrifice her life.

We might make one last attempt to align the infanticide with Lockean principles. Though God would never condone suicide, and though he never explicitly agrees to Jephthah's vow, we might claim that God implicitly agreed to the action by delivering the Israelites, and thus he must have approved of the sacrifice. Such a view would condone ritual slaughter when sanctioned by God, no matter who brings it about. Here, the problems multiply further, since by Locke's own reading of Scripture in the "First Treatise," ritual slaughter of this kind is simply prohibited:

If precedents are sufficient to establish a rule in the case, our A— might have found in holy writ Children sacrificed by their parents and this amongst the people of God themselves. The Psalmist tells us *Psalm. cvi. 38. They shed innocent blood even the blood of their sons and of their daughters whom they sacrificed unto the Idols of*

Canaan. But God judgd not of this by our A—s rule, nor allowd of the authoritie of practice against his righteous Law, but as it follows there, *The Land was polluted with bloud, therefore was the wrath of the Lord kindled against his people in so much that he abhorred his own inheritance*. The killing of their Children, though it were fashionable, was charged on them as *innocent bloud*, and so had, in the account of God, the guilt of murder, as the offering them to Idols had the guilt of Idolatry.⁴³

Locke is using these verses to impose a blanket exemption on the killing of children because of their innocence, and this slaying is more clearly parallel to Jephthah's actions. For in neither case is the killing done by reference to the parent's authority, and in both cases the injured party is an innocent bystander.⁴⁴

In short, attempts to salvage Locke's use of the Jephthah story create more problems than they solve.

4.3 A Note of Caution

I end with a note of caution regarding this interpretive account. Let us presume that there is some charitable interpretation that fits the Jephthah story into Locke's argument. Perhaps my reading of the vow as an implicit second appeal to heaven is simply not warranted by the text or by Locke's own theory. Let us presume that I am here simply mistaken about all the rest as well and that a more detailed analysis would in fact explain how the complicit sacrifice of a daughter by her father belongs in a book dedicated to establishing the limits of arbitrary power, paternal authority, and consent. The problem is that adjusting this story to Locke's own theory would require far more effort and far more deviations from the "plain meaning of words" than Locke himself advises for interpreting the Bible.⁴⁵ The alternative explanation that the narrative simply contradicts Locke's own theory is much more clearly supported. Even if a very careful parsing of the text might explain how these problems fit, why would Locke choose such a story in a work so focused on limiting paternal authority and individual consent? And, as I will expand on in a moment, why would he include such a peculiar reading in a work that was

⁴³ *Ibid.*, I, § 58, p. 183.

⁴⁴ Apologists may still note that the daughter suggests that, as a virgin, she should spend some time in the wilderness before Jephthah sacrifices her. In this way, perhaps, she will no longer be the pure "innocent," as depicted. The problem, of course, is that she is sentenced as an innocent bystander.

⁴⁵ I take up Locke's view of biblical interpretation in section 5, below.

published anonymously and thus could not be referenced back to him for clarity? Whether or not the story *could be* accommodated through interpretation, the central question remains: why draw on a narrative that creates so many problems so prominently in a work (the "Second Treatise") whose argument requires no biblical authority and in which, indeed, biblical references are so sparse?

5. LOCKE'S UNDERSTANDING OF THE HEBREW BIBLE

The problems I have listed are problems for Locke only if he knew the Bible well, he interpreted it as I have suggested, and his interpretation of the story of Jephthah is more or less as I have portrayed it here. Locke scholars agree that he indeed knew the Bible well.⁴⁶ But the interpretive questions are less clear. In this section, I consider the secondary literature's virtual silence on the significance of Locke's use of the Bible in the "Second Treatise." I then take up his approach to biblical interpretation and his specific reading of the Jephthah narrative.

5.1 *Did Locke Know the Bible?*

The dominant treatment of Locke's use of the Hebrew Bible in the secondary literature is one of superficial engagement, noting that he referred to Jephthah, but not contemplating the meaning of the reference.⁴⁷ Historical treatments are more inclined to take the text at face value, using the broader historical context to flesh out the meaning of words and ideas but treating contradictions that do not conform to the prevailing argument as less meaningful and even as mistakes of the author.⁴⁸ Some would go as far as John Dunn, who found Locke's views to be "grossly incoherent."⁴⁹

⁴⁶ Ashcraft, *Locke's 'Two Treatises'*; Dunn, *Political Thought of Locke*; Foster, "The Bible and Natural Freedom"; Laslett, "Introduction"; Strauss, *Natural Right and History*; Oz-Salzberger, "Jewish Roots"; Zuckert, "An Introduction."

⁴⁷ For a similar assessment, see Moyn, "Jephthah, John Locke."

⁴⁸ These traditions, including those found in the Cambridge school and in Straussian readings, agree—despite their differences—that Locke knew the Bible well. Of course, many other ways of interpreting the text do not fall neatly into these categories, and in Locke's case the secondary literature is vast and variegated. Re-constructionist projects such as Simmons' *Lockean Theory* attempt to re-construct the strongest philosophical arguments from the text. Others still employ multiple interpretive methods to gain purchase on the text. The best recent examples of such mixed approaches are Alex Tuckness, *Locke and the Legislative Point of View: Toleration, Contested Principles, and the Law* (Princeton: Princeton University Press, 2002); and Waldron, *God, Locke, and Equality*.

⁴⁹ Dunn, *Political Thought of Locke*; Foster, "The Bible and Natural Freedom," p. 181.

For example, in his careful notes to the critical edition of *Two Treatises*, Peter Laslett comments simply that “Locke evidently regarded the story of Jephthah as crucial to the scriptural foundations of his case about civil society and justice.” “Evidently,” Laslett writes, presumably only because of the frequency with which the biblical account is cited. Little more is said here about the significance of the story, let alone how the content supports or undermines a reading of either text.⁵⁰ Leo Strauss was more sensitive to the problems that the story posed for Locke, but he seems not to have appreciated the significance of the matter, noting only that Jephthah was on the wrong side of Locke’s argument concerning conquest. None of the secondary research in the last fifty years—from any analytical viewpoint—has noted the Jephthah story’s multi-layered challenges to Locke’s argument.

More recent scholarship has allotted Locke’s use of Jephthah a little more attention, but again mostly in passing. In her important essay “The Jewish Roots of Western Freedom,” Fania Oz-Salzberger is more sensitive to the critical nature of the Hebrew Bible in Locke (and more generally in the establishment of seventeenth-century Republicanism).⁵¹ But sharing the view that such references are rhetorical flourishes and illustrations to be taken at face value, Oz-Salzberger merely notes that Jephthah is a “crucial biblical reference” for Locke (as well as for Grotius and Jurieu), referring readers to Laslett’s notes.⁵²

Although it does not take up the Jephthah story per se, Zuckert’s short “Locke and the Old Testament” seriously engages Locke’s use of the Bible in *Two Treatises*, arguing that it had more to do with his view of Scripture than with his politics.⁵³ Zuckert demonstrates the incongruity between Locke’s apparent refutation of Filmer and Filmer’s own claims, arguing that Locke’s real purpose in the “First Treatise” was to advance his own

⁵⁰ Laslett, on Locke, *Two Treatises*, II, p. 282, n. 17. Laslett only speculates about the purpose of the story, noting that both Grotius and Augustine had used it “for political analysis.” The book of Judges, Laslett continues, “represented a stage between the anarchy of primeval innocence and established sovereignty,” at least as expressed by prominent Calvinists of Locke’s day.

⁵¹ Oz-Salzberger, “Jewish Roots.”

⁵² Compounding the problem, Oz-Salzberger claims that Jephthah supports Locke’s argument by showing that “Appealing to divine intervention may prove insufficient in such pre-political quarrels: Otherwise, why would the children of Israel and the Ammonites take up arms after the judge Jephthah had explicitly called upon God to judge between the two?” Oz-Salzberger, “Jewish Roots,” p. 106. Yet Jephthah takes up arms only after appealing to heaven for God’s intervention in the form of military success, and his appeal was for God to deliver the enemy, which is precisely what the text says God does. For a similar point, see Moyn, “Jephthah, John Locke.”

⁵³ Zuckert, “An Introduction.”

views about reason and revelation in ways that explicit statements would not allow. The polemic with Filmer serves, then, as a cover for Locke. This is a plausible reading, though far more evidence is necessary if it is to be accepted. Still, Zuckert does not consider the story of Jephthah or more generally the use of Scripture in the "Second Treatise."⁵⁴

The emerging field of political Hebraism stands to explain how the Hebrew Bible contributed to Western political theory, implying that this contribution has been overshadowed by Greek and Roman influences. Yet this raising of the Bible to the status of Greece and Rome depends largely upon its having been used uncritically as a source of inspiration for new ideas in ways illustrated by both Laslett and Oz-Salzberger. While there is some evidence of this in many cases (for example, thinkers in the Dutch Republic drew from the lessons of the biblical Israelites),⁵⁵ some caution ought to be exercised before concluding what the widespread employment of the Hebrew Bible by these thinkers signified. We should be open to alternative hypotheses, including that the Hebrew Bible served not as source material but rather as an object lesson in how not to proceed. Indeed, scholars must accept the unsavory implications of an ironic use of the Bible: writers of the sixteenth and seventeenth centuries may have drawn on it to demonstrate its insufficiency for a new generation of Christian or secular thought. This is particularly true in the fallout of the regicide of 1641 and its subsequent revolution, which "shattered the universal acceptance of the Bible as an infallible text whose pronouncements were to be followed implicitly."⁵⁶ Indeed, Locke's use of the story of Jephthah throughout the "Second Treatise" may be a case in point. If the narrative is meant as a "proof text," then it proves the opposite of what Locke is claiming. And if the story is mere rhetorical window dressing, then we must make the very odd claim that Locke did not know the Bible.

Oz-Salzberger's aforementioned essay is an example, from the field of political Hebraism, of how use of the Hebrew Bible by a great thinker is heralded without much consideration of the interaction between the

⁵⁴ Despite its title, Zuckert's essay concerns only the "First Treatise." This limited focus appears to have been a practical result of his having written an introduction to that work itself. Zuckert shares Laslett's view, now generally accepted, that *Two Treatises* should be taken as a single, coherent (if partial) work. See also Foster, "The Bible and Natural Freedom."

⁵⁵ Miriam Bodian, "The Biblical 'Jewish Republic' and the Dutch 'New Israel' in Seventeenth-Century Dutch Thought," *Hebraic Political Studies* 1:2 (2006), pp. 186–202.

⁵⁶ Christopher Hill, *The English Bible and the Seventeenth-Century Revolution* (London: Penguin, 1993), p. 39.

stories cited and the argument made. Oz-Salzberger argues that Locke's reliance on the Hebrew Bible rather than the New Testament is evidence of his great esteem for the former. Locke, she claims, drew historical illustrations and lessons in political morality from the Hebrew Bible and was thus an unambiguous promoter of political Hebraism. The article does important cataloguing, but its explanatory value is minimized by failing to consider the discontinuities between Jephthah's story and Locke's argument.

What we need to explain, then, is why Locke would use a story with lessons so clearly antithetical to the stated argument of the "Second Treatise." This requires a full appreciation of how out of place the story of Jephthah is to Locke's argument. The discussion here serves as a cautionary tale for those who seek an unproblematic re-discovery of political Hebraism and for all of us who think we know the argument Locke is making in that seminal text.

5.2 *Locke's Interpretive Methods*

The failure of the secondary literature to articulate the significance of Locke's use of the Bible is an epistemic problem but not an ontological one: Locke may have exploited the Bible only for rhetorical purposes and nothing more, but if one fails to consider how the substance of the story plays out against Locke's argument, the rhetorical claims are unsubstantiated. The first step in figuring out *whether* the Jephthah narrative (or any other biblical story) was significant for Locke is to articulate Locke's own interpretive approach to the Hebrew Bible. The next step is to apply these methods to the story of Jephthah in particular.

To establish Locke's method of interpreting the Hebrew Bible, I will limit myself here to what he writes about interpretation in *Two Treatises* (particularly the "First"). Given that he wrote elsewhere about religion, reason, and revelation, particularly in the *Essay Concerning Human Understanding* and in *The Reasonableness of Christianity* but also in other writings,⁵⁷ limiting the scope of my view to *Two Treatises* requires justification.

First, Laslett has established sufficient evidence that Locke wrote *Two Treatises* as a single work (perhaps even as three treatises).⁵⁸ We can therefore begin our quest to understand his use of Scripture in the "Second

⁵⁷ As Zuckert also notes, Locke makes specific comments on how to read the Bible in the *Essay Concerning Human Understanding* and the "First Treatise." But one might also induce his method by turning to *Reasonableness* and his epistles on toleration, where he uses the Bible extensively. Zuckert, "An Introduction," p. 41.

⁵⁸ Laslett, "Introduction," pp. 49–50.

Treatise" by reference to what he writes about it in the "First Treatise." Second, we should note that *Two Treatises* employs the Hebrew Bible far more than the New Testament, which is referenced but once in the "Second Treatise."⁵⁹ Since the *Essay Concerning Human Understanding* and *The Reasonableness of Christianity* concern the reading of Scripture more generally, and if anything the New Testament in particular, there are good reasons not to presume that Locke granted the New Testament and the Hebrew Bible equal status.⁶⁰ In our limited goal of figuring out how the Jephthah story fits into Locke's argument in the "Second Treatise," we are therefore justified in looking to *Two Treatises* alone for guidance.

We can discern Locke's interpretive principles by looking carefully at how he employs biblical references in the "First Treatise." There, Locke uses biblical references primarily (but not unproblematically) to attack Filmer's claims of divine right on Filmer's own terms.⁶¹ Locke maintains that the argument in *Patriarcha* fails for three reasons: Filmer misquotes the Bible, using it selectively and ignoring clear counter-examples; he interprets the text bizarrely instead of relying on its plain meaning (a point Locke repeats no fewer than a dozen times in the first quarter of the "First Treatise");⁶² and finally, he mangles the plain meaning of Scripture to fit his own purposes. From each of these we can discern two hallmarks

⁵⁹ "The same Law of Nature, that does by this means give us Property, does also bound that Property too. God has given us all things richly, 1 Tim. Vi. 17. is the Voice of Reason confirmed by Inspiration." Locke, *Two Treatises*, II, § 31, p. 290.

⁶⁰ Locke's *Essay Concerning Human Understanding* corroborates the findings in the *Two Treatises*. First, following Grant, *Essay* and *Two Treatises* have close philosophical connections, such that the former can elucidate important aspects of Locke's politics. See Ruth Grant, *John Locke's Liberalism* (Chicago: University of Chicago Press, 1987). Second, and closely related, the two works were probably composed at about the same time, if not simultaneously. Finally, the *Essay* demonstrates how Locke viewed the relationship between reason and revelation based not on scriptural interpretation (as in the other works) but on direct argument. For example,

In all things, therefore, where we have clear evidence from our ideas, and those principles of knowledge I have above mentioned, reason is the proper judge; and revelation, though it may, in consenting with it, confirm its dictates, yet cannot in such cases invalidate its decrees: nor can we be obliged, where we have the clear and evident sentence of reason, to quit it for the contrary opinion, under a pretense that it is a matter of faith: which can have no authority against the plain and clear dictates of reason.

Locke, *Essay Concerning Human Understanding*, 4.18.6. This is just suggestive; a complete comparison of the two would require far more evidence than can be presented here.

⁶¹ Foster and Zuckert both believe the story is more complicated even in the "First Treatise." Foster, "The Bible and Natural Freedom"; Zuckert, "An Introduction."

⁶² For some examples, see sections 30, 31, 32, 36, 40, and 46.

that guided Locke's use of the Bible: rely on the plain meaning of words and do not ignore contradictory passages.

Consider three examples. In 32.10, Locke criticizes Filmer's interpretations "when the plain express words of Scripture, not capable of another meaning," should be used instead. In 32.41, responding to a particular interpretation Filmer offered concerning the land God gave Noah and his sons, Locke writes, "A very good sort of Argument, against an express Text of Scripture: but God must not be believed, though he speaks it himself, when he says he does any thing, which will not consist with Sir Robert's Hypothesis." Locke continues this theme in 36.1: "The Prejudices of our own ill grounded Opinions, however by us called *Probable*, cannot Authorize us to understand Scripture contrary to the direct and plain meaning of the Words." Some biblical lessons are accessible to "any sober Reader" (40.3), set out as they are "so obvious in the plain words" (40.8). Finally, Locke argues that even if Filmer was right in both his selection of passages and his interpretation thereof, his conclusions do not follow.

Thus, we can summarize Locke's view of biblical interpretation as presented in the *Two Treatises* in three directives or guidelines for appealing to Scripture: (1) use accurate and appropriate quotations; (2) use the plain meaning of the words without fanciful interpretation; (3) be consistent and use sound argumentation.⁶³ Given these three directives, we can now turn to key points in the Jephthah narrative and ask how Locke would have understood them. We will want to pay particularly close attention to how Locke would have treated the infanticide at the end of the story and whether or not he believes God would have intervened in the order of things in this world to secure the victory of the just party in an armed conflict.

5.3 *Did Locke Know the Story of Jephthah?*

The proximity of Jephthah's appeal to heaven to both God's intervention and Jephthah's subsequent sacrifice of his daughter makes it difficult for us to believe Locke could have missed the problematic features of the appeal. Recall that the killing of Jephthah's daughter occurs in the very same chapter as the vow, not tucked away somewhere else where it might more easily be lost or obfuscated. Besides, it is unlikely that Locke just opened to the particular passage in which Jephthah appeals to heaven without reading what came before or after. As we will see, Locke references the establishment of Jephthah as ruler, an event that happens *prior* to the

⁶³ See note 59, above, for corroboration of this point in *Essay*.

appeal. Moreover, Laslett claims Locke was working on a chronology of the book of Judges in 1680, which is roughly when Laslett dates the writing of *Two Treatises*. Again, it is hard to imagine that such a painstaking chronology could be undertaken without engaging the full story.

We can also consider the Jephthah story in the context of Locke's period. The story was known and referenced by his contemporaries, in particular Algernon Sidney and Thomas Hobbes, whose work Locke was known to have read (and, in the case of Sidney, to have been closely connected to).

Sidney used the Jephthah narrative throughout his *Discourses Concerning Government* in several ways. First, the protagonist exemplified a leader whose rise to power was established by agreement with existing leadership rather than through inheritance of paternal, monarchical, or divine authority.⁶⁴ Elsewhere, Sidney returned to Jephthah as an illustration of "holy men raised up by God for the deliverance of his people from their oppressors."⁶⁵ Still other references point to Jephthah's leadership more generally.⁶⁶

Hobbes also explicitly referred to Jephthah twice in *Leviathan* and, most critically, uses the killing of Jephthah's daughter in chapter 21 of that work to illustrate the justifiable killing of an innocent: "And therefore it may (and doth often) happen in commonwealths that a subject may be put to death by the command of the sovereign power, and yet neither do the other wrong, as when *Jephthah* caused his daughter to be sacrificed (in which, and the like cases, he that so dieth had liberty to do the action for which he is nevertheless without injury put to death)."⁶⁷ This chapter, "Of the Liberty of Subjects," is central to *Leviathan*, and we must presume that Locke knew this prior to writing *Two Treatises*.

A final unexplored possibility remains. Even if Locke knew well the story that both he and his prominent contemporaries had referenced, perhaps he interpreted the sacrifice in a way that would render it unproblematic, say, by viewing the fulfillment of Jephthah's vow as something other than the killing of his child. Historically, this view has plausibility.

⁶⁴ Sidney, *Discourses*, ch. 2, sec. 9, p. 125; ch. 2, sec. 32, p. 312; ch. 3, sec. 1, p. 329; ch. 3, sec. 31, p. 502; ch. 3, sec. 39, p. 536. Locke makes the same point in the "First Treatise."

⁶⁵ Sidney, *Discourses*, ch. 2, sec. 24, p. 228. See also ch. 2, sec. 24, p. 329.

⁶⁶ *Ibid.*, ch. 2, sec. 32, p. 314.

⁶⁷ Thomas Hobbes, *Leviathan* (Indianapolis: Hackett, 1994), ch. 21, p. 139 (emphasis in the original). Hobbes also refers to Jephthah in ch. 34, but in a list of examples from Judges that illustrate the "extraordinary zeal and courage in the defense of God's people [that] is called *Spirit*." Hobbes, *Leviathan*, ch. 37, p. 264.

The rabbinic tradition interpreted the story this way, noticing that the Hebrew text says only that Jephthah “did as he had vowed,” not that he killed his daughter. This tradition posits that Jephthah honored his vow in an alternative way. George Friedrich Handel’s nineteenth-century opera *Jephthah* takes this scenario one step further by having an angel of God present Jephthah with a ram in the thicket to be sacrificed instead of his daughter (thus paralleling the story of the binding of Isaac in the book of Genesis).

Such interpretations would admittedly eliminate the problem for Locke, but only at the expense of the plain meaning of the story, which we saw was a hallmark of his interpretive strategy. Jephthah’s vow was to kill the first creature that emerged from his house; his daughter was that first creature; Jephthah lamented that he had to kill her; and the daughters of Israel sang dirges “even to this day” after “Jephthah did as he had vowed.” Even Handel does not dispute this interpretation, saving Jephthah’s daughter only by adding a twist to the biblical story. But it is unlikely that on the point of infanticide Locke would suddenly believe the story tells anything but what it does: Jephthah did as he had vowed—sacrificed his daughter—and thereafter the daughters of Israel sang dirges. This is explicitly what Hobbes references in his use of the story. To be sure, the definitive answer to this question must be a historical one beyond the scope of this paper; but we presume Locke knew the story and knew it involved the killing of the protagonist’s daughter.

6. TOWARD A RESOLUTION

The aim of this article was to establish that, despite its repeated use, the Jephthah story is a counter-illustration of key features of the argument of the “Second Treatise of Government.” As I said in the introduction, I cannot hope to offer a solution here. Still, it is worth proposing at least a framework for thinking about a solution, and suggesting hypotheses for further research.

I begin by noting that the Jephthah story is problematic only if Locke interpreted it as described here and used the Hebrew Bible deliberately. To be fair, I have provided only a cursory discussion of this point, remarking on the prominence of the story in Locke’s time, noting that the child sacrifice appears in a prominent section of *Leviathan* as well as in Sidney’s work. These slight references hardly reveal how the story was understood in Locke’s time and therefore by his readers. Indeed, figuring that out would make for a useful case study for those attempting new projects in political Hebraism, particularly because of the prominence of the *Two Treatises* in the history of Western political thought.

Still, while it would add depth to this study, knowing how Locke actually interpreted the Jephthah story is unlikely to help resolve the general problem for two reasons. First, the difficulties identified here emerge out of the gross details of the narrative, not out of marginal or contested issues. The story clearly says *God delivered the Ammonites to the Israelites*. It clearly depicts Jephthah's denial of the Ammonites' native rights to the land. It portrays Jephthah's daughter's urging him to sacrifice her to God. It says that Jephthah "did as he had vowed" and that dirges were sung to the daughter. Again, this does not pre-judge the question, but it does mean historians should seek a resolution that fits with Locke's imploring us to read the plain meaning of Scripture.

Positing that Locke interpreted the story in a way that somehow fit the argument in the "Second Treatise" leads to other problems. I mentioned one of these above: why would Locke include a text that requires so much interpretive work to fit the argument? But now consider that *Two Treatises* was published anonymously, so whatever *Locke* had privately thought the Jephthah story meant had to be placed in service to what he knew the public thought about it. This is a critical point. Even in the unlikely event that *Locke* had interpreted the Jephthah story unusually, it seems even more unlikely that the public for which he was writing would have so interpreted it. Again, these are primary presumptions, and a complete historical account would have to confirm or reject them.

The important question of intentionality then arises: if the biblical citations were mere afterthoughts thrown in along the way, then we could simply dismiss these questions entirely. But this is methodologically problematic. We should resist the temptation to reject passages as rhetorical additions when they conflict with Locke's argument but accept others as thoughtful illustrations when they do not, for this assumes an answer to the very question at hand. We must ask why Locke chose the passages he used *without reference to their closeness of fit*. This last answer, perhaps best gleaned from a careful study of Locke's correspondence, might provide the key.

If Locke knew the story and did not use it arbitrarily in *Two Treatises*, then he used it ironically, and we must make sense of what that means both for his view of Jephthah and the Hebrew Bible more generally and for his own argument in the "Second Treatise." One view, consistent with Strauss, is that the contradictions and mistakes were the author's attempt to conceal his teaching for fear of persecution.⁶⁸ Given that the document

⁶⁸ Leo Strauss, *Persecution and the Art of Writing* (Glencoe, Ill.: Free Press, 1952). Another argument attributed to Strauss (mostly by his critics) is that authors obscure their message because the truth of their writing is too powerful for common men to

was published anonymously, and that Locke seems to have been willing to take credit for it, this possibility does not seem historically plausible; while it must be considered as a hypothesis, others may offer more compelling explanations.

As new scholarship has demonstrated, Locke was writing at the end of a period in which the Hebrew Bible was commonly employed to support political and moral arguments. Biblical models were used as illustrations and examples as the Dutch “new Israel” emerged, and as Mosaic law became a hallmark of good legislation. If the three presumptions stand, then the Jephthah narrative seems to mock this practice; it is as if Locke were saying, “What a joke to invoke scriptural authority!” This interpretation also has the virtue of closely connecting with Locke’s oft-repeated criticism of Filmer for having used quotations selectively to support his case and not following them through. Another possibility is that such a jarring quote signaled something else to the reader of this period that a good historian might figure out. Whatever the answer, such a view would accept that Locke knew the Jephthah story well and used it intentionally. It simply rejects that his use of the tale was rhetorical flourish or illustrative example.

Alternatively, the jarring use of the Jephthah story might be intended to indicate something more cautious about Locke’s political views.⁶⁹ If nothing else, the sacrifice of Jephthah’s daughter and the chaos that follows his short rule caution of the harm that an appeal to heaven might bring on those who invoke it. If Locke felt that God did not *really* intervene, then the only thing that the appeal added to Jephthah’s success was an illusory vow to kill his child. So on one hand, any time one appeals, one might be stuck with terrible consequences. And on the other, any time one acts with the supposed fury of God behind them, one might wind up doing something truly wicked. Both are clearly hypotheses waiting to be tested.

Washington University, St. Louis

deal with; great writers hid this truth as a noble lie. But this is not supported in what Strauss actually wrote. Rather, in Strauss’ own words, the main reason for esoteric writing was to protect the author from persecution by the authorities.

⁶⁹ I am grateful to Richard Boyd, who suggested this reading to me.