

The Case of Conjoined Twins: Medical Dilemma in Law and Literature¹

When King Solomon was called upon to allocate a child to one of the two women claiming to be its mother, his task was to distinguish the right outcome from the wrong outcome.² The case of *Re A (Separation of Conjoined Twins)*,³ a decision of the Court of Appeal of England and Wales, presented the court with a problem for which there was no right answer— a choice between a rock and a hard place. The dilemma was to leave baby twins conjoined and facing a high probability of death within a short timescale; or to separate them, thereby producing the almost immediate death of one whilst securing a good likelihood of normal lifespan for the other. The court of first instance and the Court of Appeal were asked to make a choice and, rightly or wrongly, made one; and their decision in favour of separation may or may not have been the least wrong one. I am not called upon to determine the dilemma, even in theory, so I will resist the temptation to favour one outcome over another on the specific facts of *Re A*. The purpose of this essay is to recommend improvements to the form and content of the conversations that ensue when officials and professionals are called upon to comment and decide upon a dilemma of this sort, whichever way they decide. It is difficult to escape the linguistic norms to which we are subject. How can we express our means of escape without employing the very language we mean to escape from? When we discuss the case of *Re A*, linguistic norms compel us to refer to “twins” (plural) and “one” and “other”; terms which

¹ I am grateful to my friends and colleagues Marc Stauch and Jane Bryan for their insightful comments on this paper, in response to which I made a number of changes and should probably have made a number more.

² 1 Kings 3:16-28.

³ In *Re A (Children) (Conjoined Twins: Surgical Separation)* [2001] Fam 147, Court of Appeal. Throughout the remainder of this paper quotes from this case are followed by references (in parenthesis) to the relevant page number of this report.

imply nothing of the high degree of physical connection or contiguity between the baby girls. There is an individualistic bias to our social discourse (and certainly to our legal and scientific discourse) which is hard to avoid. I do not underestimate the linguistic conventions that constrain medical and legal practitioners, nor do I underestimate the lengths to which the judges in the case of *Re A* undoubtedly went to wrestle with their decision, but I do argue that individualistic linguistic norms have obscured alternative modes of thought and expression which might have the capacity to confer metaphysical meaning on instances of physical confusion.⁴ We will discover that alternatives are to be found in non-legal literature, but that they are also to be found concealed in legal literature, where they supply an internal critique of the law's own dominant norms of speech. We will also discover that alternatives have the power to enter legal language through the exercise of creative literary imagination.

The case of *Re A* began when a pregnant mother, carrying conjoined twin girls, travelled with her husband from their home on the Maltese island of Gozo to the United Kingdom. They had travelled because the medical profession in the UK has an expertise in delivering conjoined twins that could not be found on their rural island. They also came to consult on the possibility of surgical separation. When the children were born it became apparent that one of the twins, called "Mary" for the purpose of the subsequent legal proceedings, was wholly dependent upon the cardio-vascular system located within the skeletal structure of the other twin, "Jodie". As Brooke LJ stated in his summing up, Mary's heart, brain and lungs were "for all practical purposes useless" and "nobody would have even tried to extend her life artificially if she had not, fortuitously, been deriving oxygenated blood from her sister's bloodstream" (239). In the words of Robert Walker LJ, "the awful paradox at the centre of this case" lay in the fact that Mary was "alive as a distinct personality" but

⁴ Compare Alice Domurat Dreger, who advances the argument that conjoined twins are prejudiced by norms of body image perpetuated by singletons (her term for people who are physically un-conjoined): *One of Us: Conjoined Twins and the Future of Normal* (Harvard University Press, 2004).

was not “viable as a separate human being” (242). The medics saw that the strain on Jodie’s heart would cause cardiac arrest and the death of both twins within a period of a few years at best, but more likely much sooner. They therefore applied to court for permission to separate the babies despite the parents’ objection, based on their Roman Catholic religious beliefs, that they would prefer both babies to die naturally rather than kill one to save (and inevitably scar, possibly debilitate) the other. The hospital had received the family for the purpose of delivering the babies and advising on the possibility of separation, but when the parents objected to the proposed separation, the hospital sought to *enforce* it through the courts. Thus the hospital turned from host to hostage-taker. That might sound like hyperbole (after all, the parents at no stage bore any personal animosity to the individual medics charged with care of the twins), but it is sobering to note that a modern hospital can, without any hint of official censure, commit that species of treachery by host to guest which the ancients considered to be a breach of the fundamental law of *xenia* (“hospitality”) and, as such, to be deserving of the Furies’ fierce revenges. The hospital’s decision to seek separation against the parents’ express wishes was the first of many evil means employed in the course of pursuing the medics’ conviction that surgical separation of the twins would be the right and legitimate end. It might be thought that in the case of a true dilemma, where both ends are bad, no end should be pursued where there is patent evil in the means by which it is achieved. Ward LJ decided, however, that the medics had “a proper interest” in asking the court to decide; even going so far as to state that to decide questions of life and death is “surely and pre-eminently a matter for a court of law to judge. That is what courts are here for” (174). His lordship was painfully aware that this was a case with no right answer, but “after anxious thought” he concluded “that the court cannot abdicate responsibility and simply say it is too difficult to decide” (192).

The possibility of leaving the terrible choice to the parents did not commend itself to the court. Perhaps the court's intervention was motivated by a paternalistic concern to spare the parents the ordeal of the decision. That would hardly be an excuse, but it would at least be an explanation. Without it, it is hard to see what better qualification than the parents the legal and medical professionals had to determine on this dilemma. The court had, after all, acknowledged that "[o]ther medical teams may well have accepted the parents' decision" and that, had the medics in this case done so "there could not have been the slightest criticism of them for letting nature take its course in accordance with the parents' wishes" (173). It is only because the issues in this case were framed in terms of the competing best interests of two individuals that the court could claim a special competence to hear the matter, but it was the medics and the lawyers between them who framed the issues in those terms. The court assumed competency to hear the case on the basis of a language constructed on its own individualistic terms. There were alternatives. The court might have disclaimed competence on the ground that the dilemma concerned a choice between wrongs as opposed to a choice between rights, or, better still, the court could have framed the dilemma in this case as a dilemma faced by both twins, as a shared problem.⁵ Instead it framed the dilemma in terms of a competition between them, as is painfully apparent from the following part of the judgment of Ward LJ, which should be quoted in full:

In this unique case it is, in my judgment, impossible not to put in the scales of each child the manner in which they are individually able to exercise their right to life. Mary may have a right to life, but she has little right to be alive. She is alive because and only because, to put it bluntly, but none the less accurately, she sucks the lifeblood of Jodie and she sucks the lifeblood out of Jodie. She will survive only so long as Jodie survives. Jodie will not survive long because

⁵ M Q Bratton and S B Chetwynd, "One into two will not go: conceptualising conjoined twins" (2004) 30 *J. Med. Ethics* 279-285.

constitutionally she will not be able to cope. Mary's parasitic living will be the cause of Jodie's ceasing to live. If Jodie could speak, she would surely protest, "Stop it, Mary, you're killing me." Mary would have no answer to that. Into my scales of fairness and justice between the children goes the fact that nobody but the doctors can help Jodie. Mary is beyond help.

Hence I am in no doubt at all that the scales come down heavily in Jodie's favour. The best interests of the twins is to give the chance of life to the child whose actual bodily condition is capable of accepting the chance to her advantage even if that has to be at the cost of the sacrifice of the life which is so unnaturally supported. I am wholly satisfied that the least detrimental choice, balancing the interests of Mary against Jodie and Jodie against Mary, is to permit the operation to be performed (197).

Towards the conclusion of his judgment, his lordship even went so far as to state that he could "see no difference in essence between" the legitimacy of killing a "six-year-old boy" who was "indiscriminately shooting all and sundry in the school playground" and the legitimacy of killing Mary in defence of Jodie (204). That the judge does not acknowledge any essential difference between these two cases does not so much reflect upon the judge himself as upon the law's narrowly abstract view of what counts as essential.

Having framed the issues in terms of competition between the twins, it was almost inevitable that the court would decide to approve the medical procedure to separate them.⁶ The process of separating the twins in thought and word prepared them for separation by scalpel. There was still a huge hurdle to overcome, of course, for this would be the first case in which, contrary to parents' expressed wishes, any court had sanctioned the killing of an innocent child to save the life of another. If their lordships imagined that they were searching for the legally right or wrong solution to the problem before them, they were searching in

⁶ See, further, Bratton and Chetwynd *ibid*.

vain. There could be no legally “correct” outcome to the conundrum of the conjoined twins – certainly there was no binding precedent for the case, and their lordships made it clear that they did not intend their decision to stand as a precedent for future cases. Robert Walker LJ rightly acknowledged that there was “no helpful analogy or parallel to the situation” (255) which the court had to consider in *Re A*, but the case nevertheless became a battleground for analogy and metaphor. If ever a case proved the importance of a literary analysis of legal language, this was it. The case did not entail a search for governing law, but a search for a governing story by which their lordships could convince themselves and their audience. Their lordships’ choice of metaphor should concern us, for forms of official speech always have substantial significance. When the court assumed, or accepted, the task of speaking for the voiceless baby girls it also assumed or accepted the task of providing a fitting narrative, and ought to have been mindful that in the case of Mary it would be the lasting official account of her life. Their lordships rightly rejected the analogy, which was used at first instance, that depicted Jodie as the life-support machine for Mary; as indeed they had to, for taken to its natural conclusion the analogy would lead to the illogical proposition that the child Mary be “switched off” to save “the machine” Jodie. The metaphor of the child as machine, clearly failed to do justice to Jodie, but the descriptions employed by Ward LJ in the passage quoted earlier surely failed to do justice to Mary. In that passage we are told that she “sucks the lifeblood out of Jodie”, that her living is “parasitic” and that she is “killing” Jodie. If such descriptions appear to add insult to the injury, his lordship might argue that he depicted Mary as an assailant in order to justify a finding that the medics had acted in Jodie’s defence. He might argue, therefore, that he added the insult to *avoid* finding an injury. If so, that argument fails to convince. To kill an innocent child is always injurious. It is not only morally wrong, but legally wrong. That it might, morally and legally speaking, be the lesser of two injuries does not change the fact that it is an injury. At another point in his judgment, Ward LJ

compared the parents' choice to a choice that might have been presented to parents at the gates of a concentration camp:

If a family at the gates of a concentration camp were told they might free one of their children but if no choice were made both would die, compassionate parents with equal love for their twins would elect to save the stronger and see the weak one destined for death pass through the gates. (196)

The concentration camp analogy, which appears to be inspired by the story of *Sophie's Choice*,⁷ was doubtless a well-intentioned attempt to express the insolubility of the parents' dilemma. It should not be taken literally, but it demands to be taken seriously; and if it is taken seriously, it inevitably prompts one to search the facts of *Re A* for equivalents to "the parents", "the children" and "the murderous officials". It is by no means straightforward to find them. To identify the children with the twins is unproblematic. It is also relatively straightforward to identify the officials with the hospital and the court, for they were the officious agencies in this case, and, "to put it bluntly, but none the less accurately", the "killers"; even allowing for the argument that to kill Mary was less evil than to let both twins die. Certainly the parents of Jodie and Mary cannot be accused of killing, even if they might be accused of choosing not to save. We might assume, therefore, that the parents of Jodie and Mary are equivalent to the parents in the concentration camp analogy; but that is decidedly not the case, for the parents of Jodie and Mary were offered no real power over the fate of their daughters. It turns out that the judge has imagined himself in the position of the parents in the concentration camp analogy, acting as *parens patriae*. The image therefore

⁷ William Styron, *Sophie's Choice* (New York: Random House, 1979). The novel was made into a film (Alan J Lakula, 1982) in which Meryl Streep played the part of Sophie, for which she was awarded an Academy Award for Best Actress. The fictional story of *Sophie's Choice* is a great deal more circumspect on the merits of making the choice. In Sophie's case she "decided" to save her son and allow her daughter, the younger sibling, to be taken to her death. As things transpired, Sophie was tortured by her choice and committed suicide in later life.

deflects attention from the judge's official role as superintendent over life and death, whilst subtly excising the parents of Jodie and Mary from the picture.

There are rare cases, and this was one, in which the typical language of law, and specifically the language of competing individual rights, is bound to fail (despite the judge's claim to be "in no doubt at all"). What is then required is to employ another language; a language of communal wisdom. A family can provide this for itself, but judges should, perhaps, recognise that they also have capacity to provide it, even if they have to admit that, in cases beyond the law's official remit, they are speaking as State-appointed wise men and women; speaking lore, not sitting as judges of law. So, what narrative might the court have supplied to explain (perhaps to justify) the surgical separation in this case? What is required is a narrative that will capture the essentials of the dilemma as closely as possible but which removes any suggestion of competition between the twins and any sense that the weaker twin is assaulting the stronger. If the narrative can supply a worthy epitaph to the weaker twin and at the same time a story to comfort and inspire the survivor, so much the better. The analogy of mountaineers, roped together, was mentioned briefly in *Re A*; suitably extended, it might serve:

These baby girls are like expert mountaineers, also twin sisters, who have overcome immense challenges together and now face their most daunting challenge to date – to scale the north face of the Eiger. It is not for sport that they undertake this challenge, but because the very nature of their whole life together depends upon meeting and overcoming such challenges as they present themselves. Together they are undaunted. They begin their ascent, roped together, as always they are. Tragically, when far from the ground, but still far short of the summit, an accident occurs. An avalanche of snow and stone falls down. The stones strike the trailing twin, knocking her unconscious and causing her to fall and break her legs so badly that loss of blood will kill her before she has any chance of being hauled to the summit or

helped to safety. The conscious twin now clings on to the mountain for dear life, but the single piton by which the rope is held cannot bear the combined weight of both twins for very much longer. Even if the piton holds, exposure to the elements will, before long, take both their lives. The conscious twin has no means to cut the rope, and even if she had the means she would by no means cut it. Perhaps the law would excuse her if she did, perhaps the law would even say that she has the right to cut the rope,⁸ but she cannot in conscience kill her twin to save herself. The unconscious twin has no such dilemma, for she is deep in unknown dreams, and she can never wake. Now suppose that in a dream an offer comes to her by an unseen hand: to cut the rope and send her sleeping to a peaceful death. Will she accept? Would she sacrifice herself to save her sister? We think she surely would. Today, in the case of Mary and Jodie, we make that offer and hear that reply.

This, I suggest, provides a much more appropriate account of the dilemma and a more fitting epitaph for Mary than the implication that she is a “blood-sucker”, “parasite” and “sister-killer”. We have seen, though, that those labels fit with the law’s demand that there be an assault on Jodie before it can be asserted that Mary was justifiably killed in Jodie’s defence. Thus the language of the law compels a distortion of the language of life. It might have distorted it further, for Ward LJ was not insensitive to the need for humane language. His lordship deliberately resisted the option of labelling Mary “an unjust aggressor”, noting that this “American terminology” would be “wholly inappropriate language for the sad and helpless position in which Mary finds herself” (203). His lordship was right, of course, but one wonders, with respect, whether he might have done better to avoid the suggestion that Mary’s “parasitic living” “sucks the lifeblood out of Jodie” and that Jodie would have said “Stop it, Mary, you’re killing me”. Even if the law demands a finding of assault it is nevertheless possible, with imagination and sensitivity, to accommodate such a finding

⁸ Claire Oakes Finkelstein, “Two Men and a Plank” (2001) 7(3) *Legal Theory* 279-306.

within the story of the mountaineers. Thus the story could be amended to include the following coda:

But the law will not let us hear Mary's request and it will not let us act on her reply. So we must return to her and explain that we must show that Jodie has acted in self-defence, and that for this we must allege that Mary is a threat to Jodie. And so we imagine that we have asked Mary for permission to say that she is a threat to Jodie, and we imagine that she would reply "if it will save my sister, you may call me whatever you like".

A narrative along these lines might, in fact, have been in the minds of the judges in *Re A*. If so, it is regrettable that they did not feel able to express them for the record. There is no denying that legal categories are, and inevitably will be, abstracted from life; but there are cases in which the process of abstraction should be expressly acknowledged and a fuller account provided. When the court accepted jurisdiction over the dilemma in *Re A*, it framed the question in the empirical language of scales (an ingrained, but nevertheless inadequate, metaphor for justice) and thereby committed itself to disposing of the question in terms of conflict and cold calculation. An issue such as this ought to have been convened in a court of pathetic conversation. In his novel *Hard Times*, Dickens satirises empirical utilitarianism in the figure of Thomas Gradgrind,⁹ who is introduced in the second chapter (entitled "Murdering the Innocents") in the following terms:

THOMAS GRADGRIND, sir. A man of realities. A man of facts and calculations. A man who proceeds upon the principle that two and two are four, and nothing over, and who is not to be talked into allowing for anything over. Thomas Gradgrind, sir - peremptorily Thomas - Thomas Gradgrind. With a rule and a pair of scales, and the multiplication table always in his

⁹ Commonly thought to represent Jeremy Bentham.

pocket, sir, ready to weigh and measure any parcel of human nature, and tell you exactly what it comes to. It is a mere question of figures, a case of simple arithmetic.¹⁰

Gradgrind is a friend to facts and a foe to “fancy”. Is there something transcendental, almost ineffably beautiful, in the power and grace of a horse? Not for Gradgrind. When Sissy Jupe (he calls her “girl number twenty”) cannot define a horse, he calls on another child to perform:

“Bitzer,” said Thomas Gradgrind. “Your definition of a horse.”

“Quadruped. Graminivorous. Forty teeth, namely twenty-four grinders, four eye-teeth, and twelve incisive. Sheds coat in the spring; in marshy countries, sheds hoofs, too. Hoofs hard, but requiring to be shod with iron. Age known by marks in mouth.”

Thus (and much more) Bitzer.

“Now girl number twenty,” said Mr. Gradgrind. “You know what a horse is.”¹¹

The satire of Gradgrind is effective as a critique of the empiricist brand of judgment in *Re A*, right down to the application of “a rule and a pair of scales”. The authors of the excellent critical analysis of *Re A* entitled “One into two will not go”,¹² are alert to the inadequacy of simplistic mathematical formulae and figures when it comes to appreciating the complexity of the human figure in a conjoined state. It is not possible justly to dispose of a case like *Re A* through a formulaic allocation of body parts, still less justifiable to conceive of the case as a competition between the twins. It is never a “mere question of figures”. It is not about numerical counting, but about producing a just account. The officials are bound to fail in their attempt to produce a just outcome in a case such as this, but they must not compound that failure by producing an unjust narrative.

¹⁰ Charles Dickens, *Hard Times* (1854) (London, Penguin Popular Classics, 1994) 2.

¹¹ *Ibid* at p.4.

¹² Bratton and Chetwynd, note 4 above.

One way to challenge the assumption that an empirical “head count” approach to problems of medical ethics is inevitable is to show that ideas of physical and numerical confusion are deeply embedded in some of our legal, cultural and political conceptions of the beautiful and worthwhile. In 2005, a girl who was born with four arms and four legs was named Lakshmi by her Hindu parents; an acknowledgment of her resemblance to the four-armed Hindu goddess. This illustrates the potential to ascribe a positive story to an atypical physical form. It does not mean that the form will remain unaltered (in 2007, Lakshmi underwent surgery to leave her with two arms and two legs), but it does provide an alternative to the generally negative account of conjoined physicality that is produced by the dominant discourse.¹³ It is trite to observe that unusual physiology is not the norm, but a mistake that is often made is to identify the norm (the normal) with the ideal. If there is an “ideal” human form, a regular template of the human body, it is a type that can never correspond to human reality in every detail; like a type font that matches no person’s individual handwriting. I am not suggesting for one moment that a conjoined physical state is something that one (or two) might aspire to, but I am suggesting that where it exists one ought to apply one’s imagination to the appreciation of its positive as well as its negative aspects. It follows that, in the event of separation surgery, one ought to acknowledge, as Bratton and Chetwynd urge us to acknowledge, that something significant is lost in the process of separation, even as something is gained.¹⁴ One of the things that is lost through separation surgery is a degree of human closeness and contiguity that the vast majority of us will never experience. The embrace of family and friends is close, but not as close; even the physical intimacy of lovers is not so fundamentally confused. The pathetic sight of conjoined twin babies depicts utter closeness and interdependence and therefore signifies something of what it means to be fully human. In Plato’s *The Symposium*, the comic character of

¹³ On this, see further, Dreger, note 3 above.

¹⁴ Note 4 above.

Aristophanes employs the image of a conjoined “Androgyne” to account for the universal human drive to find utmost intimacy with another person. It may be nothing more than a satire on the whole genre of “origin myth”, but at least it provides a broadly positive image of physically conjoined persons:

...the original human nature was not like the present, but different. The sexes were not two as they are now, but originally three in number; there was man, woman, and the union of the two, having a name corresponding to this double nature, which had once a real existence, but is now lost, and the word ‘Androgynous’ is only preserved as a term of reproach. In the second place, the primeval man was round, his back and sides forming a circle; and he had four hands and four feet, one head with two faces, looking opposite ways, set on a round neck and precisely alike; also four ears, two privy members, and the remainder to correspond. He could walk upright as men now do, backwards or forwards as he pleased, and he could also roll over and over at a great pace, turning on his four hands and four feet, eight in all, like tumblers going over and over with their legs in the air; this was when he wanted to run fast...Terrible was their might and strength, and the thoughts of their hearts were great, and they made an attack upon the gods...At last, after a good deal of reflection, Zeus...said: ‘Methinks I have a plan which will humble their pride and improve their manners; men shall continue to exist, but I will cut them in two and then they will be diminished in strength and increased in numbers; this will have the advantage of making them more profitable to us. They shall walk upright on two legs, and if they continue insolent and will not be quiet, I will split them again and they shall hop about on a single leg.’ He spoke and cut men in two, like a sorb-apple which is halved for pickling, or as you might divide an egg with a hair; and as he cut them one after another, he bade Apollo give the face and the half of the neck a turn in order that the man might contemplate the section of himself: he would thus learn a lesson of humility...After the division the two parts of man, each desiring his other half, came together, and throwing their arms about one another, entwined in mutual embraces, longing to grow into one...”

Modern science confirms that there is an element of ambiguity, even androgyny, in our physical makeup as we develop in our mother's womb. It is trite to say that the original diploid cell, the zygote (from the Greek for "yoke") is made up of male and female gametes (the male sperm and the female egg) yoked together, but even at the foetal stage males and females share the same form (phenotype) despite differences in their genetic makeup (genotype). It is not until several weeks after conception that a foetus with an "x" and a "y" chromosome starts to develop into a male (a foetus with two "x" chromosomes continues to develop as a female). Plato's account captures this very basic sense that two have derived from one. It also captures the fact that monozygotic twins are formed, "two out of one", from a single primal cluster of cells. This is the process which, if not performed completely, produces conjoined twins. The story of Adam and Eve, fabulous as it seems to modern minds, also captures something of the genetic science. The orthodox translation tells us that God took a rib from Adam and made woman from it, but the word "rib" can also be translated as "side". We now know that, generally speaking, so far the sex chromosomes are concerned, the male has two different "sides" – "x" and "y" – and that the female has only the "x" side. Feminists have even argued that the original Adam was an Hermaphrodite,¹⁵ having female and male sides to his/her nature in a manner not so very different to Plato's Androgyne. Of course, the Biblical and Platonic stories were not solely concerned to provide an account of human origins. They were also concerned to provide a narrative to explain the reality of human relationships, and in particular to account for a human being's felt need for a companion or lover. The story of the one who became two is not offered as a factual reality on its own account, but as a way of accounting for the fact that true companions or lovers have the desire and capacity to make "two become one". This theme of companions and

¹⁵ A T Reisenberger, "The creation of Adam as hermaphrodite - and its implications for feminist theology" (1993) 42 *Judaism: A Quarterly Journal of Jewish Life and Thought* 447-52.

lovers as halves of a whole is, of course, a familiar one in romantic literature. It is a theme that Shakespeare explores with typical accomplishment in a poem he wrote for a 1601 collection on the “phoenix and the turtle-dove” (the phoenix representing the Queen and the turtle-dove a doting courtier).¹⁶ It has been described as “the first great published metaphysical poem”.¹⁷ Since 1807, the poem has been known as “The Phoenix And Turtle” or by its first line “Let the Bird of Loudest Lay”. The following are stanzas 7 to 10:

So they loved, as love in twain

Had the essence but in one;

Two distincts, division none:

Number there in love was slain.

Hearts remote, yet not asunder;

Distance, and no space was seen

‘Twixt this turtle and his queen:

But in them it were a wonder.

So between them love did shine,

That the turtle saw his right

Flaming in the phoenix’ sight;

Either was the other’s mine.

Property was thus appalled,

¹⁶ *Love’s Martyr: or Rosalins Complaint. Allegorically shadowing the truth of Loue, in the constant Fate of the Phoenix and Turtle etc* (1601).

¹⁷ PG Cheney, *The Cambridge Companion to Shakespeare’s Poetry* (Cambridge, Cambridge University Press, 2007) 117.

That the self was not the same;

Single nature's double name

Neither two nor one was called.

When Shakespeare writes that number was “slain” and that property was “appalled”, he is acknowledging, even celebrating, the fact that the paradox of “two as one” cannot be expressed, still less appreciated, in terms of mathematical and empirical science.

Shakespeare's play *Twelfth Night: Or What You Will*, which is thought to have been written in 1601, and is known to have been performed in December 1602 to an audience of lawyers at Middle Temple (one of the Inns of Court), culminates in a moving reunion of brother and sister twins in which Shakespeare alludes to Plato's myth of the Androgyne and, specifically, to the metaphor of the halved apple.¹⁸ Confronted with the spectacle of Sebastian alongside his sister Viola (disguised as a man), Sebastian's friend Antonio asks:

“How have you made division of yourself?

An apple, cleft in two, is not more twin

Than these two creatures....” (5.1.207-9)

The scene is made all the more moving by the fact that Shakespeare was himself the father of boy and girl twins, Hamnet and Judith, and the fact that Hamnet had died in 1596, aged 11. It is not unreasonable to speculate that *Twelfth Night*, which depicts the tragic separation of twins and their fantastic reunion, was at some level written with his own children in mind.

In Early Modern Europe, the metaphysics of two as one was as significant to politics as it was to poetry. Indeed, it was hardly possible to separate the body politic from the body

¹⁸ J Bate and E Rasmussen (eds), *The RSC Shakespeare: Complete Works* (London, Macmillan, 2007) 645-6. In this paper, all quotations from the works of Shakespeare are taken from this edition.

poetic at the time. (The theme of the Phoenix and Turtledove was, as already mentioned, employed to describe relationships at court, rather than purely private love.) It is not surprising, therefore, that in *Calvin's Case* (1608),¹⁹ Sir Edward Coke, the Lord Chief Justice of England, drew upon the contemporary (and classical) image of the conjoined body, to describe the union between England and Scotland that had been brought about by the accession of James I (James VI of Scotland) to the English throne in 1603. The case concerned the question whether a Scot (in this case Robert Calvin) who was born after the accession of King James I could own land in England, hence the case is also known as *The Case of the Postnati*:

no man will say, that now the King of England can make warr or league with the King of Scotland, *et sic de caeteris*:^[20] and so in case of an alien born, you must of necessity have two severall ligences to two severall persons. And to conclude this point concerning laws, *Non adservatur diversitas regnor' sed regnant', non patriarum, sed patrum patriar', non coronarum, sed coronatorum, non legum municipalium, sed regum majestatum*.^[21] And therefore thus were directly and clearly answered, as well the objections drawn from the severalty of the kingdoms, seeing there is but one head of both, and the *Postnati* and us joyned in ligenance to that one head, which is *copula et tanquam oculus*²² of this case; as also the distinction of the Laws, seeing that ligenance of the subjects of both kingdoms, is due to their Sovereign by one law, and that is the Law of nature...²³

Later in the passage, the Lord Chief Justice repeats that the union of Scotland and England under one king is “a uniting of the hearts of the subjects of both kingdoms one to another,

¹⁹ *Calvin's Case*, or the *Case of the Postnati* (1608) 7 Coke's Reports 1a; 77 ER 377. (This text, including translations of the original Latin sections, is taken from S Sheppard (ed), *The Selected Writings of Sir Edward Coke*, vol. I (Indianapolis, Indiana: Liberty Fund, 2003) pp.200-1).

²⁰ “and thus the union”.

²¹ “a distinction is not to be made of realms, but of rulers; not of countries, but of fathers of countries; not of crowns, but of the crowned; not of municipal laws, but of king's majesties”.

²² “a coupling, and, as it were, an eye”.

²³ 7 Coke's Reports 1a, 14b.

under one head and sovereign”.²⁴ How poignant, and ironic, that the law of England should struggle to conceptualise the conjoined physical constitution of two human beings, when one of its greatest judges had conceptualised the constitutional union of England and Scotland in terms of two bodies united by a single heart and head. Sir Edward Coke even criticised arguments which “*disjungere conjungenda*” (“separate things which ought to be conjoined”).²⁵ His Lordship also noted that the conjoined nature of the newly united nations was reflected in the official political imagery of heraldry, for the coat of arms of King James I included, in Coke’s words, a “union and conjunction...of the three Lions of England, and that one of Scotland, united and quartered in one escutcheon”. Even today the shield (escutcheon) of the Royal Coat of Arms is quartered. When used in England, two quarters bear the three lions of England and one quarter the solitary lion of Scotland; when used in Scotland, two quarters bear the solitary lion of Scotland and one quarter bears the three lions of England. In each case the fourth quarter bears the harp of Ireland. Shakespeare also refers to heraldry as a symbol of friendship that is close to the point of being conjoined, as in the following speech from *A Midsummer Night’s Dream*, where Helena eulogises her friendship to Hermia:

We, Hermia, like two artificial gods,
Have with our needles created both one flower,
Both on one sampler, sitting on one cushion,
Both warbling of one song, both in one key,
As if our hands, our sides, voices and minds,
Had been incorporate. So we grow together,
Like to a double cherry, seeming parted,
But yet an union in partition,
Two lovely berries moulded on one stem,

²⁴ 7 Coke’s Reports 1a, 15a.

²⁵ *Ibid.*

So with two seeming bodies but one heart,
Two of the first, like coats in heraldry,
Due but to one and crownèd with one crest. (3.2.204-215)²⁶

Writing some two and half centuries after Shakespeare and Coke, the artist John Ruskin reflected on the aesthetic and metaphysical appeal of the conjunction of colour in heraldic composition, which he considered to be exemplary of “an eternal and universal” principle that is found, not only in art, but in “human life” and even in the political union of “nations that are unlike”. Ruskin called it the principle of “reciprocal interference”:

Whether, indeed, derived from the quarterings of the knights’ shields, or from what other source, I know not; but there is one magnificent attribute of the colouring of the late twelfth, the whole thirteenth, and the early fourteenth century, which I do not find definitely in any previous work, nor afterwards in general art, though constantly, and necessarily, in that of great colourists, namely, the union of one colour with another by reciprocal interference: that is to say, if a mass of red is to be set beside a mass of blue, a piece of the red will be carried into the blue, and a piece of the blue carried into the red; sometimes in nearly equal portions, as in a shield divided into four quarters, of which the uppermost on one side will be of the same colour as the lowermost on the other; sometimes in smaller fragments, but, in the periods above named, always definitely and grandly, though in a thousand various ways. And I call it a magnificent principle, for it is an eternal and universal one, not in art only, but in human life. It is the great principle of Brotherhood, not by equality, nor by likeness, but by giving and receiving; the souls that are unlike, and the nations that are

²⁶ Compare Lysander’s romantic overture to Hermia: “...my heart unto yours is knit / So that but one heart we can make of it.” (2.2.47-8.).

unlike, and the natures that are unlike, being bound into one noble whole by each receiving something from, and of, the others' gifts and the others' glory."²⁷

Conscious that he was trespassing “upon too high ground”, Ruskin even went so far as to suggest that there is no greater Divine ordinance than that “the most lovely and perfect unity shall be obtained by the taking of one nature into another”. He ventured this to be a “vast” law that “has rule over the smallest things”. Amongst the “smallest things” we might find “conjoined baby twins”, the flesh of one committed to the other through “reciprocal interference”, connected to the other not by the equality of scales nor by individual likeness (in resources, strength or anything that can be measured), but “by giving and receiving”. We might even find that two may be “bound into one noble whole”.

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²⁷ J Ruskin, *The Stones of Venice* (London: The Folio Society, 2001) pp. 282-3. (*The Stones of Venice* was first published in three volumes between 1851 and 1853).