The Resistance of Contingency: The Particular, the Irretrievable, and the Law in Villon’s Testament

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Abstract: Studies of law in the Testament have tended to adopt one of two approaches. Archaeological studies have identified the judicial motifs, institutions, and figures to which Villon alludes, while formalist studies have focused on the ways in which Villon assimilates these elements to a poetic reflection that ultimately transforms them. I take a contrasting approach to investigate the role played by contingency, focusing on two issues. The first of these is the relationship between the particular and the global in different respects: the constant undermining of the testator’s exemplary status, the dubious relevance of proverbial discourse, the manipulation of formal principles. The second is the difficulty of recuperating “facts” that might serve as admissible evidence within the poem’s fictive world: the fragility of both individual and collective memory, the opaque character of allusions, the theme of variation that calls the text’s integrity into question.

Résumé : La recherche sur le droit dans le Testament a adopté deux démarches principales : l’une, quasi archéologique, consiste à identifier les motifs, institutions et personnages judiciaires auxquels Villon fait allusion ; l’autre, formaliste, se concentre sur la manière dont Villon intègre ces motifs, institutions et personnages à une réflexion poétique qui finit par les détourner. Adoptant une approche sensiblement différente, nous nous interrogeons sur le rôle des contingences en la matière. Nous axons notre étude sur deux questions : la relation entre le particulier et le global à différents égards (exemplarité constamment minée du « testateur », pertinence douteuse du discours proverbial, détournement de principes formels), et la difficulté de récupérer des « faits » recevables dans l’univers fictif du poème (fragilité de la mémoire individuelle et collective, opacité des allusions, thème de la variance qui laisse planer le doute sur l’intégrité du texte).

Theorizing contingency and the law in Villon

As befits a satirical will drawn up by a poet with underworld affiliations, the language and institutions of law loom large in the Testament. Two approaches have dominated studies of the poem’s legal dimensions. The longer-standing approach, which we might call “archaeological”, involves identifying the motifs, institutions, and figures to which Villon alludes. Pierre Champion, for instance, laid the groundwork for many subsequent analyses by revealing the Parisian police officers behind names such as Jean Raguier and Michault du Four. More prominent in recent decades is a “formalist” approach, which takes account of the findings of


Cahiers de Recherches Médiévales et Humanistes, 25, 2013
Journal of Medieval and Humanistic Studies
archaeological studies but accentuates their poetic rather than documentary value. Nancy Freeman Regalado’s work, on the aesthetic effects of names and ostensibly referential details, is perhaps the best example. Both these strands of research depend upon interpreting specific references. In what follows I consider the Testament’s legal resonances not on the level of allusions but on that of poetic structures and techniques, re-evaluating the poem’s relationship to the law by examining the important role of contingency. On the one hand, contingency pervades and problematizes different kinds of relationships between the particular and the global. The exemplary status of the testator, the relevance of proverbial discourse, the use of established formal and compositional principles: all are called into question. On the other hand, the poem’s fictive world is emphatically contingent: individual and collective memory are fragile, allusions are opaque, and the text’s very integrity is open to question. Hence it is difficult to establish “facts” that might serve as admissible evidence for any judgement of the testator. In both respects contingency is a form of resistance to law, and a principle at the heart of Villon’s work.

I understand “contingency” in its medieval philosophical sense, notably as Boethius conveyed and reshaped the concept from Aristotle: the capacity of something to be otherwise than it is. Framed in this way, contingency is relevant to the law in two ways, which correspond to the two axes explored below and which might usefully be termed “particularity” and “retrievability”. Particularity concerns the question of how particulars and universals relate to each other, a vexed issue in ancient and medieval philosophy. The relationship between legal principles and individual cases can justifiably be considered in terms of the particulars-universals question. Principles and cases stand in a synecdochic relation to each other: a case manifests and encapsulates the principle according to which it is judged. The precise nature of that synecdoche, the relative authority of the principle and the case, inevitably varies from one legal (and philosophical) system to another. Yet, whatever the systemic context may be, the relationship between cases and principles also involves a tension between contingency and necessity, between the chance empirical occurrence and the transcendent validity of a norm. The more contingent the case – the more it appears random and sui generis –, the more vexed its relationship to the principle. Particularity is thus a kind of contingency that resists, or at least complicates, attempts to assimilate it to some higher or more general category. Retrievability, by contrast, pertains to the nature of proof. The more contingent a witness’s allegation or a piece of material evidence – the more

5 Hence the English legal adage “hard cases make bad law”.

References:

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vulnerable it is to refutation in the absence of independent corroboration —, the less reliable its status as proof. This kind of contingency, and its negligible evidentiary value, are signalled in the venerable legal axiom of Biblical origin testis unus, testis nullus, on which Villon famously plays himself. Particularity and retrievability shed new light on disparate aspects of the Testament that various scholars have noted, but that have not previously been thought to have legal implications. Indeed, these perspectives on Villon’s art offer new ways of thinking about law, in a very broad sense, in the wider poetic culture of the period: as an issue relevant not only to authors’ ideological stances but also to their compositional technique and engagement with audience expectations.

Particularity: the problematizing of exemplarity

Of the various manifestations of particularity in the Testament, the clearest is doubtless Villon’s persona: the testator, as he has come to be conventionally designated in English-language scholarship. This figure contrasts with the first-person voices in the stanzaic didactic poetry of the preceding generations, the poetry against which the Testament demands to be read and alongside which it was occasionally transmitted in manuscripts. In the work of Alain Chartier, Michault Taillevent, and Pierre Chastellain, the poetic persona or acteur may be quite strongly individualized, and may have a vexed relationship to his assumed audience, but he always has some kind of representative function. Whether the anxious narrator of Taillevent’s Passe Temps who regrets his imprudent youth as old age threatens, or Chastellain’s more idiosyncratic voice who offers an explicit counter-argument to Taillevent in the Temps Perdu, these acteurs consistently express a discourse that a wider community already uses, recognizes, or might be hoped to espouse. In other words, there is a predictably synecdochic relationship between the case and the principle, the persona and the community’s values. No such predictability marks Villon’s testator. He sporadically adopts positions that recall those of more


traditional acteurs – moral commentator, frustrated lover, and the like – but, as has often been noted, he is not a consistent persona. Rather, he assumes a succession of roles that are recognizable in themselves but that are incompatible within a single voice. Crucially, the testator expresses awareness of his performance:

De viel porte voix et le ton,
Et ne suis qu’un jeune cocquart (l. 735-6).

These lines signal explicitly that the testator is both himself and not himself, constantly otherwise than he is; in short, a classic figure of contingency. There is no way in which his ever-changing performances can be unified into a self-identical whole, other than perhaps as a kind of personification of contingency itself. Particularity is at stake, for the lack of coherence at the level of the individual case prevents us from establishing a stable relationship between that case and any larger principle. Put another way: we can’t regard the testator as exemplary if we can’t tell what he’s exemplary of.

The exemplarity of the personas in the Passe Temps and Temps Perdu is partly secured through rhetorical means. Through the technique of epiphonema, the systematic use of proverbial expressions to close stanzas, Taillevent and Chastellain embed their acteurs’ voices in a long-standing collective wisdom. Once again the personas serve as synecdochic cases, embodying and transmitting the moral principles of the larger community. Not that the process is seamless. The proverbs in the Temps Perdu tend to crystallize its challenge to the Passe Temps, while Chastellain’s subsequent Temps Recouvré tacitly questions the very validity of proverbial discourse by showing that it can all too easily be deployed to support opposing stances in an argument. In the Testament, however, proverbial doxa is contested much more pervasively and radically. Whether they are expressions of folk wisdom or tags from auctoritates, sententious formulations are comically distorted, provocatively juxtaposed, and set in incongruous contexts that encourage ironic readings. Significantly, this is not a matter of programmatic inversion, as we see in Rabelais when the young Gargantua acts contrary to a body of proverbs, or in “joyous” cultural productions of the late medieval Netherlands that express

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10 Heller-Roazen, Fortune’s Faces, op. cit., p. 136 considers Faux Semblant in the Roman de la Rose in the same light.
12 Armstrong, The Virtuoso Circle, op. cit., p. 67.
emerging bourgeois values as the unstated mirror-image of carnivalesque excess.14 In such cases the inverted principles remain intact, while those who transgress them reveal their inadequacy. The Testament, by contrast, calls into question the body of maxims itself: its self-consistency as a corpus, the stability of individual formulations, and the adequacy of those formulations to particular cases. If the protean testator demonstrates the particularity of the case, the instability of proverbial discourse suggests that the principle is no less contingent.

Disjunction between case and principle is also apparent in respect of poetic form and structure. Villon scholars have drawn attention to ways in which the Testament pushes at formal boundaries on different levels. At the level of “macro-structure” the testamentary form, familiar from amatory and satirical poetry, provides a much less systematic framework than usual.15 Bequests and testamentary dispositions have no overwhelming predominance, for they are significantly delayed by the testator’s opening reflections on death and poverty. Nor do they follow the regular pattern apparent in most stanzaic poems of this kind: Villon varies the length of each item, sometimes by inserting fixed-form lyrics, rather than devoting a single stanza to each bequest or disposition. More innovative than his own previous exercise in the form, the Lais, these practices can be illuminatingly compared with those of his predecessor Pierre de Hauteville. An attested intertext for the Lais and Testament, which it accompanies in one manuscript (Arsenal 3523), Hauteville’s Confession et Testament de l’amant trespassé de deuil extends the parameters of the poetic will, but does so rather less radically than the Testament.16 As its title partially indicates, Hauteville’s composition combines different organizational schemata: the confession (l. 1-726), which itself includes a debate between the poetic persona and a priest (l. 493-714); the will (l. 727-1392); and the ars moriendi (l. 1393-1626).17 Bequests and dispositions in the Confession et Testament, then, form discrete parts of a larger whole: the will lays no claim to the whole text. In Villon’s Testament, by contrast, the very first huitain specifies the testator’s age and mental health. These nods to legal conventions, however oblique – “[E]n l’an de mon trentïesme age” (l. 1), “Ne du tout fol ne du tout saige” (l. 3) – set the poem in a clear testamentary framework from the outset. Yet that framework is immediately disrupted, as invective against Thibaut d’Aussigny famously pulls the testator’s opening sentence apart (l. 6-8); and in a sense it is never fully reassembled, for themes, voices, and registers continue to proliferate. The idiosyncrasy exhibited by the Testament’s


17 All manuscript titles and explicit use the binary expression confession et testament.
global structure is also evident at lower levels of composition. Considered against traditions and practices of lyric insertion, the relationship between fixed-form lyrics and huitains is unusual: neither the discursive function of the ballades and rondeaux, nor the voice that ostensibly delivers them, nor even their versification are systematically contrasted with the “host” structure in the ways that we might expect. Even the relationship between language and metre is much less predictable than usual in poetry of this period. All these interrelated manifestations of poetic originality take on a new value when considered from the perspective of particularity. They make the Testament into a case that does not satisfactorily exemplify any generic model. It is, and yet it isn’t, a didactic dit, a satirical will, and so forth. This has particular implications for the poem’s audience, for Villon’s readers are not provided with clear categories or horizons that might shape their responses. In short, it’s impossible to tell what the Testament is a case of, what sort of poem it is.

Retrievability: the uncertainties of memory and transmission

A further set of challenges to the audience concerns our ability to establish a coherent picture of the testator’s world on the basis of what he tells us. Key techniques in the Testament tend to block the process of “consistency-building”, which reception theorists have suggested is a fundamental operation of reading. The facts of the case, which depend on the retrievability of the poem’s fictive world, are distinctly uncertain. One major obstacle to retrievability lies in the limitations of memory, whether individual or collective, within that world. Most crucially, the testator – through whose perceptions and language, of course, almost everything in the Testament is filtered – cannot be trusted to recall details correctly. This propensity to misremember ostensibly notable figures from history and legend, and to misquote texts that we might expect a university-educated man to know well, have become critical commonplaces. Among other things, this propensity characterizes the

21 The exception to what narratologists would term the Testament’s internal focalization is the ballade de conclusion (l. 1996-2023), which compounds the pervasive uncertainty by reframing the testator within the perceptions of the ballade’s unidentified speaker. That speaker’s knowledge of “povre Villon” (l. 1997) is explicitly presented as limited and subjective: “je croy bien que pas n’en ment” (l. 2004).
testator as a wise fool, hence anything but a source of reliable testimony.\textsuperscript{23} Even where he refers explicitly to his memory of past events, the context is marked by opacity or distortion. One of his allusions to Thibaut d’Aussigny is a case in point:

\begin{verbatim}
Dieu mercy… et Tacque Thibault,
Qui tant d’eau froide m’a fait boire
En ung bas, non pas en ung hault,
Mengier d’angoisse mainte poire,
Enferre... Quant j’en ay mémoire,
Je prie pour luy et relicqua
Que Dieu lui doint, et voire, voire,
Ce que je pense, et cetera (l. 737-744).
\end{verbatim}

The testator’s recollection of imprisonment may be painfully clear, but his audience shares little of that clarity. Is the “eau froide” an allusion to a prison diet, or to waterboarding? Is a poire d’angoisse purely metaphorical, or an instrument of judicial violence?\textsuperscript{24} And just what is the testator thinking that he’d like God to visit upon Thibaut? The Latin expressions intensify the effect, as unspecified supplements to something that isn’t specified in the first place. Just two stanzas later, a rather different memory is called up:

\begin{verbatim}
Sy me souvient, ad mon advis,
Que je feiz a mon partement
Certains laiz, l’an cinquante six,
Qu’aucuns, sans mon consentement,
Voulurent nommer testament:
Leur plaisir fut, non pas le myen (l. 753-758).
\end{verbatim}

What the testator remembers is a set of bequests, to be understood as Villon’s Lais, that has come to bear a misleading title. In light of the Testament’s thematization of textual instability, which I discuss below, these lines open up a disorientating possibility. The Lais that the testator recalls having written may be substantially different from the Lais that we may have read – different in ways that we cannot possibly identify.\textsuperscript{25} Hence the frequent failures of the testator’s memory are intensified by the occasional successes, in which the audience cannot adequately share.

Other instances of remembering are similarly flawed. The Belle Heaulmière’s evocation of her past beauty (l. 493-508) is so ostentatiously a rhetorical exercise as to call its validity into question: we suspect that the expression of her memories, shaped as it is by established descriptive schemata, may not quite correspond to her


\textsuperscript{25} Inevitably, the possibility is all the more disorientating for those who have previously read the Lais. The textual tradition indicates that the Testament’s early readers typically had access to the previous poem: see n. 7 above.
memories themselves. Collective memory is no more worthy of credence, as witness the testator’s attempts to solicit or shape his audience’s shared memories. The middle refrain in the sequence of three ballades on the ubi sunt theme, “Mais ou est le preux Charlemagne?” (l. 364), might seem a classic rhetorical question: the well-worn didactic commonplace implies its own answer, that death has come even to such a universally admired figure as Charlemagne, as it will come to us all. Yet it is already clear, and becomes even clearer from one occurrence of this refrain to the next, that the testator is misremembering a great deal. His lapses, moreover, affect his audience, by stimulating memories of the relevant facts or texts. So, as the testator displays a sometimes comically limited knowledge of past rulers – the Scottish king whose birthmark alone is recalled, the king of Spain whose name escapes him (l. 365-371) – it becomes apparent to his increasingly self-conscious readers that historical memory is tenuous and arbitrary. How do we remember famous people? Do we remember the right things about them, and do we all remember the same things? Can we be confident that we’d do a better job than the testator? The refrain, then, turns out not to imply a single predictable answer after all. Where, indeed, is Charlemagne? Why was he “preux”, and how do we know? Questions of this kind eventually arise in respect of the testator himself, who devises his graveside inscription with an eye to establishing his image for posterity:

Au moins sera de moy memoire
Telle qu’elle est d’un bon follastre (l. 1882-1883).

To be written in charcoal on plaster (l. 1880-1881), the inscription will not commemorate the testator for long; but even if it did, would it achieve the desired effect, and would that effect be appropriate? The Epitaphe and accompanying Verset (l. 1884-1903) can certainly be read as expressions of the folly and humour that mark a “follastre”, but their insistence on poverty and allusions to clerical degradation are at least as apparent as their wordplay and manipulation of register. Equally, the inscription does not convey the testator’s important roles as martyr to love and moralist. In both reflecting the protean persona of the Testament and fixing its author’s posthumous reputation, it must be considered a failure. The testator’s appeals to collective memory ultimately draw attention to the precariousness of that memory, and thereby to the contingency of any attitudes and understandings that may be based on it.

We have seen that even when the testator appears able to recollect details of his experience, those details are not presented in a form that his audience can readily grasp. This gap between memories and their formulation reflects a more pervasive tendency in the Testament: expression often seems highly allusive, seems to gesture towards a sense that is not supplied in full. The key term here is “seems”, for we

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26 See Mühlethaler and Hicks, ed. cit., p. 225. The Belle Heaulmière is of course constructed and ventriloquized by the testator; however, her ontological status does not prevent us from ascribing thought and language to her, as to any other fictional character.


must not assume that there is some pre-existing sense that the poem’s language imperfectly approximates. Rather, its language produces the effect of an unsupplied sense through semantic incompleteness: unable to make Villon’s formulations satisfactorily meaningful, readers are apt to assume that the missing elements lie somehow outside the text, whether in the poet’s biography or in the demi-monde of mid-fifteenth-century Paris. Though archaeological scholarship has cast some light on the Testament’s allusions, for the most part it has not enabled us to identify just what is being said.\(^\text{29}\) We know that the lawyer Jean Cotart, whom the testator posthumously characterizes as an alcoholic in a ballade (l. 1238-65), was a corrupt and disreputable figure; but the archival records of his misdeeds in the 1450s tell us nothing about his attitude to drink. Was he indeed an inveterate boozer? Or was he, for all his unreliability, a paragon of sobriety whose reputation is being rewritten for some reason? Even if some evidentiary miracle provided us with an answer, a more fundamental question would remain: what does it mean for the testator to associate Cotart so vividly with wine? Is the ballade an expression of indulgent fellow-feeling, or a means of settling scores?\(^\text{30}\) Such interpretative challenges made the Testament difficult even for Clément Marot, who edited Villon’s works in 1533. Marot might seem an ideal reader of Villon: an inventive manipulator of first-person poetic voices, only two generations removed from the poet’s lifetime. Yet he begins his edition with the warning that proper understanding of the Lais and Testament would require first-hand experience of Villon’s Paris; readers of the 1530s, then, are already doomed to ignorance.\(^\text{31}\) A counsel of despair, perhaps, but one that reveals something important about the Testament: it resists the very transmissibility, of bequests and also of sense, on which both legal and poetic wills are predicated. The retrievability of the testator’s world is problematized not only by his deficient memory, but by his mode of expression: he does not supply enough information for us to reconstruct his experience. Contingency is once again at stake, for it is all too clear that the testator’s experience could have been very different from what we construe on the basis of what we know to be insufficient evidence.

The allusion to the Lais, previously discussed, is just one of a set of elements that enhance the Testament’s characteristic resistance to transmissibility: elements that represent the transmission of the poem itself as unreliable and constantly threatened. The testator doubts the competence of his scribe Firmin (l. 565, 779-780), and authorizes the probate officer Jean de Calais to amend the entire document should he so wish (l. 1844-1859).\(^\text{32}\) Even if the evanescent Epitaphe and Verset survive within the poem – if not in the chapel of Sainte-Avoie for which they are

\(^{29}\) The point is powerfully made in Regalado, “Effet de réel”, art. cit.


facetiously destined – the entreaty to recite the *Verset* (“dictes”, l. 1891) is a recipe for confusion. The *rondeau* form of the *Verset* entails a twofold reprise of the poem’s opening lines; however, either one or two lines might be repeated at each point. Typically for the period, most witnesses repeat only the first word; one manuscript adds “etc.”, while one does not signal the first reprise at all. Hence the *Verset*’s written version does not permit its audience to establish the extent of the reprise that should be supplied in recitation. Such problems of retrievability transcend those that result from inadequate memory and incomplete allusions. Even if the testator’s powers of recall were not explicitly faulty, even if his allusions were wholly transparent, the repeated references to textual variance would still be sufficient to disrupt any notion of documentary value, because they prompt us to suspect the connection between the text as we read it and the fictive world of the testator. To return once more to the language of contingency, the *Testament*’s overt textual instability means that it both is and is not itself. This quality was already familiar to Villon’s contemporaries, for whom variance was inherent in textual culture; but it takes on a very particular valency in a poem where transmission is both omnipresent and never quite achieved. Contingency, indeed, marks not only the envisaged reception of this poetic will, but also the fiction of its production. The testator’s discourse is constantly marked by digressions and self-interruptions – which, among other things, delay the will’s “commancement” (l. 792) by some eight hundred lines. Hence it is all too clear that the finished product, even before it is subjected to the vagaries of transmission, is not the document that the testator originally meant to write. In this sense the *Testament*’s oft-noted concern with fortune takes on a new and ontologically much richer value. Fortune is more than a pervasive theme in the poem, for Aristotle’s *Metaphysics* defines fortune as an *accident*: that is to say, something that occurs “not as itself but as something different”. In Aristotle’s example, a man finds treasure while digging to plant a tree; the treasure is encountered not as treasure but as an obstacle to his digging, as


35 See Hunt, *Villon’s Last Will*, op. cit., p. 87-96.

something that he had not sought to find.\textsuperscript{37} The Testament presents itself as just this kind of accident, as a text other than its fictive author had set out to produce. A text, in short, that encapsulates fortune at work. Were the term not overly anthropomorphic, we might even claim that the Testament is effectively a personification of Fortune.

\textit{The modulations of contingency in late medieval poetry}

What connects the insistent particularity and blocked retrievability that I have traced throughout the poem, and what gives them a specific value in a legal sense, is the way in which they position the testator as a juridical subject.\textsuperscript{38} This persona is clearly deeply imbricated in legal practices and discourses, but he is not susceptible of judgement in those terms: the evidence is too shaky, the relationship between case and principle too indeterminate. Villon’s resistance to law, then, is not solely a matter of biography, conjectural or otherwise; it inheres in the Testament’s very texture and preoccupations. At the same time, the more “law-abiding” poetry of Villon’s contemporaries and successors can also be fruitfully considered from this very general legal perspective. The accessibility of evidence, and the applicability of principles to cases, are manifested in intriguingly different forms and combinations. The lyrics of Charles d’Orléans, for instance, are characterized by symbolic ambiguity and referential opacity: the fictive world of the poetic persona cannot be viably retrieved from the available evidence.\textsuperscript{39} The formally elaborate political poetry of the rh\textit{é}tori\textit{que}urs, by contrast, is relatively transparent in referential terms; but whereas Charles’s lyrics are instantly recognizable as examples of well-established forms such as the ballade and rondeau, the sophistication of rh\textit{é}tori\textit{que}ur compositional technique often endows their work with an ostentatious particularity. Many of the most substantial rh\textit{é}tori\textit{que}ur pieces, in verse or prosimetrum, simply cannot be readily identified as examples of a specific form: an umbrella term such as \textit{dit} is hardly an adequate reference point, and notions of family resemblance between these pieces are difficult to sustain in the face of their formal and structural diversity.\textsuperscript{40} Though these bodies of work are only rarely concerned with properly legal matters, they manifest contingency in ways that lend themselves to comparison with each other and with Villon’s work. Hence contingency offers literary historians the possibility of tracing alternative sets of relations, between poets and forms that are often considered in isolation from each

\begin{footnotesize}
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\item See Heller-Roazen, \textit{Fortune’s Faces}, \textit{op. cit.}, p. 82-85; the quotation from Aristotle, translated from William of Moerbeke’s thirteenth-century Latin version of the \textit{Metaphysics}, appears on p. 83.
\item For a rather different approach to subject constitution in Villon, see P. Haidu, \textit{The Subject Medieval/Modern: Text and Governance in the Middle Ages}, Stanford, Stanford University Press, 2004, p. 328-340.
\item R. C. Cholakian, \textit{Reflection/Deflection in the Poetry of Charles d’Orléans: A Psychosemiotic Reading}, Potomac, Scripta Humanistica, 1985, astutely notes these properties of Charles’s work. One need not share Cholakian’s psychologizing assumptions to appreciate his insights into the poems themselves.
\item See Armstrong and Kay, \textit{Knowing Poetry}, \textit{op. cit.}, p. 160-163.
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other. In this respect the Testament takes on a further value: it is a meaningful test case, as well as a law unto itself.

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