

Wills are uncanny and electric documents,” writes Janet Malcolm in her book about Alice B. Toklas and Gertrude Stein, *Two Lives*. “They lie dormant for years, and then spring to life when their author dies, as if death were rain. Their effect on those they enrich or disappoint is never negligible, and sometimes unexpectedly charged.”²¹

At her death in France in 1947, Stein left her money and collection of paintings and writings to Alice, her intimate partner of forty years, the proceeds of which were to support Toklas for “her useful life.” But the final destination of these treasures was Stein’s nephew Allan. “Stein disliked Allan,” writes Malcolm, “but still felt compelled to make him her heir.” And so the story goes: Allan dies; Alice is tricked out of the estate by a trustee in collusion with Allan’s adult children; Alice dies in poverty at age 89. What’s fair about that?

Wills, says Malcolm, “are not written in stone—for all their granite legal language—and they can be bent to subvert the wishes of the writer.” So, too, can the writer of the will be swayed by guilt-inducing norms that favor or even compel the naming of kin (no matter how distant) as “the natural objects of our bounty” over other beneficiaries (no matter how close) when passing on our worldly goods.

For the will maker and for the estate planning professional alike, the goal of *Passing On* is to raise questions and challenge assumptions about what’s fair and what’s not in family inheritance. The book is intended to engage our social conscience by posing multiple and often competing points of view about what we choose to leave to family members (however we define “family”), to persons outside the family, and to organizations whose work we support.

Our testamentary freedom allows us to make personal moral choices about the legacy we leave behind. Engaging with the ideas about fairness and justice in this book may help us to make the “right” decisions, whatever they may be. It may confirm the choices we’ve already made. Or it might even change our minds.
