

INTERGENERATIONAL JUSTICE

SHOULD WE INHERIT?

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COLLEGE



Doddington Hall, Lincolnshire

Sarah Gunman, 1772-1825

Three themes

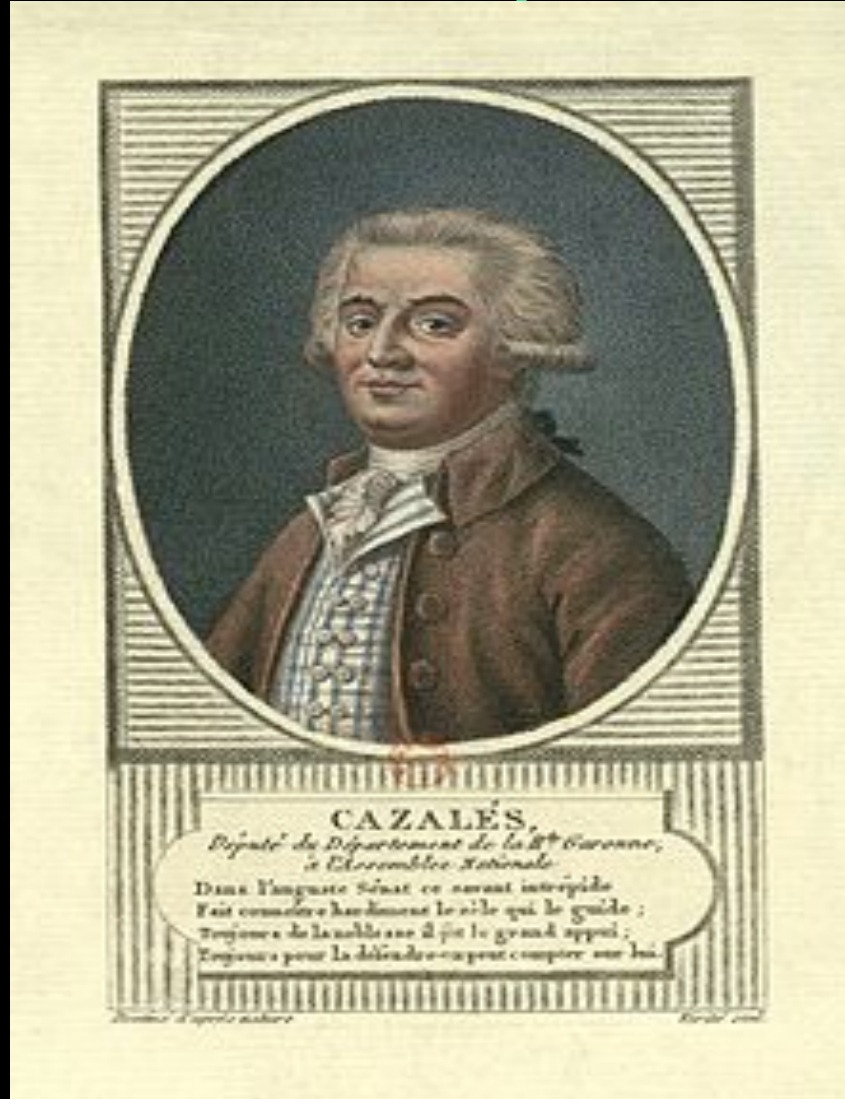
1. Should there be testamentary freedom or constraint?
2. Should landed families be allowed to conserve their property into future generations?
3. Should inheritances be taxed, and if so should the rate be sufficient to break up large fortunes?



INHERITED WEALTH

Jens Beckert

Jacques Cazalès: natural law and testamentary



April 1791, National Assembly

‘It is only with testamentary freedom that fathers rule their families; thanks to it they are accorded honour and respect by their children into old age, in a way that virtue would not be able to accomplish’

Mirabeau and equality



April 1791, National Assembly

‘I do not know how it should be possible to reconcile the new French constitution, in which everything is traced back to the great and admirable principle of political equality, with a law that allows a father, a mother to forget these sacred principles of natural equality when it comes to their children.’

Rejection of testamentary freedom in the interests of the common property of the family

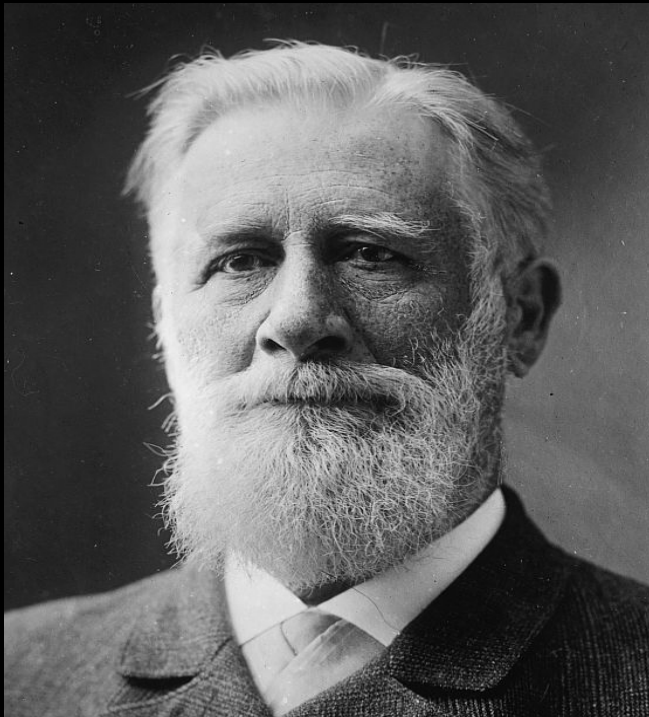


Hegel, 1821

the 'mere individual' is transcended by the family whose resources are shared in 'common property so that no member of the family has particular property, although each has a right to what is held in common'.

'The simple direct arbitrariness of the deceased cannot be made the principle of the right to make a will, especially if it is opposed to the substantial right of the family'.

Otto von Gierke rejects individualism, *Die soziale Aufgabe des Privatrechts*, 1889



- ‘we must never construct [inheritance law] on the basis of the individual will! The incomparably valuable social function and the immortal inner justification of inheritance law lies only in the realization of the succession of generations inherent in the natural structure of the family, in the assumption of the now empty place by those individuals most immediately destined to do so by virtue of the structure of the social body’.

Natural law defence of testamentary freedom



Lord Chief Justice Cockburn, 1870

‘...though in some instances, caprice, or passion, or the power of new ties, or artful contrivance, or sinister influence, may lead to the neglect of claims that ought to be attended to, yet, the instincts, affections, and common sentiments of mankind may be safely trusted to secure, on the whole, a better disposition of the property of the dead, and one more accurately adjusted to the requirements of each particular case, than could be obtained through a distribution prescribed by the stereotyped and inflexible rules of a general law.’

Rejection of testamentary freedom

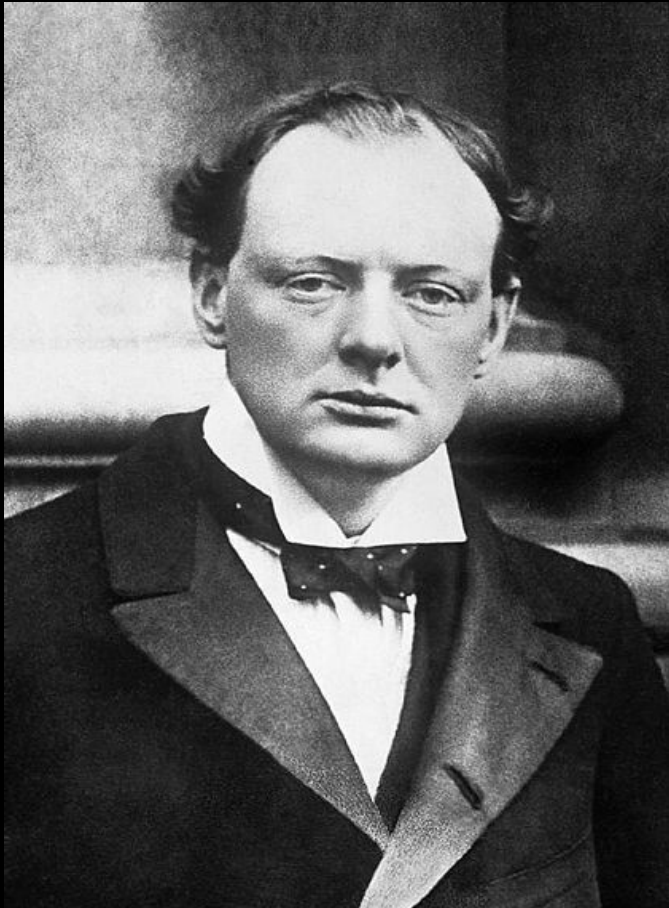


Daniel O'Connell, Commons, 1830

'... taking from the parent the power of distributing his property. He readily conceded that cabining in parental power was his goal, because he knew that it was sometimes put up to auction, as it were in families, and otherwise much abused.'

Charles Tennyson saw his aim was to 'assimilate our law to that of France... would destroy the aristocracy and dislocate society.'

Land monopolists and Winston Churchill

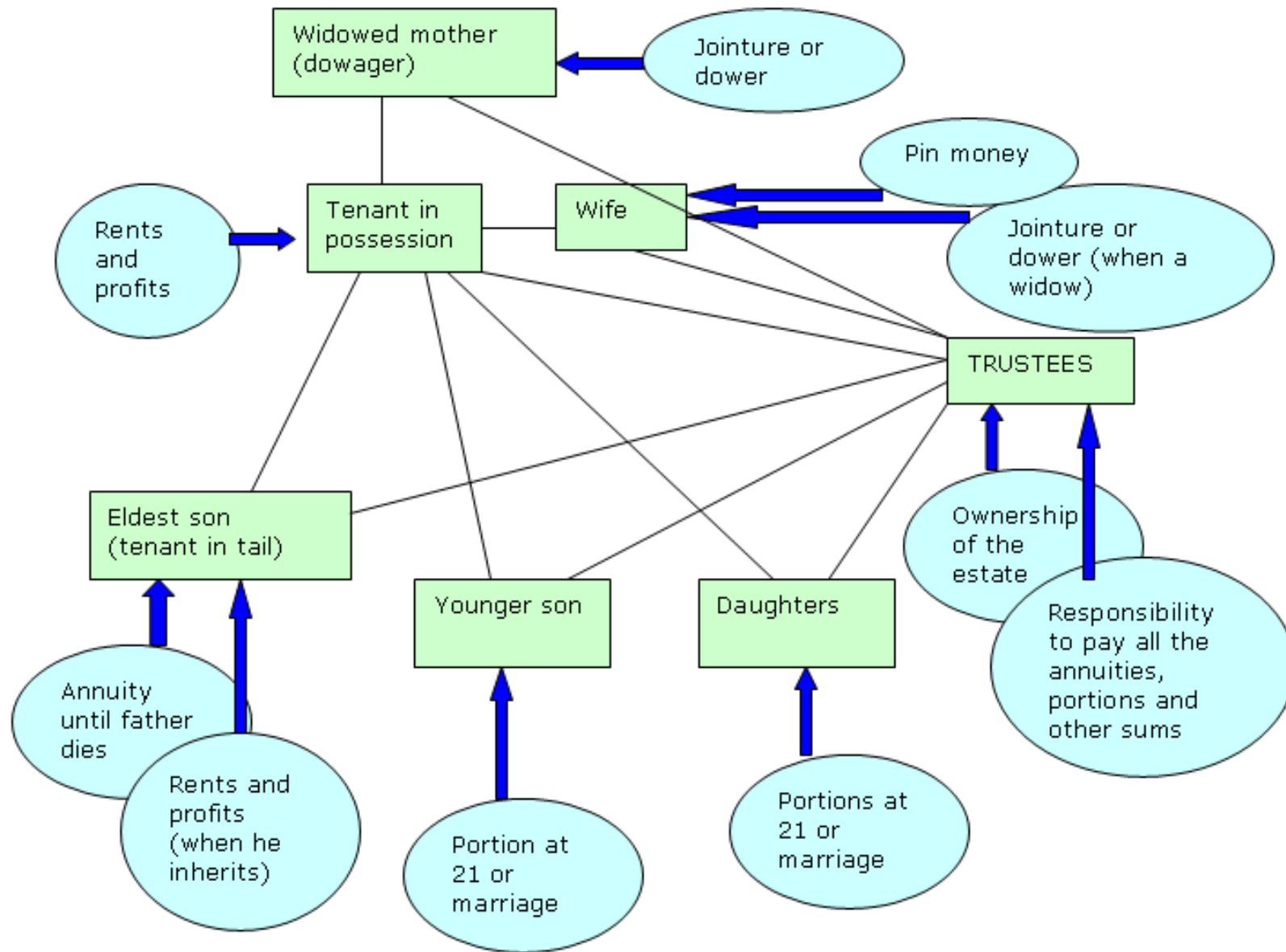


Winston Churchill 1909

The land monopolist 'renders no service to the community, he contributes nothing to the general welfare, he contributes nothing even to the process from which his own enrichment is derived'.

'...every form of enterprise, every step in material progress, is only undertaken after the land monopolist has skimmed the cream off for himself'.

Feodum talliatum or fee tail/entail



John Stuart Mill, *Principles of Economics*, 1848



wikicommons

“I see nothing objectionable in fixing a limit to what any one may acquire by the mere favour of others, without any exercise of his faculties, and in requiring that if he desires any further accession of fortune he shall work for it.”

Churchill's budget of 1925



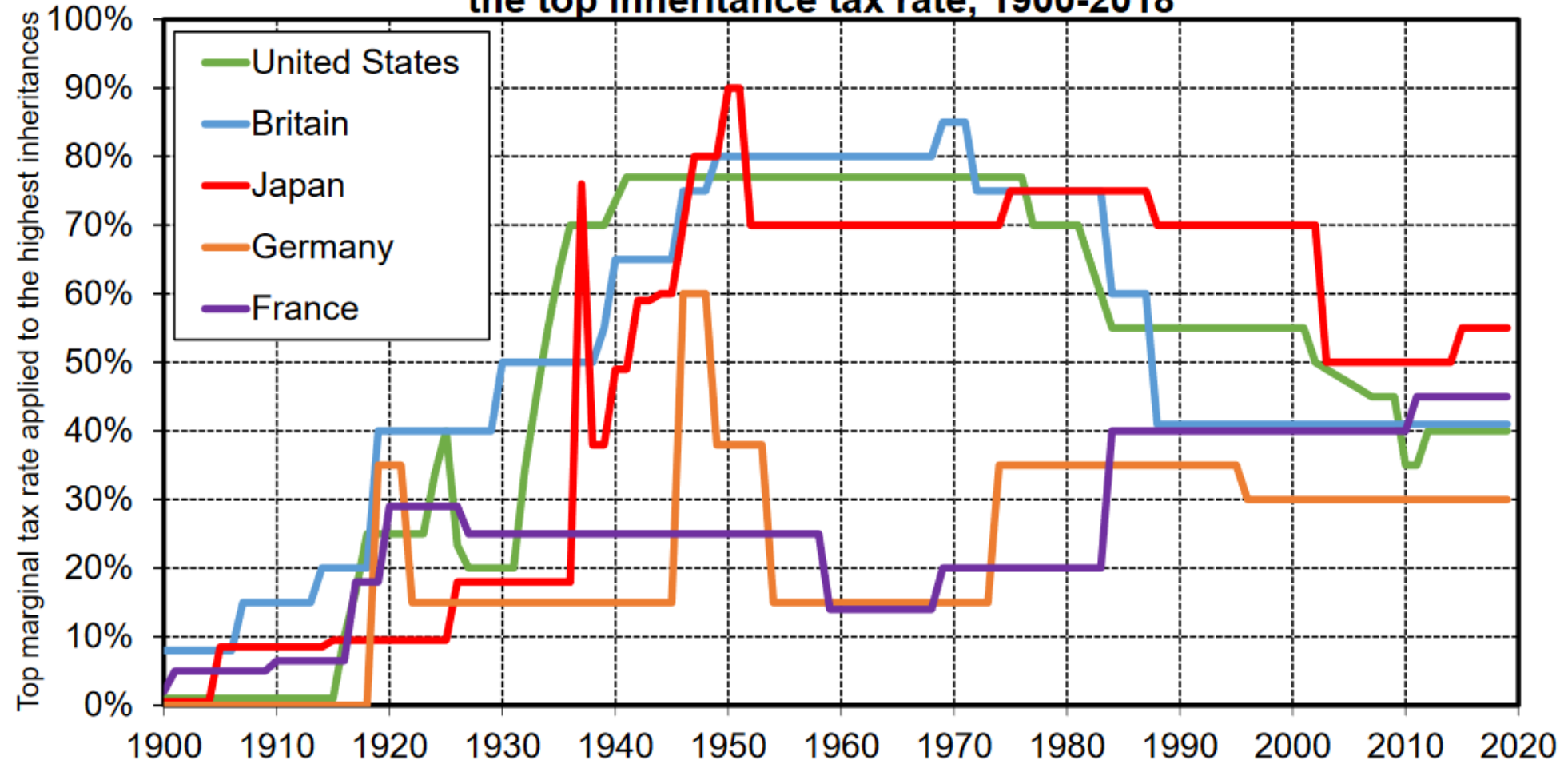
“an encouragement to people to bestir themselves and make more money while they are alive and bring up their heirs to do the same. The process of the creation of new wealth is beneficial to the whole community. The process of squatting on old wealth though valuable is a far less lively agent... We shall never shake ourselves clear from the debts of war and break into a definitely larger period except by the energetic creation of new wealth. A premium on effort is my aim and a penalty on inertia may well be its companion.”

Average top marginal rate of inheritance tax on largest inheritances, per cent

	1900-32	1932-80	1980-2018
USA	12	75	50
UK	25	72	46
France	15	22	39
Germany	8	23	32

Source: Thomas Piketty, *Capital and Ideology* 2020, 449

**Figure 10.12. The invention of progressive taxation:
the top inheritance tax rate, 1900-2018**



Franklin Roosevelt and inheritance, 1935



“The transmission from generation to generation of vast fortunes by will, inheritance or gift is not consistent with the ideal and sentiments of the American People. Such accumulations amount to the perpetuation of great and undesirable concentrations of control ... over the enjoyment and welfare of many, many others. Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government.”

John Major, 1991: cascading wealth



I want to see wealth cascading down the generations. We do not see each generation starting out anew, with the past cut off and the future ignored.

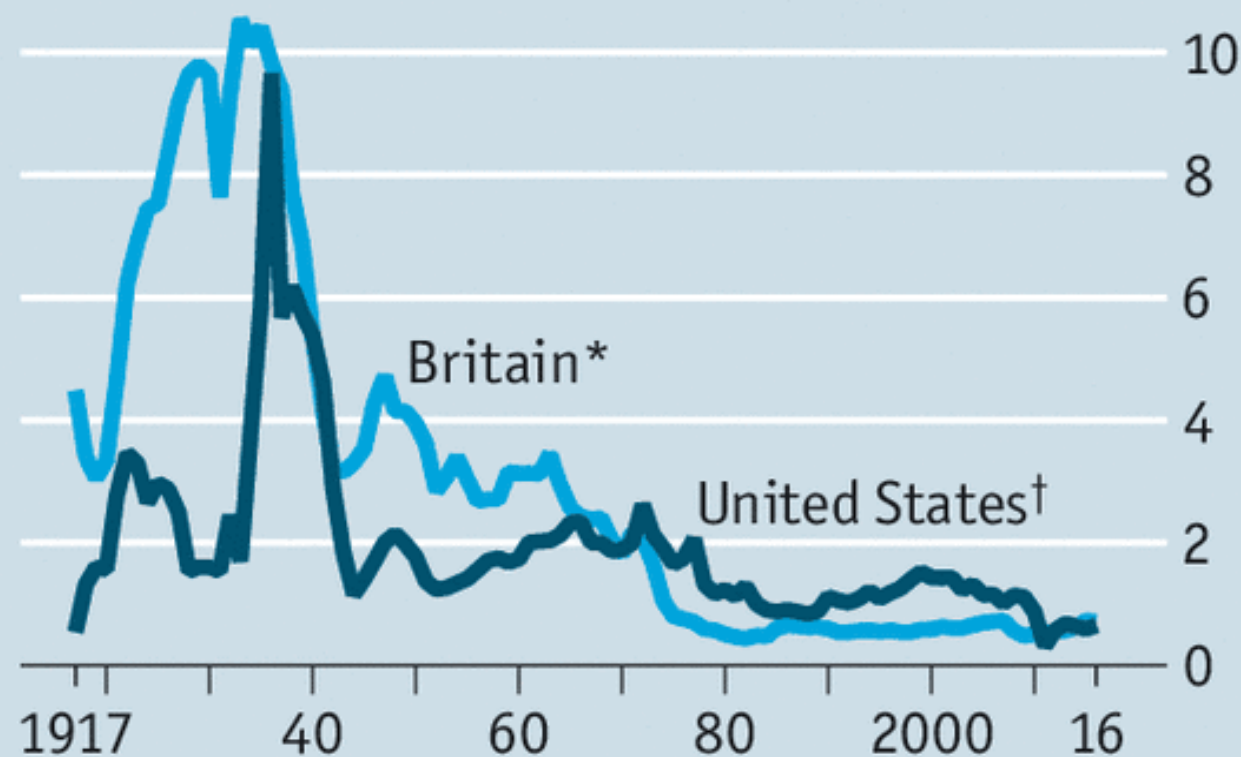
... I believe that we must go much further in encouraging every family to save and to own. To extend every family's ability to pass on something to their children, to build up something of their own – for their own.

Labour have their eyes on the money stored in the homes in which millions of people now live – and in the businesses they have created. But I believe that what people have worked to build up in life, the State should never destroy.

Decreased from the deceased

Revenues from death duties

As % of total government receipts



Sources: Bank of England;
US Department of the Treasury;
The White House

*Including inheritance tax

†Including estate
and gift taxes

