

Richard T. Ely, Housing Research, and Interwar Residential Segregation

John Kroencke^{1*}

Center for the History of Political Economy, Duke University
George Mason University

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Abstract

This paper provides an account of the role of economist Richard T. Ely and figures associated with his Institute for Research in Land Economics in residential housing research and policy during the interwar period. As part of this, it builds on the work of urban historians and planners to argue that Ely and his institute played an important role in promoting policies that encouraged residential segregation. These aspects of Ely's career are effectively missing from the contemporary history of economics literature despite the importance of the topic of residential segregation and the recent interest in the role of racial thinking in economics. Ely wrote and edited prominent textbooks which gave a justification for increased government involvement in land use based on his social theory of property. Ely's Institute for Research in Land Economics in partnership with the National Association of Real Estate Boards provided academic training for all Realtors in the country. As part of this training, Realtors were taught about the role of deed restrictions and the need to operate in the social interest. I examine Ely's intellectual background, his academic work, and his foundational role in an academic network that helped establish a formal system of residential segregation that was grounded in their social scientific principles and findings.

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* ¹ Email: kroenckejohn@gmail.com. Address: Center for the History of Political Economy, Duke University. Acknowledgments: I have greatly benefited from conversations with Peter Boettke, Bruce Caldwell, Christopher Coyne, Kevin Hoover, Jayme Lemke, and Steven Medema. The librarians at the Wisconsin Historical Society were invaluable in helping me navigate the Ely archives. Support from the Institute for Humane Studies allowed me to travel to the archives.

1. Introduction

If they know his name at all, many contemporary economists only know Richard T. Ely as the former namesake of the annual AEA keynote address whose name was stripped from the lecture in 2020.² While Ely and the type of economics he practiced have largely been left outside of the mainstream of the profession, they were quite prominent within the nascent field of American economics; Ely's name adorned the keynote address because he was a cofounder of the AEA. Moreover, like later economists, Ely played a role beyond the groves of academe. Unlike economists, American historians of the period may know much of Ely's earlier work on labor economics, his leading role in what became American institutionalist economics, and his role in the Social Gospel movement. Despite these actions, Ely was also a eugenicist and racist. While historians of economics have written about Ely's eugenic beliefs, his name was removed not only because he believed in eugenics, but also because he "favored segregation" ("AEA Renames Annual Richard T. Ely Lecture" 2020). In fact, Ely's connection to segregation was more than just passing support.

Towards the end of his life, Ely focused primarily on issues of land economics. Ely was the "father of land economics" and an early supporter of the academic study of real estate markets. Beyond academic interest, he also played an important role in interwar national housing policy through his Institute for Research on Land Economics (IRLE) as argued by planning scholar Marc Weiss in the most extensive work on Ely's influence on housing policy that provides a compendium of the work of not just Ely but his most prominent students and

² In April 2020, the executive committee of the AEA voted to strip Ely's name from the lecture following the recommendation of a committee created by AEA President Janet Yellen in February ("AEA Renames Annual Richard T. Ely Lecture" 2020).

colleagues (1989). While the IRLE would shutter due to financial difficulties and Ely's retirement, Weiss shows how many of the ideas spread by the organization before the Depression influenced national policy through early federal agencies created in the wake of the crash.

More than just producing anodyne research and policy recommendations, the Institute for Research on Land Economics (IRLE) promoted segregationist ideas and helped train the people who had power in residential markets. While the reasons and interests of individuals in segregation varied, Ely and Institute provided a social scientific rationale for segregation as part of a broader interest in regulating housing markets in line with his view of the social theory of property.³ The IRLE's influence was carried forward by partnership with important organizations which helped secure residential segregation across the United States: these included the National Association of Real Estate Boards⁴ and the earliest federal housing agencies in the 1920s and 1930s.

While the work of the Institute and Ely's interest in housing markets was wide-ranging, the research and policies had important racial components as urban historians have noted. His later career has received much less attention, except from those with an interest in urban history e.g. (Glotzer 2020; Fogelson 2005; Hornstein 2005). Historians of economics have examined the intellectual context, academic work, and political influence of progressive and institutionalist economists including Ely, e.g. (Bateman 2008; 2001; 1998; Leonard

³ This paper does not argue that without Richard T. Ely or the IRLE, racial segregation would not exist. Rather it is a work in the history of economics that provides an understanding of an intellectual and institutional framework of an economist who played a role in residential segregation.

⁴ It is a mistake to think of NAREB as simply a private organization, because while it was a private organization it was one which had the legal ability to determine who could market and sell houses in many states.

2016; 2015; 2009; 2005; Rutherford 2011; 2000).⁵ And after years of neglect—(Cherry 1976) is a notable early exception—historians of economics have also examined the racial beliefs of economists and the role of these beliefs in their life and work e.g. (Magness and Harrigan 2020; Ballandonne 2020; Fiorito and Orsi 2016; Leonard 2005; Bateman 2003). His work on land economics has received less attention from recent scholars with few exceptions e.g. (Ramsey 2004; McMaster and Watkins 2006), but is discussed in his autobiography and in Rader’s academic biography of him (Ely 1938; Rader 1966).

There is also ongoing interest within economic history on the interaction of race and housing policy (Shertzer and Walsh 2019; Shertzer, Twinam, and Walsh 2016; Kollmann and Fishback 2011; Collins and Margo 2011; Snowden 2018). The topic has attracted popular interest as part of broader discussions of race in the United States—perhaps most notably in Richard Rothstein’s *The Color of Law* (2017) and Ta-Nehisi Coates’s “The Case for Reparations” (2014).

The primary purpose of this paper is to shed light on an aspect of the history of economics largely unexamined within the profession up until this point. It fills a gap in the history of economics literature by doing highlighting Ely’s role in the complex phenomenon of racial segregation. More specifically seeks to: 1) intellectually reconstruct the broader Ely project; 2) show how Ely’s ideas operated in the field of housing reform; and 3) build on the

⁵ In *Illiberal Reformers*, Leonard argues that this theological conception, eugenics, evolutionary science, and politics went hand-in-hand for progressive economic reformers (2016). In reviewing (Leonard 2016), Bateman argues that these ideas did not go hand-in-hand and that Leonard’s choice of subjects biases his conclusions (2017). That is, by choosing different individuals he could find progressives who did not fit the mold and non-progressives who did. Their respective work and disagreement inform this project. Attempting to adjudicate the debate is outside of the purposes of this paper focused on Ely and housing research.

work of urban historians to document the connection between the Ely project as a whole and segregationist housing policy.

The paper proceeds as follows: Section 2 explores Ely's beliefs and writings, focusing on those crucial to understanding his perception of the role of economists in policy, his land economics and his views on race and eugenics. Section 3 provides an understanding of the context of interwar housing markets and earlier housing reform efforts. Section 4 examines Ely's role in the implementation of racist housing policies, particularly through his Institute, students, and colleagues. Section 5 concludes.

2. The Man and his Ideas: Richard T. Ely, Reform, and Economics

Richard T. Ely (1854-1943) was active in academia, policy, and social reform movements for most of his long adult life. To understand Ely, one must appreciate the role of religion in his life and work.⁶ From his childhood in New York through his work as Social Gospeler and beyond, Ely was imbued with moral certainty and a crusading spirit of reform that manifested itself in his efforts to influence policy. Ely's religious conviction and training in Germany manifest themselves in his conception of economics (Herbst 1965, 183–84). Like younger reform-minded economists and unlike earlier more laissez-faire economists in the United States, he viewed economics as a field which should bear fruit not just shed light. Unlike later economists whose economics is more accessible to economists now (even if they rarely read them), Ely rejected a narrow conception of economics. Instead, he thought economics was closely related to ethics. As such, his analysis was often wide-ranging and his

⁶ On the first page of his autobiography, Ely writes, "The heritage and traditions built up since 1660 have been strong and inescapable influence in my life." Ely veered from Presbyterianism to Unitarianism while at Columbia College before eventually becoming an Episcopalian (Ely 1938).

view of what today's economists would think about as social welfare was essentially religious: those reforms which could make the earth closer resemble the kingdom of heaven were the reforms which should be undertaken (Gonce 1996).

After attending Columbia University, Ely, like many of his generation, went to Germany to pursue graduate studies.⁷ There he studied under Karl Knies, a member of the German Historical School. Ely was also a talented academic entrepreneur throughout his life. He is primarily remembered for his early role as a founder of the American Economic Association and as a professor at Johns Hopkins and the University of Wisconsin, but he was an important figure in a variety of organizations. His role in the popular Chautauqua movement, for instance, gave him influence across the country (Ely 1938; Rader 1966).⁸

He was also active in state politics from his perches at both Johns Hopkins and the University of Wisconsin. In Wisconsin, in particular, Ely played an important role in the Wisconsin Idea formulated by John Bascomb: the belief that higher education should serve the people through informing the actions of the state (Hoeveler 2016). In addition to students like Alvin Hansen, John R. Commons, Edward A. Ross, Thomas Nixon Carver, and Frederick Jackson Turner who went into academia, Ely taught important bureaucrats like Ernest Fisher at the Federal Housing Administration, and politicians including Woodrow Wilson (Rader 1966, 26–27).⁹ This continued social standing, perhaps more than the depth

⁷ Graduate programs in the social sciences had yet to be started in the United States. Most of the economic or political economy education that students received was in a capstone course in moral philosophy.

⁸ The Chautauqua movement was an important progressive institution which combined adult education, Christian piety, and summer camp. Originally starting with annual summer retreats in Chautauqua, New York, the movement spread to “daughter” Chautauquas which were formed throughout the country. Chautauqua was a driving force in the Social Gospel movement. It was through the movement that prominent academics, activists, and theologians would provide the religious and social scientific teaching to middle-class community members who were working on the frontlines to rid social evils. See (Rieser 2003).

⁹ [Academic tree](#). (Thies and Pecquet 2010) examines the role of Ely in Wilson's thought.

of his analysis, was what maintained his influence into his later years (Rader 1966, 175). While widely known at the time, key aspects of Ely's general worldview are little understood now but crucial to understanding his motives.

2.1 Social Gospel, Reform, and Ethical Economics

I take this as my central thesis: Christianity is primarily concerned with this world, and it is the mission of Christianity bring to pass here a kingdom of righteousness and to rescue from the evil one and redeem all our social relations. (Ely 1889, 53)

Ely's zeal for reform and his conception of the proper role of economists must be understood in the context of his religious faith. Ely was an adherent of postmillennialist Christian: a theological position which held that the Second Coming of Christ would only occur after a golden age of Christian ethics, as against the premillennialist position that Christ's return would herald a golden age. Accordingly, the faith placed utmost importance on social betterment to create the Kingdom of God. As (Quandt 1973) argues, this utopian vision became increasingly secular: it was less about the supernatural characteristics of the religion and more about the world surrounding its believers and the pragmatic questions of reform. Fogel captures this well: "To many of those who embraced the Social Gospel message, the value and truth of religion were shown by the capacity to create God's kingdom on earth rather than in the hereafter. The essence of religion became the elimination of poverty and inequality" (2000, 121).

In this conception, progressive scientific advance would bring about the kingdom of heaven through gradual social reform. Bateman argues that the economic changes of the middle to late 19th century led to a change in theology: many theologians "began to argue

that the Kingdom of God referred not only to the need for the salvation of individual souls but also to the need to build new and more just social institutions” (1998, 33).¹⁰

In founding the AEA, Ely and his fellow radical economists sought to displace what they saw as rigid, naïve, laissez-faire economics in the United States with a scientific enterprise for human betterment, one which would carry out “a never-ceasing attack on every wrong institution, until the earth becomes a new earth, and all its cities, cities of God” (Ely 1889, 73). This theological conception was intimately connected with the early history of the AEA (Coats 1985; 1960; M. A. Bernstein 2008; Bateman and Kapstein 1999). In the first prospectus for the association, Ely declared the State to be, “an educational and ethical agency” (Adcock 2014, 165). The goal of many of those in the early AEA was to accomplish ethical ends through scientifically determined means implemented by the State. While there was disagreement within the organization and the composition of the AEA would change over time, this background is crucial for understanding Ely (Coats 1960, 561–63).

2.2 Eugenics and Racial Thinking

Despite this concern for societal improvement, an additional aspect of Ely’s thought that he shared with some, but not all, of his contemporary progressives was a belief in eugenics. Ely’s eugenic beliefs are well documented. He expressed them forthrightly in his academic works and private papers. This thinking was not unique to Ely: prior to the adoption of eugenic policy in Nazi Germany and the run-up to the Second World War, academic eugenic thought proliferated in the United States (Leonard 2009, 136; 2005, 215–16). Colleges and

¹⁰ Technological advance and implementation were largely looked upon with favor for their ability to produce goods and increase quality of life. While they may have been derided for their drawbacks, once the inequality and social ills they created were properly accounted for, they were a net positive for society.

universities had courses on the subject and foundations openly funded research on it. Recent work has mostly emphasized these beliefs of Ely in the decades prior to my focus on the interwar period. While his public statements became somewhat less astringent, it is clear from the historical record that his beliefs did not change substantially.

First, there is evidence of this type of thinking in his published works. For instance, in a book on leadership directly after the First World War, Ely ruminates on the inequality of man: “The progress of biological science in recent decades, particularly of the science of heredity, has given us new data concerning human faculties, and new views regarding the innate differences among men from which have been deduced a new social philosophy and a new outlook upon life. The great outstanding fact is that of inequality among men” (Ely 1918, 71). More than just remarking on the research findings, Ely quotes Anton Menger¹¹, who says that “There is no greater inequality than the equal treatment of unequals” (Ely 1918, 72). Additionally, in the most popular general economics textbook of the interwar period, Ely writes, “The negro problem today, so far as it is an economics problem, arises largely from the ignorance and economic weakness of negroes and the exploitation to which their ignorance and weakness subject them...” (Ely et al. 1923, 59).¹²

His private correspondence provides additional insight. For instance, he carried on a friendly correspondence with Lothrop Stoddard who while little known now was a prominent race scientist in the 1920s and the originator of the Nazi term *untermensch*

¹¹ The socialist brother of economist Carl Menger.

¹² (Dorfman 1959, 4:211) puts the sales figure at 350,000.

(Nightingale 2012, 325, 466n56).¹³ In another letter, Ely declined an offer to join the American Eugenics Society but only because of “the burden of dues is becoming too heavy” and writes of being in “entire sympathy” with the “admirable society” (Ely 1927c).¹⁴ On the same date, Ely wrote to Albert Jenks, a former student and professor at the University of Minnesota:

you speak about the importance of heredity, and how hereditary groups of people often determine the degree of success in an undertaking. You are absolutely right about this, and I am often impressed with it myself, and feel that it must be brought forward in discussing land settlement and other problems with which we deal. (Ely 1927a) ¹⁵

In a third letter on the same date, Ely writes to Paul Popenoe (an author of the *Applied Eugenics* (1918) released under Ely’s MacMillan textbook series) asking if he will update the text with the latest eugenic science, remarking that “(y)ou are leading the procession, and I do not think you should give up your leadership” (Ely 1927b).¹⁶ In a reply letter to Ely, Popenoe informs him of his compulsory sterilization effort with E.S. Gosney in California that would be a model for the 1933 Nazi sterilization law (Popenoe 1927). Ely continued to harbor racist and eugenicist belief during the relevant period.

2.3 Social Theory of Property and the Purpose of Land Economics

¹³ He also cited a few papers by Stoddard in his *Outlines of Land Economics*. Stoddard is best known for writing *The Rising Tide of Color Against White World-Supremacy* in 1920 and *The Revolt Against Civilization* in 1922. Readers of *The Great Gatsby* may remember Stoddard’s book as the eugenicist tract mentioned by Tom Buchanan (Okrent 2019, 266). The book was foundational in the thought of Nazi race theorist Alfred Rosenberg who got the term *untermensch* from the translation of Stoddard’s “under man”.

¹⁴ Ely is responding to a November 15 letter from Whitney which states that Ely’s name had been proposed by Irving Fisher. On Fisher and eugenics, see (Cot 2005).

¹⁵ Jenks was a prominent sociologist and anthropologist. His work on the Philippines was cited in *Applied Eugenics* (1918), a popular college textbook on the topic edited by Ely. During the late 1920s, eugenics was taught in over 70 percent of American colleges and universities (Spiro 2009, 168).

¹⁶ Popenoe was a prominent eugenicist who at the time in 1927 was the editor of the *Journal of Heredity* and would work for the Human Betterment Foundation with prominent eugenics donor E.S. Gosney. For more on Popenoe, see (Ladd-Taylor 2001). Occidental College revoked Popenoe’s honorary degree in 2019 (Dreier 2019).

While all this odious behavior seems far removed from Ely's economic thought, his economics and social thought were of one piece. Economic policies were to be crafted and judged on their social results. The basis of Ely's work in land economics is his social theory of property outlined in his *Property and Contract in their Relations to the Distribution of Wealth* (Ely 1914). That book was the culmination of Ely's years of thinking about the subject; he had expressed the ideas in it in his classrooms for decades and he considered it his most important work (Ely 1938, 270). The key to understanding Ely's thought is his social theory of property, which flows out of his beliefs explored in Section 2.1.

The social theory of property roots all logical and ethical justification for private property in its social value. In doing this, as in his other arguments against laissez-faire economics, Ely is opposing Anglo-American tradition. In his thinking, property is not pre-political right which government is to protect, but rather a right created by the State. More than this, in line with his other beliefs, there is a role for the State to decide what aspects of property are justified because of their social value. The State is not a referee but "an ethical person" in whom "control over our lives and our property rests" (Ely 1914, 1:249).

This conception of property rights imposes an obligation not just on private individuals to use their property to maximize social value and but also on the state to regulate the use of property where private individuals fail to live up to their social duty. Individuals effectively earn property rights by using them to bear fruit and states craft and alter property rights to improve outcomes.

Later texts, such as *Elements in Land Economics*, coauthored with his student and son-in-law Edward Morehouse would promote these ideas in more practical ways about how to

judge the results of markets. They write, “the standard for testing whether or not a land policy is sound is: Does the policy result in the improvement of social living? Land economics is, therefore, a social science dealing with the human relationships arising out of land utilization” (Ely and Morehouse 1924, 10). Looking around them, they don’t like what they see and think that “(i)n such a complex society as ours, social control of some forms of land utilization is necessary to achieve the social ends which are set before each individual.” (Ely and Morehouse 1924, 23). Reforms like those which were emerging through private and public action offered a way to improve land utilization.

2.4 Race and Land Value

While the concepts of land utilization and the social theory of property sound inoffensive, these notions in Ely’s academic work on land economics provided some justification for formal system of residential segregation due to the relationship between race and home value. In *Outlines of Land Economics*, Ely and coauthors write, “Consider the effect on land values of the establishment of a negro school or negro church in a fine residential district in Washington, D.C for unfortunate as it may be, racial differences in residents are determining factors in making urban land values” (Ely, Wehrwein, and Shine 1922, 138).¹⁷ A similar argument appears in his *Elements of Land Economics* textbook:

¹⁷ The use of “unfortunate” provides additional insight in Ely’s thinking as does his discussion of agricultural tenant farmers in “Tenancy in an Ideal System of Landownership” (Ely and Galpin 1919). There he writes, “Tenancy has a permanent place in an ideal system of ownership for large numbers in some places... The negroes of our South furnish an illustration. In some cases ownership of land by negroes leads to idleness, and in other places to wasteful culture... If we should set out to do the very best we could for them, calling into cooperation with us their wisest leader, I am inclined to think that at present at least one-half of the negroes would thrive best as tenants under wise direction, and probably more than one-half, taking the country as a whole. If this is the case, then a good land policy for our Southern States should be directed very largely to the development of good tenancy and good landlordship. Kindly and wise direction of the lower strata by those whose economic, intellectual, and social development has reached a higher plane is something that cannot be dispensed with if this world is to be a decent place to live in.”

We may as well take it for granted that certain racial and national groups will not intermix and intermarry, and will not even mingle socially in churches or in schools. In such cases the purchase of land by the lower standard groups is likely to mean that the upper standard group is pushed out. Where such a change is in progress, land values drop and the institutional life of the area is broken up (Ely and Morehouse 1924, 200–201) ¹⁸

This basic empirical finding is important for understanding the interest of a broader set of policymakers, private developers, and citizens in pursuing segregation through both private action like racial deed restrictions (discussed in both Sections 3 and 4) and public actions like zoning (discussed in both Sections 3 and 4) (Jackson 1980; Bradford 1979).

3. Housing before the New Deal: Speculation, Community Builders, and Planning

Partly [Ely] saw in the rapid growth of zoning and allied measures during the '20's a clear illustration of his basic idea that property rights are man-made and can be, in fact have to be, modified and redefined in light of human needs in an evolving economy (Woodbury 1949, 59)

The combination of the degradation of urban life and improved transportation (train, streetcar, automobile) led to wealthy and middle-class Americans moving to early suburbs in late 19th century and early 20th century—a trend that only continued until the recent resurgence of cities in the last few decades. Ely himself was a resident of one of these suburbs—University Heights—located near the University of Wisconsin and downtown Madison. Ely and his wife were among the early residents of the neighborhood. Like the nicer suburbs around the country, University Heights contained a mix of well-designed homes on sizable lots laid out on sweeping, sidewalk-lined streets. His Georgian revival house, designed by Chicago architect Charles Sumner Frost and finished in 1896, would be joined

(Ely and Galpin 1919, 182). He concludes the section by writing “For negroes and any other similar group, we should always keep open a broad way to success and encourage landownership just as fast as individual fitness for landownership is shown. The folly of wholesale attempts at transformation by legislation should have been demonstrated for all time by the results of giving all the negroes the ballot at the close of the war—something far different from what Lincoln had desired”(Ely and Galpin 1919, 183).

¹⁸ This textbook was one of the texts used to train realtors as explained more in Section 4.2.

by pioneering houses by Frank Lloyd Wright and Louis Sullivan. Years later in the mid-1930s Ely's daughter Anna and her husband (and his student and coauthor) Edward Morehouse would even build an International Style house in the neighborhood.

While private developers of neighborhoods like University Heights were able to ensure that the problems of the city would not follow residents, other less planned suburbs would often decline after being built. The wealthier residents would leave the neighborhoods when they began to turn, like many had done when similar things happened in the prosperous parts of the cities. There, well-built, large houses would be divided into apartments or torn down and replaced with denser structures as neighborhoods changed (Jackson 1985, 89–90) and similar would happen in declining suburbs (Fogelson 2005, 26–32). This phenomenon of declining neighborhoods worried residents, with an obvious interest in the value of their property, and social reformers alike.

While this paper focuses on Richard T. Ely and the interwar years, the ideas and actions were informed by a longer history of private entrepreneurship, public regulation, and efforts of social reformers who advocated both. A comprehensive study of the changing political economy of housing is out of the question but some context is needed to understand why there was an interest in Ely's ideas and reform in general.

3.1 The Problems of the Cities and Suburbs

The evil results of allowing a city to develop “naturally” is the best evidence of the need of social control of urban land utilization. The unregulated desire for profits from ownership of private property often leads to a short-sighted view. (Ely and Morehouse 1924, 86)

Over the 19th century cities filled as farmers fled the fields and the poor and huddled masses arrived from Europe. The industrial revolution and the pull of the cities led to mass

urbanization and the rise of the urban poor. Social reformers, urban planners, and developers responded to these forces in different ways, but the trend was toward increased control. Muckrakers like Jacob Riis used photography to draw the attention of other social reformers and everyday citizens to the squalid conditions of the urban poor. Public health concerns stemming from the lack of sanitation, overcrowding, and pollution (with varying degrees of plausibility) gave cities the ability to regulate housing under their police powers. Beginning in 1867 and again over the next decades New York City progressively regulated tenements to include features such as fire escapes, light, ventilation, and running water. Height restrictions and other regulations would follow. Racism and xenophobia often played a role in these and other regulations even if they were not explicitly noted.¹⁹

This was not peculiar to the United States. The situation in London was similar. Outside of the posh streets of West London were huge tracts of the city marked by poverty, disease, and grim tenements captured in Charles Booth's colorful maps that resemble the later HOLC maps. Victorian social reformers began charitable settlement houses where people of means and ability could reside among the urban poor and provide social services. Similar settlement houses were set up in the United States most famously by Chicagoan Jane Addams with whom Ely was friendly. These efforts along with model tenements and charitable enterprises were attempts to improve the cities by improving housing conditions. The fear that the dreadful environment led to poor outcomes was balanced by the related hope that improved environments could banish the social ills.

¹⁹ Aside from the more widely known examples from New York were regulations targeted against Chinese immigrants on the Pacific coast. When explicitly racist rules imposed by San Francisco against Chinese residents were thrown out, they were replaced by facially neutral laws targeting laundries (D. E. Bernstein 1999).

Enabled by improved transportation technology, later efforts shifted from improving existing areas to creating new ones free from the urban problems. The transition can be seen in the philanthropic efforts of Londoners Henrietta and Samuel Barnett who funded and were intimately involved in the settlement movement through Toynbee Hall and who later supported the garden city movement a forerunner of later suburban thinking through Hampstead Garden Suburb. Early American suburbs inspired by the garden city movement include Forest Hills Gardens in Queens. While the utopian ends of the garden city movement would fade, the urbanism of many future developments would be influenced by these developments that, “featured short, often curving streets, a clear division between major thoroughfares and secondary streets, an emphasis on open space, and large blocks closed to vehicular traffic” (Radford 1996, 32).

3.2 From “Short-Sighted View” to Community Builders

Chicago was then in the throes of a building boom and a fever of subdividing activity that ranged from widespread land butchery to occasional city building.
(Woodbury 1949, 60)

Through the late nineteenth century, an overwhelming majority of the land development in the United States was by small, speculative builders. There were relatively few restrictions and builders would often buy lots and build one or a few houses at a time. As such, “[a]ll but three of the country’s twenty-eight largest cities increased their supply of dwellings by at least 50 percent from 1880 to 1900” (Radford 1996, 7). Both social reformers and larger developers sought to leave this behind. Social reformers viewed the speculation as distasteful and disliked the results of the system; developers saw a profit opportunity at the higher end of the housing market.

For both, deed restrictions, or protective covenants, offered a way to ensure the stability of future neighborhoods (Brady 2021; Glotzer 2020; Brooks 2013; Fogelson 2005). They allowed private developers of suburban neighborhoods to internalize externalities: homeowners' rights were limited from the outset with the intention of preventing undesirable actions by neighbors²⁰. The voluntary nature of the contract meant that a huge number of restrictions were possible that were not available through public means at the time. Developers could offer idyllic houses set on curvilinear streets and potential buyers had the knowledge that the neighborhood would change little or continue to develop along the same lines as what they were promised. For those with custom houses, developers would lay out neighborhoods and restrict buyers to certain architectural styles, sizes of homes (both minimum and maximums often), setbacks from the street, and the like (Fogelson 2005). Many of the land use regulations that would ultimately be issued by public means were initially crafted by developers.

3.3 Rise of Zoning

Comprehensive city-wide zoning, or the regulation by geographic area governing both type of use (e.g., commercial, industrial, residential) and density, in the United States began in New York in 1916, but it would quickly spread throughout the country. Earlier policies of zoning like those discussed in the next section and others had adopted piecemeal zoning or zoning that was far less comprehensive, but it was not until 1916 that zoning would begin in earnest.

²⁰ To see more on why tort law and/or nuisance law alone were not enough for property owners and they turned to covenants against nuisances, see (Brady 2021).

The rise of zoning in every major American city except Houston is due in part to efforts by the federal government. Municipalities issue zoning laws under their police powers as creatures of their state governments, but beginning under the Harding administration, Secretary of Commerce Herbert Hoover took efforts to promote zoning. Hoover had a personal interest in the topic and housing more generally. Through the State Standard Zoning Enabling Act (SZEAE) drafted by a committee of leading planners and reformers, the Commerce Department provided a model law for states to adopt zoning more easily (Knack, Meck, and Stollman 1996). There were concerns about the inevitable legal challenges to zoning and the well-crafted model law helped result in legally defensible, easily adoptable, zoning. *Euclid vs. Ambler Realty* (1926) would uphold the legality of comprehensive zoning.

3.4 Racial Segregation: Public and Private

Explicit racial zoning ordinances began in Baltimore in 1910 and spread to many other localities until the U.S. Supreme Court Case, *Buchanan v. Warley* (1917). The case, stemming from a dispute in Louisville, Kentucky, ended with the Court ruling against the policy on freedom of contract grounds. After the ruling, a variety of alternative tactics were developed to achieve residential segregation on legally defensible grounds. From 1917 until 1948, when the Supreme Court ruled that racial restrictive covenants were unenforceable, these were an obvious solution.²¹

²¹ Richard Brooks (2011; 2013) argues that while racially restrictive covenants had reduced efficacy after 1948, they still perpetuated racial segregation because of their extralegal signaling to buyers, realtors, and other interested parties.

While deed restrictions would often include limitations to the alteration of aesthetic attributes of the property, they also would also include limits on the attributes of owners and tenants. This private form of land use planning orchestrated by developers often included explicit racial covenants which prevented the sale of houses to people of unfavored backgrounds. Bombastic developer E.G. Lewis who was behind Palos Verdes Estates south of Los Angeles described residents as “the cream of the manhood and womanhood of the greatest nation that has ever lived, the greatest race that has ever lived, the Caucasian race and the American nation” (Fogelson 2005, 15). The details varied, but among those often prevented from purchasing or renting homes were blacks, Jews, Chinese, and southern Europeans (domestic workers were often explicitly excluded from restrictions). While the restrictions were initially recorded by the developers who themselves used racial characteristics as a screen for buyers, they bound the initial owner from making sales and they would continue to bind subsequent owners with various legal tactics to ensure they were long-lived restrictions.²²

Even when neighborhoods did not have explicit deed restrictions preventing rental or sale to minorities, realtors and developers often engaged in steering practices. For instance, the neighborhood in New York, Sunnyside, where Ely would later move after being involved with the project didn’t explicitly exclude minorities by deed but Catholics and Jews among other minorities were often prevented from buying despite the fact that the designer Clarence Stein was himself Jewish (Hampson 2020).

²² While eventually declared unconstitutional many of these restrictions still exist and are difficult to remove.

Where these restrictions were not explicit, developers could use discretion to allow those who would otherwise be excluded to buy into the neighborhood. In Roland Park, Baltimore, for example, George Boas, a philosopher at Johns Hopkins, could move into the neighborhood in an exception to the developer's policy of exclusion. This only was allowed after the sales manager reached out to his provost. On receiving information that Boas didn't attend synagogue and socialized with non-Jews the sales manager allowed Boas and his wife to purchase a home (Glutzer 2020, 132–33).

4. Ely and the Institute for Research in Land Economics

In addition to his earlier work and influence during the Progressive Era, Ely continued to be an important figure in the interwar period. An elder statesman of the economic field and an institution builder, Ely influenced both private enterprise and public policy. Beginning in the 1920s he had significant relationship with real estate professionals, developers, and government officials dealing with housing. I emphasize his promotion of planning and control generally and the racial implications of this control. More important than Ely's own direct influence in these efforts is the group assembled under the aegis of Ely's Institute.

4.1 "Under All, The Land"

In 1920, while still at the University of Wisconsin, Ely founded the Institute for Research in Land Economics and Public Utilities. Urban land economics was just one division of the enterprising organization.²³ What was the purpose of the Institute? Ely writes in his autobiography that one objective was, "the securing of intelligent planning by governmental

²³ In addition to the focus of this paper, IRLE devoted attention to natural resource economics and agricultural economics, public utility economics, and state/local taxation.

units and by private interests which will make possible satisfactory living conditions and efficient economic life for the growing numbers of city dwellers” (1938, 240). The institute played an important role in the development of the pioneering academic program in real estate at Wisconsin (Weiss 2000; Nourse 1995). Beginning in 1925, the institute began publishing *The Journal of Land and Public Utility Economics* with Ely serving as editor.²⁴

Controversy about the funding of the IRLE would lead to Ely leaving the University of Wisconsin for Northwestern in 1925. The controversy sprang from Ely being funded by the parties who would directly benefit from the organization’s research, namely large land holders, railroads, real estate groups, mortgage bankers, and private utilities. Ely explicitly fundraised on their fears of a single-tax and Bolshevism (Rader 1966, 209). He did so mainly in direct appeals to donors, but also in calls for further planning. For instance, Ely writes:

The buying, selling and improving of land, including the construction of dwellings, must become one of the great functions of the modern state... This is necessary as a means of preserving ownership as a basis of good citizenship and warding off that dangerous radicalism which in the modern form of Bolshevism always attacks, first of all, the private ownership of land (Ely 1920, 149)

These appeals and the close relationship between the Institute and landed interests led to Ely being run out of Wisconsin by the supporters of the single-tax —and his former ally Senator Robert La Follette, who pilloried him with charges of corruption in the popular press (Rader 1966, 210–11).²⁵ Just two months after Ely’s departure, the Board of Regents adopted a resolution barring the type of funding on which the IRLE relied (ibid., 210–12).

²⁴ The journal was later renamed *Land Economics*.

²⁵ There was a personal level to the dispute as Ely pushed to have La Follette expelled from the U.S. Senate during the war because of his lack interest in fighting Germany.

4.2 National Association of Real Estate Boards (NAREB)²⁶

One reason that Ely and the institute attracted the ire of the single-tax advocates was the fact that the organization relied on partnering with others to influence policy and securing funding. While much of the funding came from those in control of natural resources, for the purposes of this paper, the most important organization with which Ely directly worked was the National Association of Real Estate Boards (NAREB). It was private group, but this fact can be somewhat misleading: the standards it adopted were enforced by state regulations (at the instigation of the organization), which required all real estate transactions to be brokered by a licensed realtor.

From the outset, Ely sought to tie his institute to the organization. He argued that he could provide the academic rigor needed for the organization to professionalize their trade. In addition to raising much-needed funds for the Institute, the partnership would give Ely the ability to craft an important profession in his image. While members of NAREB had a variety of beliefs, “in Ely’s mind, any program of education for real estate professionals had to begin with the social theory of property, since real estate brokers were in effect the executors of American land policy” (Hornstein 2005, 87). It took time for Ely to convince the organization of his value, but eventually in November 1921, he managed to become an official “adviser for Research and Education” and make his institute the official “reference organization” (Hornstein 2005, 93). IRLE and NAREB would become increasingly connected over the decade.

²⁶ The forerunner to the National Association of Realtors, the National Association of Real Estate Boards was instrumental in residential segregation. The organization was originally founded in 1908 as the National Association of Real Estate Exchanges. In 1916, the organization’s name was changed to the National Association of Real Estate Boards (Hornstein 2005).

4.3 Educating Realtors

The general welfare of society depends so much upon the men in the real estate business through whom, in the main, sales and purchases take place (Ely 1925)

One of the most important features of the relationship between Ely's institute and the realtors was that Ely and his colleagues would write the textbooks which would form a Macmillian series and become the core of a standardized training program for the thousands who joined the profession.²⁷ Generations of realtors were trained with Ely's series of textbooks extolling his social theory of property and learning about their role in bettering the world. Building on this foundation realtors would learn from important figures in the field, and associates of Ely, like Helen Monchow, Fredrick M. Babcock, and Nathan William MacChesney.

Helen Monchow was a graduate of Mount Holyoke College and student in the graduate program at Northwestern University. She was affiliated with the institute (eventually serving as the managing editor of the journal) and published various influential works in the 1920s and 1930s. The most important of these was *The Use of Deed Restrictions in Subdivision Development* (1928) which details their legal framework, rationale, and use by private developers as described in Section 3.2.

Frederick M. Babcock was a prominent Chicago appraiser who wrote the textbook on the subject for Ely's series.²⁸ While Babcock is foundational figure in the field of real estate appraisal, for the purpose of this paper, Babcock's text is notable because it emphasized the

²⁷ This paragraph draws on (Hornstein 2005). The YMCA also played a role in the distribution of the textbooks and education of the lay audience.

²⁸ *The Appraisal of Real Estate* (Babcock 1924). He would later work for the Federal Housing Administration, as I will discuss in Section 3.4. (Ramsey 2004) examines the legacy of institutional economics in the field of real estate appraisal.

role of race in the appraisal of property. "Among the traits and characteristics of people which influence land values, racial heritage and tendencies seem to be of paramount importance," Babcock writes, "the aspirations, energies, and abilities of various groups in the composition of the population will determine the extent to which they develop the potential value of the land" (1932, 86). In part because of this, he pointed to changing racial composition as one characteristic which can dramatically change the value of property. In a later textbook, he writes:

most of the variations and differences between people are slight and value declines are, as a result, gradual. But there is one difference in people, namely race, which can result in a very rapid decline. Usually such declines can be partially avoided by segregation and this device has always been in common usage in the South where white and negro populations have been separated (Babcock 1932, 91).

These findings had obvious implications when paired with the social theory of property or just the pecuniary interest of the resident.

Nathan William MacChesney was among many other things, the chief counsel for NAREB. It was MacChesney, a wealthy Chicago lawyer and trustee of Northwestern University who was pivotal in the move from Wisconsin to Illinois (Nightingale 2012, 322). Politically active, MacChesney was a progressive Republican who, "wrote a eugenical tract advocating sterilization programs for the mentally ill and for prisoners. He even ominously hinted that similar programs might one day be appropriate for blacks" (Nightingale 2012, 325).

MacChesney also authored a document titled, "Standard Form, Restrictive Covenant." In the shadow of *Buchanan v. Warley*, MacChesney crafted a document which would allow residents (and their realtors) to attach a racial covenant to their property which would hold up in court (Nightingale 2012). Rather than go through the effort (and cost) of drawing up

their own documents, residents could simply file out the standard form. Perhaps more importantly, these innovations allowed the racial covenants and deed restrictions enacted by private developers of new subdivisions to spread to existing neighborhoods.

4.4 Real Estate Law, NAREB Code of Ethics, Standard Form Covenant

A Realtor should never be instrumental in introducing into a neighborhood... members of any race or nationality... whose presence will clearly be detrimental to property values in that neighborhood (Article 34, Realtor Code of Ethics, 1924)²⁹

Since they were de facto practitioners of policy in the social interest, there was a moral justification for them to exclude those who refused to live up to the standards. MacChesney “...drafted a model real estate licensing act (one eventually adopted by thirty-two states) that permitted state commissions to revoke the license of any agent who violated the NAREB code—and the failure to discriminate on racial grounds now constituted a breach of professional ethics” (Hirsch 1993, 75). In addition to any ideological belief in the social theory of property or racist beliefs, realtors were now directly incentivized to engage in racial segregation: if they allowed racial integration they would be in violation of their professional code of ethics and stood to lose their legal ability to practice in their profession.

4.5 Staffing the Federal Agencies

No agency of the United States government has had a more pervasive and powerful impact on the American people over the past half-century than the Federal Housing Administration (Jackson 1985, 203).

Before the First World War, the federal government had little influence in housing regulation, provision, or financing.³⁰ In the interwar years this began to change—at first

²⁹ This article was present in the Code of Ethics until 1950.

³⁰ Regulation of the District of Columbia and housing for those affiliated with the federal government through the First World War era United States Housing Corporation are obvious exceptions.

largely through the Commerce Department led by Herbert Hoover, and later in various efforts to deal with the Great Depression. Ely and figures associated with the institute were important contributors to Hoover's efforts during the 1920's and 1930's (Weiss 2000, 325–26). Perhaps most notably, the National Housing Act of 1934 created the Federal Housing Administration (FHA), an agency which primarily insures residential mortgages. The FHA agrees to insure mortgages which are compliant with its underwriter's manual. Those mortgages which are FHA insured are subsidized and the borrowers face better terms and longer periods of repayment than those that are not.

With the creation of the FHA shortly following Ely's retirement, many of the figures who formed the core of the IRLE went to work in Washington. The ideas developed, published, and communicated by the Institute would find their way into official policy. Ernest Fisher, who was an Ely student and part of the Institute, became director of the Economics and Statistics Division of the FHA (Hornstein 2005, 134). Shortly after the 1934 bill passed, Babcock would become the agency's chief appraiser. (Nightingale 2012, 345). In this role, Babcock introduced racial segregation as an "official requirement of the federal mortgage insurance program" (Rothstein 2017, 65). The official *Underwriting Manual* (1938) would include a passage on the connection between race between land values:

Among the traits and characteristics of people which influence land values, racial heritage and tendencies seem to be of paramount importance. The aspirations, energies, and abilities of various groups in the composition of the population will determine the extent to which they develop the potential value of the land ("Underwriting Manual" 1938, sec. 937)

Using the manual as justification, FHA officials would encourage or even require builders of housing tracts and buyers of individual homes to record deed restrictions and support local zoning measures in order to qualify for taxpayer subsidized loans (Rothstein 2017, 84–85).

5. Conclusion

Richard T. Ely, his academic research institute, and his students and colleagues played a significant role in the study of housing markets and early regulation by the federal government. One important aspect of this research and policy making was the promotion of racist policies that promoted residential segregation through both private organizations, like the National Association of Real Estate Boards, and ultimately the federal government, including the Federal Housing Administration.³¹ Many more individuals associated with Ely took prominent positions within the burgeoning bureaucracy as the national government took a more active role in residential markets (Weiss 1989).³² It is notable that the increased role of the national government did not weaken the local restrictions on the ability of individuals to freely associate, rather it contributed to the problem. In his *Forbidden Neighbors: A Study of Prejudice in Housing*, Charles Abrams writes:

A government offering such bounty to builders and lenders could have required compliance with a nondiscrimination policy. Or the agency could at least have pursued a course of evasion, or hidden behind the screen of local autonomy. Instead, FHA adopted a racial policy that could well have been culled from the Nuremberg laws. From its inception FHA set itself up as the protector of the all white neighborhood (1955, 229–35)

In a bit of historical irony, the final Richard T. Ely lecture was given in January 2020 by Marianne Bertrand: the chair of the American Economic Association Standing Committee on Equity, Diversity, and Professional Conduct.

³¹ I must stress that these are in no way the only sources of residential segregation. A wide array of institutional mechanisms within markets and policies adopted at lower levels of government restricted access to housing markets on racial grounds. At national level, however, many of the ideas and individuals associated with housing policy, including segregationist policy, came from Ely's institute.

³² I have most notably omitted the importance of HOLC mapping and redlining. The desire to move white families out of cities and into domestic suburban life for a variety of reasons including notions of citizenship and the idea that holding property would prevent individuals from becoming communists is another important motivation for policy.

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