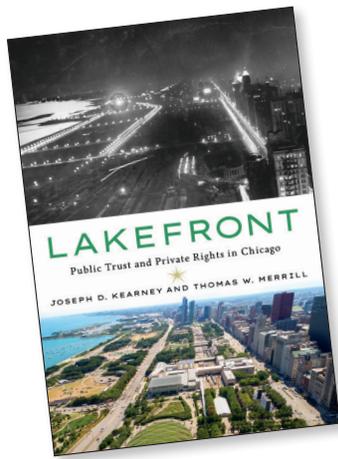


How did Chicago, a city known for commerce, come to have such a splendid public waterfront—its most treasured asset? The product of two decades of research, *Lakefront* sets forth the social, political, and legal conflict in which private and public rights clashed repeatedly over time, only to produce, as a kind of miracle, a generally happy ending. It is an extraordinary story.



## LAKEFRONT

Public Trust and Private Rights in Chicago

JOSEPH D. KEARNEY AND THOMAS W. MERRILL

\$34.95 | 392 PAGES | HARDCOVER

FOR MORE INFORMATION, [CLICK HERE](#).

SAVE 30% WITH CODE **09FLYER**

Order online at [cornellpress.cornell.edu](http://cornellpress.cornell.edu) or call **800.848.6224**

“This is a transformative study . . . It will be essential reading for urban historians, for students of the planning process, as well as for legal historians and for property lawyers.” — **Hendrik Hartog, Princeton University**, Class of 1921 Bicentennial Professor in the History of American Law and Liberty, Emeritus, author of *Public Property and Private Power*

“The authors build their fascinating story case by case easily accessible to the lay reader. We learn how, legally or not, agencies, urban planners, individual personalities, the courts, and one railroad shaped today’s uniquely beautiful Chicago lakefront.” — **Libby Hill, environmentalist**, author of *The Chicago River: A Natural and Unnatural History*

### Lakefront is essential reading about Chicago’s history

- The dredging of the mouth of the Chicago River in the 1830s, the river’s reversal at the end of the century, and the significance of these projects to the lakefront.
- The momentous arrival of the Illinois Central Railroad over the waters of Lake Michigan in the early 1850s.
- The pitched battles in Springfield in the 1860s, including the “Lake Front Steal,” to control the submerged land east of downtown as a site for an outer harbor.
- The decades-long and successful pushback by Michigan Avenue owners seeking to maintain their views of the lakefront, free of buildings.
- The monumental multiparty litigation, culminating in the landmark 1892 decision of the U.S. Supreme Court that gave birth to the modern public trust doctrine.
- The untold story of why the 1893 World’s Fair was located not on the lakefront downtown but in Jackson Park.
- The reasons behind the struggle for control of what became known as Streeterville, on the lakefront north of the Chicago River.
- The construction of Lincoln Park and North Lake Shore Drive and why the Drive stops at Hollywood.
- The land deal with the Illinois Central Railroad that led to the construction of South Lake Shore Drive.
- The construction of Grant Park and the blocking of buildings there by Montgomery Ward and others.
- How planners got around restrictions to build the Art Institute and, a century later, Millennium Park.
- The development of the Illinois Central “peninsula,” between Randolph Street and the Chicago River, first into a railroad complex and then, via litigation over “air rights,” into a major commercial center.
- Northwestern University’s victory and Loyola University’s loss in expanding into Lake Michigan.
- The failure of the Lucas Museum project, the apparent success of the Obama Presidential Center project, and the undetermined future of the massive former South Works steel site on the lakefront on the South Side.
- Illustrated with more than 90 historical photographs and original maps.

### An important book nationally—“a must read for all interested in urban history . . . and the preservation of public spaces”

American law permits most resources to be held as private property. There is one striking exception: some resources are protected by a “public trust” and thus may not be sold. So declared the U.S. Supreme Court in 1892. Its landmark decision arose out of an attempt to transfer, to the Illinois Central Railroad, 1,000 acres of submerged land under Lake Michigan, along Chicago’s downtown. The Court said that title to these waters was “held in trust for the people,” to ensure that everyone could boat and fish in the lake.

*Lakefront* begins by unearthing what gave rise to the grant to the railroad, detailing the bitter fight over whether it could be constitutionally repealed, and explaining the rationale and possible motivation of the Supreme Court. Yet the book’s scope is much broader, both historically and otherwise: It seeks to determine the role that the public trust doctrine and the law more generally have played in creating a spectacular and internationally famous public space—and what lessons modern urban planning might take from this complex two-century case study.

Despite its dramatic arrival, the book shows, the public trust doctrine did not itself block either private development or urban planning for the first 75 years after the 1892 decision. Grant Park, along the lakefront in the center of Chicago, was saved from development by a different legal doctrine, which allows owners of *private* property to enforce a “dedication,” appearing on certain plats, of nearby public land. And the equally famous Lake Shore Drive and associated parks running almost the length of the city, north and south, could be built because the park districts were able to acquire the rights of existing riparian owners in a most ingenious way: through low-visibility “boundary-line agreements” that allowed the private owners to claim and fill some submerged land, the public trust doctrine notwithstanding.

Then in 1970, the public trust doctrine began a remarkable revival, coinciding with a national environmental awakening. Urged on by an academic, Professor Joseph L. Sax, who recast the 1892 decision as a “lodestar,” the courts reenvisioned the public trust doctrine as a judicial tool for preventing critical public resources from being redirected for purely “private purposes.” The courts in Illinois and across the country have been unclear about what assets the reconceived doctrine covers, what is a private as opposed to a public purpose, and what standard of judicial review applies to challenged legislative acts. Yet this revived public trust doctrine is now the primary legal concept used to adjudicate controversies about changes in uses of the Chicago lakefront and engages attention from environmental activists across the country. The results in Chicago have been mixed, as episodes from the South Works to the Lucas Museum to the Obama Presidential Center reflect. This experience suggests that the public trust doctrine, in its modern guise, is badly in need of clarification if it is to serve as an effective instrument for preservation.

*Lakefront* will stand as a major study of not only the public trust doctrine but also property law, the built environment, and urban planning more generally.

### Other praise for *Lakefront* from Chicago and across the country

“Thanks to its authors’ exhaustive research, clear prose, colorful cast of characters, exceptionally helpful maps, and enviable ability to illuminate complex concepts of private and public property, *Lakefront* is a wonderful read for not only those interested in Chicago but anyone who wishes to understand how urban built environments come into being and continuously evolve.” — **Carl Smith, Northwestern University**, author of *City Water, City Life* and *Chicago’s Great Fire*

“Consistently painstaking, judicious, and readable, Kearney and Merrill are role models for work in urban history.” — **Robert C. Ellickson, Yale University**, Walter E. Meyer Professor of Property and Urban Law, author of *Order Without Law*

“. . . an excellent book that adds much to our understanding of development along Lake Michigan within the City of Chicago.” — **Ann Durkin Keating, North Central College**, Dr. C. Frederick Toenniges Professor of History, co-editor of the *Encyclopedia of Chicago*

“In this remarkable book, Kearney and Merrill describe how Chicago came to have one of the world’s most glorious urban waterfronts. They masterfully weave together this surprisingly contingent story, relating two centuries of on-the-ground events, influential personalities, and fluctuating legal developments that together created the city’s justly celebrated lakefront.” — **Carol M. Rose, Yale University and University of Arizona**, Lohse Chair in Water and Natural Resources, author of *Property and Persuasion*

“A magnificent and exquisitely told story, replete with scoundrels and corrupt politicians, *Lakefront* solves the longstanding puzzle of the origins of the Supreme Court’s famous nineteenth-century ruling in *Illinois Central Railroad Co. v. Illinois* and reveals its no less extraordinary epilogue, including the ruling’s unlikely resurrection by 1970s activists to become powerful legal precedent for environmental protection.” — **Richard J. Lazarus, Harvard University**, Aibel Professor of Law, author of *The Making of Environmental Law*

“A fascinating, beautifully crafted historical account of one of America’s greatest waterfront cities and the legal doctrines that shaped its development by preserving its greatest natural asset. A must read for all interested in urban history, property law, and the preservation of public spaces.” — **Nicole Stelle Garnett, University of Notre Dame**, John P. Murphy Foundation Professor of Law, author of *Ordering the City*