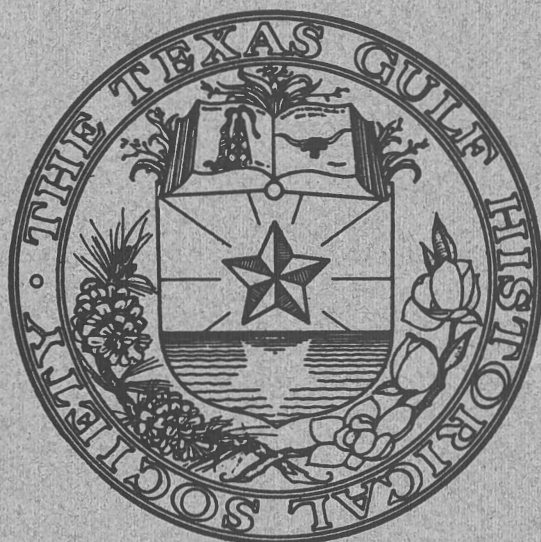


The Texas Gulf Historical and Biographical Record



Vox audita perdit, littera scripta manet.

Volume 49

November 2013

THE JOURNAL OF THE
Texas Gulf Historical Society

AND

Lamar University History Department

*Texas Gulf Historical
and
Biographical Record*

A JOURNAL DEVOTED TO THE
HISTORY OF SOUTHEAST TEXAS
AND THE GULF COAST

VOLUME 49

NOVEMBER 2013

EDITOR

Jimmy L. Bryan Jr.

ASSOCIATE EDITOR

Robert J. Robertson

CONTRIBUTING EDITORS

Margaret Davis Parker

Ann Creswell

GRADUATE ASSISTANT

Collin M. Rohrbaugh

*Texas Gulf Historical and
Biographical Record*

(ISSN 0563-2897)

Published annually by the
Texas Gulf Historical Society and
The History Department
of Lamar University

PO Box 7525, Beaumont, TX 77726

Subscription Rates:

Individual members	\$20
Family members	\$35
Institutional members	\$25
Lifetime members	\$500

Printed by R & A Supply Co.
Ron Avery, Janice Grossheim,
and Sandra Marino
Beaumont, Texas

**Indexed online by EBSCO
America: History and Life**

Texas Gulf Historical
Society Officers

President

Dr. John L. Nelson

Vice President

Judith Linsley

Recording Secretary

Ann Creswell

Corresponding Secretary

Suzanne K. Stafford

Treasurer

Joseph J. Fisher Jr.

Curator

Rosine McFaddin Wilson

Genealogist

Margaret Davis Parker

Librarian

Penny L. Clark

Parliamentarian

Marion Holt

Sergeant-at-Arms

David E. Heinz

Members-at-Large

Dr. Mary Scheer

Dr. Richard Gachot

Earl Brickhouse

Chaplain

Marilyn Thornton Adams

Constitution

David Montgomery

Membership

Joy Crenshaw

Nominating

Dr. John Storey

Ellen Rienstra

Robert J. Robertson

Hospitality

Sue Philp

Anne Nelson

*The Texas Gulf
Historical and Biographical
Record*

VOLUME 49

NOVEMBER 2013

HER LONELY WAY BACK HOME	3
<i>The Evolution of Janis Joplin's Legacy in Port Arthur, Texas</i> CYNTHIA J. BEEMAN	
US JUDGE JOE FISHER AND THE <i>BOREL ASBESTOS CASE</i> ROBERT Q. KEITH & ROBERT J. ROBERTSON	23
PRIMARY SOURCES	39
<i>Lewis Hine's Photographs of Child Labor in Southeast Texas, 1913</i> Edited by JIMMY L. BRYAN JR. & COLLIN M. ROHRBAUGH	
BOOK REVIEWS	55
PROCEEDINGS	63
LIST OF MEMBERS	74
PAST PRESIDENTS AND EDITORS	77
OFFICERS, EDITORS, AND PRINTER	Inside Front Cover
INSTITUTIONAL MEMBERS	Inside Back Cover

EDITOR'S NOTE

In this issue of the *Texas Gulf Historical and Biographical Record*, Cynthia Beeman explores the tension between Janis Joplin and her hometown of Port Arthur, Texas. Beeman charts the evolution of this relationship from alienation to celebration with key moments like Joplin's attendance of her high school's tenth anniversary reunion in 1970, the unveiling of a bust in her honor in 1988, and the dedication of an Official Texas Historical Marker at her former home in 2008. Late attorney Robert Keith and current associate editor of the *Record* Robert Robertson examine the role of US Judge Joe Fisher in the landmark case *Borel v. Fibreboard* (1973), in which the plaintiff received damages for an illness and ultimate death resulting from exposure to asbestos products. This decision opened the way for 730,000 personal injury plaintiffs receiving \$70 billion in damages and established precedent for the filing of numerous property damage suits. In "Primary Sources," Collin Rohrbaugh, graduate assistant for the *Record*, and I put together a photo-documentary essay in the spirit of the Progressive Era, featuring the work of photographer Lewis Hine. In November 1913, Hine traveled through Southeast Texas and documented children workers in the area sawmills and newsboys in downtown Beaumont. This issue also marks the return of book reviews, and I would like to thank the scholars who contributed to this effort. Fortunately, we were able to publish this volume without any memorials to report. Thanks to Ron Avery of R & A Supply Co., Beaumont, Texas, for his continued professionalism and service. I owe a special debt those individuals who help put the *Record* together—Ann Creswell, Margaret Davis Parker, Suzanne Stafford, Robert Robertson, and Collin Rohrbaugh. I would like to thank the History Department at Lamar University and particularly Mary Scheer, Patty Renfro, Emily Kosh, Sabrina Odom, and Robert Barton.

Jimmy L. Bryan Jr., Editor
Texas Gulf Historical and Biographical Record
Lamar University History Department

Her Lonely Way Back Home

*The Evolution of Janis Joplin's Legacy in
Port Arthur, Texas*

CYNTHIA J. BEEMAN*

On January 19, 2008, a cold drizzly morning in Port Arthur, Texas, a large crowd gathered in a Baptist church fellowship hall on 32nd Street and sat reverently listening to recordings of Janis Joplin songs like “Mercedes Benz” and “Me and Bobby McGee.” Many began singing along as they warmed to the familiar tunes from their pasts. It was a diverse crowd with children, old timers, local politicians, curious neighbors, and visitors. Some wore leather motorcycle garb and the beads, tie-dyed clothing, and feather boas favored by Joplin, a local girl. It was not a typical gathering in a church fellowship hall, but then that somehow seemed appropriate. The occasion was the dedication of an Official Texas Historical Marker on what would have been Joplin’s sixty-fifth birthday. Few in attendance could picture her as a senior citizen. In their minds, she would forever be in her twenties—the Queen of Rock and Roll, flamboyantly performing on stages around the world, with her wild hair, colorful costumes, and feather boas flying as she belted out song after song in front of cheering audiences.

* Cynthia J. Beeman is the former director of the Texas Historical Commission’s History Programs Division and past president of the East Texas Historical Association (ETHA). She is co-author with Dan K. Utley of *History Ahead: Stories beyond the Texas Roadside Markers* (2010) and *History along the Way: Stories beyond the Texas Roadside Markers* (2013). Different versions of this article appear as Beeman’s 2012 presidential address to the ETHA and in *History along the Way*. The author wishes to thank Texas A&M University Press and Editor-in-Chief Mary Lenn Dixon for the encouragement to publish in the *Record*.

Those in attendance that day in Port Arthur, including this writer, heard from Jefferson County Historical Commission officials and several local citizens who shared memories of their famous childhood friend. The event was pleasant, well planned, and orderly, and everyone who spoke, it seemed, had good memories of their friend and neighbor. With the remarks and other formalities out of the way, the crowd slowly moved outside and crossed the street to the site of the marker, located in front of the home where Janis lived as a child. There, as local police blocked the road, the current owner of the house ceremoniously unveiled the marker and the crowd erupted into applause as one dedicated fan appropriately yelled out, “Janis Joplin lives! Woo!”¹

The event’s celebratory mood represented a marked contrast from the town’s attitude toward its most famous native daughter just a few decades earlier. Janis Joplin’s relationship with her hometown was complicated. By most accounts, she enjoyed a normal, happy early childhood in a middle class family in the blue-collar refinery town, but her experiences as an outcast—some would say of her own making—in her high school years set the stage for rebellion and outrageous behavior that colored both her own memories and her legacy. As her fame in the 1960s hippie counterculture movement grew, she simultaneously wrote sentimental letters to her family and made disparaging remarks about her hometown to reporters covering her meteoric rise in the music business. Lyrics written by her friend, lover, and fellow musician Kris Kristofferson in 1971, a year after her death (although not written for her, and paraphrased here), could serve to convey a sense of her complex journey: “[She’s] a walkin’ contradiction, partly truth and partly fiction, takin’ every wrong direction on [her] lonely way back home.”²

Janis Joplin has been the subject of numerous book-length biographies, countless articles, and at least two major stage plays. As Texas music historian Gary Hartman observed, she was “the most prominent female rock-and-roll artist ever to come from Texas.”³ The story of her small-town roots, hippie California life, and worldwide fame as an outrageous and talented singer continue to fascinate millions of people more than four decades after her death. Some writers such as Ellis Amburn, author of *Pearl: The Obsessions and Passions of Janis Joplin* (1992), seem to want to concentrate on the more salacious aspects of her life, and come down hard on her hometown as the cause of all her un-

happiness and emotional problems. Those close to her, however, present more intimate and softer portraits of the artist and her ties to Port Arthur. In 1973, for example, Joplin's friend and publicist Myra Friedman wrote an early and sympathetic biography titled *Buried Alive*, published just three years after the singer's death, and in 1992 her sister Laura Joplin produced *Love, Janis*, billed as "a revealing biography inspired by her private letters home." The rigorously researched *Scars of Sweet Paradise: The Life and Times of Janis Joplin* (1999), by historian Alice Echols, places Joplin's story within the context of the 1960s counterculture history and is the most complete and balanced biography of the singer to date. Rather than attempt to offer yet another biography of Janis Joplin, this article seeks to draw upon those previous studies, along with new oral histories and research, to look at the story of the singer's evolving legacy in her hometown.

Janis Joplin's parents, Seth Joplin and Dorothy East, moved from Am- arillo to the small Southeast Texas town of Port Arthur in 1935. Seth worked at a Texaco container plant, and Dorothy found employment in the credit department of a local Sears store. They married in 1936, and just over six years later, on January 19, 1943, Dorothy gave birth to their first child, Janis Lyn. A second daughter, Laura, was born in 1949, followed by a son, Michael, in 1953. The family lived in a small house on Procter Street until about 1947, when they moved to a larger residence on Lombardy Drive (now 32nd Street) in the Griffing Park neighborhood. "Kids were everywhere," Laura Joplin later recalled. "The streets were laid out like spokes on a wheel, and the hub was . . . Tyrrell Public School."⁴

Childhood friend Monteel Cople remembered riding bicycles around the tree-lined neighborhood streets with Janis and other playmates. "We would always somehow meet up and ride around, and oftentimes go back to the schoolyard and play," she said. "We used to hang upside down on the monkey bars. We did not wear shorts—that was not heard of at the time—we all had dresses, and so we just would struggle to hold our dresses up to our knees while we were hanging upside down, and it would produce fits of insane giggles as we did that, you know, as only five- and six-year-olds can giggle. And that's what I remember so much about her, is the glee in her giggle. Just absolute unabandoned glee."⁵

Seth and Dorothy Joplin instilled in all three of their children the joy of reading and the importance of a good education. One family tradition involved rewarding the children for learning to write their names by taking them to the local library to obtain their first patron cards. That early experience stayed with Janis for the rest of her life, and she often spoke to reporters and friends about the books she read. Seth Joplin built stilts, seesaws, tightropes, and other outdoor play equipment for his children and their friends who often gathered at the Joplin home.⁶ The Joplin children did well in school and participated in various clubs and extracurricular activities. Janis sang in the elementary school glee club and joined a Bluebirds troop. She showed early talent as an artist, as well, and some of her drawings and paintings survive in both private and museum collections. During her junior high school years, she participated in community theater and volunteered at the local library. Calling her a “Versatile Miss,” the *Port Arthur News* ran a story about the artwork she drew for the library’s summer reading program, saying she was “one of the top artists in the ninth grade.” The accompanying photo shows a smiling young girl in a sailor blouse standing in front of a scarecrow drawing with the caption, “Teenager Janice [*sic*] Joplin stands in front of one of her several posters in the Gates Memorial Library where she works. This particular one depicts a ‘Wizard of Oz’ book available for the younger set. Miss Joplin, an enthusiastic library worker, likes the job because it gives her a chance to do ‘community service’ as well as opportunities to use her talent.”⁷

Life began to change for Joplin soon after she entered Thomas Jefferson High School in 1957. At first, she maintained a B-grade average, and her high school yearbooks revealed that she joined clubs such as the Future Nurses of America, Future Teachers of America, the Art Club, and even the Slide Rule Club. She also joined the choir at Port Arthur’s First Christian Church. “She sang in the adult choir because she had perfect pitch,” remembered Yvonne Sutherlin, former chair of the Jefferson County Historical Commission. “She would sing any part at the last minute if someone didn’t show up, or whatever the choir directors needed. She could sing it right that minute. She was very, very talented.” As was the case with many teenage girls, she earned money by babysitting, including for Sutherlin’s family. “She would come to my house because we lived not very far apart, and babysit my children at night. And the kids always had a really good time because she would sing and she would play

with them. I had a piano, and I think they must've done a lot of singing, from the impression I received from the children. She was a great artist, and she would draw them pictures of different characters—a pumpkin head, a skeleton, a scarecrow.”⁸

About the time Joplin turned fourteen she began to feel apart from those around her. Adolescent weight gain and a severe case of acne presaged a deep insecurity. In Port Arthur in the 1950s, physical appearance and adherence to social norms determined popularity and acceptance among high school students. As Joplin's standing among the school's in-crowd deteriorated, her response became one of defiance. According to biographer Alice Echols, “Janis could have chosen to be inconspicuous, but she decided to fight what other girls accepted as fate.”⁹ She embraced her outsider image in overt ways—dressing in tights and oversized men's shirts instead of the demure dresses or skirts worn by other girls, dyeing her hair orange, defying teachers who decried her behavior problems, and arguing with her parents. She read books by emerging Beat-era writers such as Jack Kerouac, Lawrence Ferlinghetti, and Allen Ginsberg, and openly questioned and challenged the conservative values of her family and community, particularly criticizing the town's racial segregation.

Joplin became friends with what her sister described as “a group of intellectuals”—boys she met in a community theater group who also questioned authority and the social status quo—and with them she began to push ever-widening boundaries.¹⁰ One of her friends, Dave Moriarty, said, “Everybody began to realize she was fun to have around because she raised so much hell. By the time we were in mid-high school, she was one of our favorite characters.” She became what he described as a sort of court jester, whom they often used to shock their conservative classmates. “When Janis was outrageous, she was totally outrageous,” he said. “We used it to our advantage when we wanted to freak people out. For the express purpose of doing that, we'd always bring Janis along.”¹¹

Janis's growing rebellion “left an ocean-sized wake of chaos in the house,” according to Laura Joplin, who described her sister's last two years of high school as “periods of peace broken by instances of outrageous behavior that led to confusion, panic, and yelling at home.”¹² Janis and her friends drove around town, built campfires at the beach, and gathered at an abandoned light-

house to drink and talk. They climbed to the top of most of the water towers in the area, and clambered around on the girders underneath the top of the Rainbow Bridge, a 176-foot-high span over the Neches River. Another of her friends, Jim Langdon, recalled it as a symbolic action: “None of us planned on staying in Port Arthur. Whatever lay ahead, it was ‘out there’ somewhere. From a couple hundred feet above the Neches River . . . you could see there actually was a far horizon to reach toward.”¹³

But most significantly, Joplin and her friends listened to music—not the pop ballads and crooners popular on Top 40 radio, but folk music, especially zydeco, and the blues and jazz that culturally migrated across the Sabine River from the juke joints and dives in Louisiana. As their late-night forays to bars on the other side of the river grew more frequent, they became enmeshed in the soulful music of artists such as Huddie “Leadbelly” Ledbetter, Willie Mae “Big Mama” Thornton, Bessie Smith, and Odetta, and soon Janis began singing in imitation of many of her musical inspirations. The more she sang, the more she seemed to find herself, although it was also at that time she began drinking to excess, a precursor of the addictive behavior that later defined her public persona.

The group of friends found trouble along with their musical excursions, and soon Joplin’s reputation worsened and her relationship with her parents became more strained. She skated through her senior year in high school as a girl on the edges of acceptable behavior, on the outs with most of her classmates but still finding creative expression through music and painting. She graduated with her class in the spring of 1960, and although some of her friends remembered it differently, after she became famous she told a number of interviewers her high school years were miserable because of cruel treatment by her classmates. In an oft-repeated quote, she told television talk show host Dick Cavett, “They laughed me out of class, out of town, and out of the state, man.”¹⁴

Following the path of many of her Port Arthur contemporaries, Joplin briefly attended Lamar State College of Technology (now Lamar University) in nearby Beaumont and Port Arthur College (now Lamar State College-Port Arthur). Most of her friends had left town, but with the few that were still around she continued to drink and carouse, becoming more and more restive.

In an attempt to remove her from what they saw as negative local influences, her parents sent her to stay with two aunts in California in 1961, and her brief foray there broadened her horizons. Enthralled by the coffeehouses and art galleries in Los Angeles and Venice Beach, she managed to arrange a few singing gigs and at one point hitchhiked to San Francisco where she first experienced the waning Beat movement and burgeoning hippie scene.

She returned to Port Arthur for Christmas and enrolled at Lamar for the spring semester. Her high school friend Jim Langdon, working with a local music group, got a job recording a radio commercial for a bank in Nacogdoches. Langdon recruited Joplin to sing vocals on the tune, "This Bank is Your Bank," based on Woody Guthrie's "This Land is Your Land," but what would have been her first commercial recording never aired.¹⁵ In the spring of 1962, she left Port Arthur and enrolled at the University of Texas at Austin as an art student.

She quickly fell in with a beatnik crowd at UT and spent most of her time at the off-campus apartments on Nueces Street where many of them lived. Nicknamed "the Ghetto," the ramshackle building was a haven for writers, artists, and musicians, and its freewheeling lifestyle suited Joplin's temperament. Captivated by folk music, she joined Lanny Wiggins and Powell St. John in the musical group the Waller Creek Boys, playing often at a café in the student union and at Threadgill's, the former gas station/beer joint on the old Dallas Highway run by country yodeler Kenneth Threadgill. "She Dares to Be Different!" proclaimed a headline in the university newspaper, *The Daily Texan*. The story portrayed an autoharp-playing Joplin as a campus oddity but also praised her singing. "Since she has never had a music lesson and cannot read notes, her voice is untrained," reporter Pat Sharpe wrote. "But this lack seems to be an asset rather than a liability, for Janis sings with a certain spontaneity and gusto that cultivated voices sometimes find difficult to capture. She is at her best with folk songs, to which she gives an earthy, twangy, rendition." Having found her calling, Joplin became less of a student and more of a musician in Austin, and with that change came a headlong dive into the counterculture movement, complete with alcohol abuse, drug use, and sexual experimentation. By January 1963, she was only too willing to leave Austin behind and hitchhike to California to begin the next phase of her life.¹⁶

Joplin's friends in San Francisco in the early 1960s included a number of fellow Austin émigrés, such as Jack Jackson, an innovative artist (and later award-winning historian) widely credited with creating the underground comics movement, and Chet Helms, band manager and later owner of the Avalon Ballroom music venue. With Helms's assistance, Joplin found jobs singing in coffeehouses and a few concert halls. By May 1965, she was dangerously underweight as a result of out-of-control drug use, and her worried friends put together a bus fare party to raise funds to send her home. She returned to Port Arthur intending to straighten out her life and reenroll in college, and she made an effort to do so for a while. But in the spring of 1966, when Helms summoned her to the West Coast to become the "chick singer" for Big Brother and the Holding Company, a band he managed, she left home for the last time and made her way back to California.¹⁷

Joplin's performances with Big Brother and the Holding Company quickly drew widespread attention. Their appearance at the Monterey International Pop Festival, a three-day outdoor music event in June 1967, catapulted the band—and especially Joplin—to international fame. Reviews of the concert singled her out for praise and solidified her status as a rock and roll star. "50,000 members of the turned-on generation celebrated the rites of life, liberty and the pursuit of hippiness," wrote a *Time* magazine reporter of the first major rock festival. Describing the psychedelic scene and on-stage theatrics of musicians including The Who and Jimi Hendrix, the reporter went on to say, "But what emerged beyond question as the mainstream of pop music today was the 'soul' sound. . . . Among the high points: Janis Joplin, backed by a San Francisco group called Big Brother and the Holding Company, belting out a biting alto and stamping her feet like a flamenco dancer."¹⁸

The band, with an increasing focus on lead singer Joplin, exploded onto the rock scene following the Monterey festival and with the release of its first album, *Cheap Thrills*. Robert Shelton, reviewing the band's east coast debut in the *New York Times* in early 1968, wrote, "The lines can start forming now, for Miss Joplin is as remarkable a new pop-music talent as has surfaced in years. There are few voices of such power, flexibility and virtuosity in pop music anywhere."¹⁹

As Joplin's star rose, her relationship with the members of Big Brother deteriorated, and creative differences caused a parting of the ways by the end of 1968. She struck out on her own as a solo performer backed by a new band of musicians, which she christened Kozmic Blues. Still hugely popular, and increasingly fueled by drugs and alcohol, she remained a favorite topic of music journalists.

San Francisco-based writer Michael Lydon, in a lengthy *New York Times* feature story, wrote about her reputation as a blues singer and as a hard-living rock star in early 1969. Saying "she consumes vast quantities of energy from some well inside herself that she believes is bottomless," he related her response to his questions concerning her lifestyle. "Yeah, I know I might be going too fast," she told the journalist. "That's what a doctor said. He looked at me and said my liver is a little big, swollen, y'know. Got all melodramatic—'what's a good, talented girl doing with yourself' and all that blah. I don't go back to him anymore. Man, I'd rather have 10 years of superhypermost than live to be 70 sitting in some chair . . . watching TV." She also spoke about her hometown, and in one of the many harsh statements that later complicated her legacy in Port Arthur, said, "I always wanted to be an artist. Port Arthur people thought I was a beatnik, and they didn't like beatniks, though they'd never seen one and neither had I. I read, I painted, I thought. There was nobody like me in Port Arthur. It was lonely, those feelings welling up and nobody to talk to. I was just 'silly crazy Janis.' Man, those people hurt me. It makes me happy to know I'm making it and they're back there, plumbers just like they were."²⁰

By 1970, Janis Joplin was arguably the most famous female rock and roll singer in the world. That summer as she traveled the United States and Canada on concert tours and made plans to record a new album with her latest group of musicians, the Full Tilt Boogie Band, she also returned to Texas for two special events: a birthday concert honoring Kenneth Threadgill in Austin in June, and the tenth anniversary reunion of her high school class in Port Arthur in August. At the Austin event she reunited with old friends, some of whom later recalled the changes they noticed in her. "She could still bust a gut laughing, but she'd changed," Jack Jackson told a biographer in the early 1990s. "At the Ghetto, she had been a restless spirit, a good-humored person of unbridled enthusiasm. Now, she had a cynical, frantic edge. Insulated from



In August 1970, Janis Joplin returned to Port Arthur to attend her tenth anniversary class reunion. In an effort to minimize disruption to the celebration, she held a press conference. *Courtesy of the Museum of the Gulf Coast, Port Arthur, Texas*

people who could have helped her, surrounded by sycophants, she'd lost contact with the real world."²¹

Accompanied by an entourage of hippie friends sure to stand out in her hometown, Joplin arrived in Port Arthur on August 13, 1970, met by her parents and siblings, as well as the local press, at the airport. Her former classmates on the reunion committee, concerned the entire event would be overshadowed by her arrival, met with her the next morning and asked if she would agree to a press conference prior to the dinner and dance that evening, in part to stave off some of the harried press attention. She readily agreed, telling Sam Monroe, "Yes, I'll do all of it. I want to be treated like everybody else." As Monroe recalled later, "And of course she wasn't. I mean she was a celebrity, and she was treated that way by her classmates. I was the emcee, and it was my job to make a report on what had happened in the decade since we had graduated from high school . . . and I had to cut it short because of all the commotion around Janis. There was just constant talk and laughter, and people were having fun. Everything was being filmed or written about, so she was a distraction to that portion of the program. But she couldn't help it. She wasn't generating it; it was the people around her."²²

One of Monroe's duties as emcee involved giving awards to people for various accomplishments, and in what was intended to be a humorous part of the program he presented an automobile tire to Joplin for having traveled the farthest to attend the reunion. Joplin, however, who by then was in a fragile emotional state—having burst on the scene earlier in the day with her trademark bravado, only to be left subdued and quieted by harsh questions from the hometown press—failed to appreciate the tongue-in-cheek effort at humor and felt disappointed to be given such a lowly token.²³

What she hoped would be a triumphant homecoming, one in which she intended to flaunt her celebrity and importance to the town she felt had rejected her, instead turned bittersweet as her old feelings of insecurity resurfaced. Joplin biographer Echols described the filmed press conference, footage of which appears in several documentaries about the singer: "The interview . . . is significant for the way it shows—more clearly perhaps than any other document of Janis's life—how very thin her armor was, how close she felt to the hurt and scorn of her high school years. Back among her classmates, Janis

found her tough-girl carapace shattering within minutes.”²⁴ According to her sister Laura, “The caricature of the woman who was known as Janis Joplin had even affected her relationships in the family. Janis was very clever in getting press attention and slinging out one-liners that cried, ‘Headline.’ But the quotes [about Port Arthur] had changed people’s views of her.” She bristled at a reporter’s question about her nickname, Pearl, which he incorrectly referred to as Pearl Barley. “That name was not supposed to reach the press,” Laura Joplin quoted her sister as responding. “I was telling that to my mother. I didn’t realize I was surrounded by reporters. That name’s a private name for my family and friends to call me so they won’t have to call me Janis Joplin. It’s just for my friends to say, ‘Hey, Pearl, fix me another drink.’ It’s actually not a new name. It’s just a nickname.”²⁵

Joplin returned to California, where plans for a new record with the Full Tilt Boogie Band began to take shape. By September they were recording at Sunset Sound in Los Angeles, with everyone involved pleased with and encouraged by the quality of the sessions. Despite the positive turn in her professional life, however, it soon became apparent to her dismayed friends that she was once again using heroin. On October 3, the band worked in the recording studio, laying down the instrumental track for a song on which Joplin would record vocals the following day. After the gathering broke up about eleven o’clock that night, she briefly stopped at a bar on the way back to her room at the Landmark Hotel. At about one o’clock the following morning, apparently after injecting herself with a dose of heroin, she went to the lobby to get change to buy cigarettes and spoke briefly with the desk clerk. Returning to her room, she sat on the edge of the bed and almost immediately collapsed to the floor. When she failed to appear at the recording studio the following day, her road manager went to the hotel and discovered her body, the coins still clutched in her hand. The song she planned to record that day appeared on her final album, *Pearl*, in its unfinished, instrumental form. The title was “Buried Alive in the Blues.”²⁶

News outlets around the world reported the death of the twenty-seven-year-old singer, and many of them compared her demise to that of rock star Jimi Hendrix, who also died of a drug overdose at age twenty-seven only two weeks earlier. Her hometown newspaper conveyed the news with the terse

headline, “Singer’s Death Laid to Drugs,” and said her parents had traveled to California to make funeral arrangements. The *Houston Post* said “she lived like there was no tomorrow . . . and then suddenly there wasn’t,” and a *Time* magazine reporter wrote she “died on the lowest and saddest of notes.” The *Dallas Morning News* editorialized, “Janis Joplin did not have 10 years of ‘superhypermost.’ She literally exhausted herself to death, whether from drugs or simply from her pace of living, after only three years of stardom. But she seemed aware of all the odds. Whatever her flaws, she leaves behind her the work of a dedicated artist and the memory of a volatile but very human individual.” According to Joplin’s wishes, her friends and family spread her ashes along the coast of Northern California and later attended a wake to celebrate her life. She left funds for the party in her will and the invitation read simply, “The drinks are on Pearl.”²⁷

For many years, although her fame grew elsewhere, Joplin’s memory in Port Arthur reflected the negativity of her harsh words about her hometown and the disgrace associated with the manner of her death. Gradually, however, as appreciation of her musical legacy began to eclipse disapproval of her lifestyle, opinions started to change. Monteel Copple credits the changing times: “Well, you know, time passes, the edge goes off. I think the notoriety that she received because of the drug overdose factored in . . . perhaps the music, the genre, was not well received. Who knew it would never die? Who knew?”²⁸ Robert Draper, a writer for *Texas Monthly*, observed, “Janis was still of Texas, in her music and in her soul. No matter how frayed the bond, no matter how much she slashed away at it, no matter how much it tortured her, there it was.”²⁹ By the mid-1980s, spurred on by her former classmates and friends, members of the local historical society and chamber of commerce began reassessing Joplin’s legacy. As plans for a museum exhibit at Gates Memorial Library started to take shape, Sam Monroe—at the time the president of Lamar State College in Port Arthur—corresponded with Dorothy Joplin, then living in Arizona. Janis’ mother provided letters, photographs, original artwork, scrapbooks, and numerous other artifacts for the exhibit, and consulted with Monroe regarding how to display the items properly.³⁰ About the same time, John Palmer, a high school classmate, commissioned sculptor Doug Clark to create a multi-faced bronze bust of Joplin he intended to put on display in the Port Arthur Civic Center. City leaders rejected that idea, according to Monroe, so he suggested

PORT ARTHUR HISTORY
PORT ARTHUR, TEXAS

**JANIS JOPLIN MEMORIAL
DEDICATION**

AND **SOUTHEAST TEXAS
MUSICAL HERITAGE CELEBRATION**

**THE GREATER PORT ARTHUR CHAMBER OF COMMERCE
proudly presents**

JERRY COUNT JACKSON LACROIX
HOSTING AN ALL STAR TRIBUTE TO THE WORLD FAMOUS
MUSIC OF THE GOLDEN TRIANGLE

TUESDAY - JANUARY 19, 1988 - 7:00 P.M.
(JANIS JOPLIN'S BIRTHDAY)
Free No Admission Charge

PORT ARTHUR CIVIC CENTER

SCULPTOR: DOUG CLARK
BENEFACTOR: JOHN PALMER ©1988-PORT ARTHUR HISTORY ILLUSTRATOR: TOM WINDHAM
A HOMER PILLSBURY PRODUCTION

No Admission Charge

On January 19, 1988, what would have been Janis Joplin's 45th birthday, an estimated 5,000 people attended a celebration of the singer and Southeast Texas music at Port Arthur. The event included the unveiling of sculptor Doug Clark's multi-face bust of Joplin. *Courtesy of Cynthia J. Beeman*

adding it to the museum exhibit, with the official unveiling—ironically to be held at the civic center—set for January 19, 1988, Joplin’s 45th birthday.

Interest in the event eventually became widespread, and National Public Radio and other news organizations sent reporters to Port Arthur. But prior to the celebration, Monroe became nervous about local reaction to honoring Janis. Many hometown citizens remained opposed to the very idea of recognizing the artist, and he recounted a particular Saturday morning which illustrated his dilemma.

Port Arthur News would do an “on the street” or “man on the street” interview—they would ask opinions of maybe ten people about some current news of the day. I was doing a tour one Saturday morning with a group of ladies of the A.J.M. Vuylstekke Home which is one of the historic homes here on campus. And these ladies wanted . . . to question me about . . . why we were honoring Janis Joplin, because of the way she had lived and died, and what kind of example did that set for young people. And my answer was that we honored her talent and her abilities, not her personal life, and that there also was a strong message that if you don’t take care of yourself, and if you do use illicit drugs, this is what can happen to you. Your life can be snuffed out much too early. So, we were able to have a good exchange with these people. [Then] my wife called me and said, “Have you seen the *Port Arthur News*? They’ve asked ten people on the street if we should honor Janis Joplin. They all said no.”

While striving to convince his fellow citizens of Joplin’s international significance, Monroe fielded calls from all over the United States and the United Kingdom for radio, television, and newspaper interviews. “I got concerned because of the way the local people were accepting this,” he recalled. “It contrasted so dramatically with the way the national people were following this story. I thought, my god, the city’s going to get a black eye. We’re going to unveil this bust, which is a great piece of art, to an audience of no local people, probably some national news people, that’d be about it.”



On January 19, 2008, on what would have been Janis Joplin's 65th birthday, the Jefferson County Historical Commission and Texas Historical Commission dedicated an Official Texas Historical Marker in front of the former Joplin family home at 4330 32nd Street in Griffing Park. *Courtesy of Cynthia J. Beeman*

To address his concerns, Monroe and his fellow organizers began to work on ideas to expand the scope of the event to include recognition of other musicians from the area. Broadening the concept to honor all legendary musicians of Southeast Texas, including Janis, enabled them to appeal to a wider audience and involve more people in the planning. “Then the music community got behind us,” he said. “Jerry LaCroix [Jerry ‘Count’ Jackson of Boogie Kings fame] agreed to do a concert that night at the unveiling. That was another technique that we thought would get people there, beyond just the national news media, so the whole thing worked.”

Janis’s siblings Laura and Michael returned to Port Arthur for the celebration. Following an early dinner, Monroe led the family and other special guests in a small caravan of cars toward the civic center. “I was so anxious because I was fearful that we were going to be embarrassed as a community, that no one would be there,” he remembered. But as the group drove along Texas Highway 73 and approached the venue, they began to see numerous cars parked along the highway. “And we finally get into the parking lot, and there are cars everywhere! There are thousands of people everywhere!” Reporters from television stations in Beaumont, Houston, Lake Charles, and Lafayette had set up live broadcasts, and soon the crowd grew to an estimated five thousand people, necessitating a hasty arrangement in which workers ran extension cords and speakers out to the parking lot so the overflow crowd could hear the proceedings.

“I never saw anything like that in my life,” Monroe marveled. “There hadn’t been an event like that, in my experience, in this community, before or since. Just a phenomenon! There was just an outpouring of emotion. I get emotional thinking about it, because it was sort of a catharsis. People that night forgave Janis for all the negative [things] she’d said about the town and all. I think that was the turning point. Then they were okay honoring her.”³¹

In her book, Laura Joplin provided her own thoughts about the event:

They came to honor a hometown girl who had made good in the distant and seemingly foreign world of San Francisco and 1960s rock and roll. Janis had publicly scorned our hometown during many press interviews. The kindest thing she had said about it was that it was a good place to leave. Twenty years after her death, the local town fathers felt it was acceptable to

bury the hatchet that she had lofted. They ignored her role as rock-and-roll knight jousting with our culture's innate hypocrisy. Instead, they grasped her more acceptable achievement of making great music that sold many records and earned her an enduring spot in many music lovers' hearts.³²

Port Arthur began not only to recognize Janis, but also to celebrate her legacy. The forgiveness and acceptance that Monroe believes began with the 1988 event grew into a form of civic boosterism as city leaders realized the potential for economic development based on her ties to the town. A focused program of heritage tourism promoting her fame and hometown connections brought thousands of visitors to the area. The city hosted an annual Janis Joplin Birthday Bash for a number of years, with guest concert artists such as the remaining members of Big Brother and the Holding Company and Kris Kristofferson. That event evolved into the Gulf Coast Music Hall of Fame and the Music Legends Exhibit Hall in the acclaimed Museum of the Gulf Coast, an institution that grew from the small display at Gates Memorial Library. Over the years, the Janis Joplin exhibit, anchored by a replica of her psychedelic-painted Porsche convertible, has remained a major attraction. People still come from all around the world to pay homage to the Queen of Rock and Roll who finally gained a measure of respect in her hometown. By the turn of the twenty-first century, billboards advertising the museum could be seen along major highways in Texas, touting the area's history "from Jurassic to Joplin." A museum brochure offers a map and driving tour of local places associated with her life in Port Arthur, including the house at 4330 32nd Street in Griffing Park, where an Official Texas Historical Marker honors the meteoric life of a simple local girl who took every wrong direction on her lonely way back home.³³

ENDNOTES

- ¹ Darragh Doiron, "Joplin's Childhood Home 'Marked,'" *Port Arthur News*, Jan. 20, 2008, 1; author's recollections.
- ² Kris Kristofferson, "The Pilgrim Chapter 33" (song), 1971.
- ³ Gary Hartman, *The History of Texas Music* (College Station: Texas A&M University Press, 2008), 209.
- ⁴ Laura Joplin, *Love, Janis: A Revealing Biography of Janis Joplin Inspired by her Private Letters Home* (Petaluma, CA: Acid Test Productions, 1992), 24-27; Alice Echols, *Scars of Sweet Paradise: The Life and Times of Janis Joplin* (New York: Owl Books/Henry Holt and Company, 1999), 7-9.
- ⁵ Monteel Copple interview with Cynthia J. Beeman, Sept. 29, 2009, recording and transcript in possession of the interviewer.
- ⁶ Echols, *Scars of Sweet Paradise*, 9-10; Joplin, *Love, Janis*, 30-31.
- ⁷ *Port Arthur News*, July 14, 1957 (clipping), Janis Joplin vertical file, Port Arthur Public Library.
- ⁸ Yvonne Sutherlin interview with Cynthia J. Beeman, Sept. 28, 2009, recording and transcript in possession of the interviewer.
- ⁹ Echols, *Scars of Sweet Paradise*, 12.
- ¹⁰ Joplin, *Love, Janis*, 45-47, 51-56.
- ¹¹ Myra Friedman, *Buried Alive: The Intimate Biography of Janis Joplin* (London: Plexus Publishing, 1972), 17-18.
- ¹² Joplin, *Love, Janis*, 58.
- ¹³ Echols, *Scars of Sweet Paradise*, 37.
- ¹⁴ The Dick Cavett Show, June 25, 1970, *The Dick Cavett Show: Rock Icons* (DVD, Daphne Productions, 2005).
- ¹⁵ Joplin, *Love, Janis*, 85; Friedman, *Buried Alive*, 28.
- ¹⁶ Pat Sharpe, "She Dares to Be Different!" *The Summer Texan* (University of Texas at Austin newspaper), July 27, 1962, 5; Echols, *Scars of Sweet Paradise*, 42-45, 66.
- ¹⁷ Echols, *Scars of Sweet Paradise*, 89-90, 128-131; Joplin, *Love, Janis*, 129-132, 142-143.
- ¹⁸ "Soulin' at Monterey," *Time*, June 20, 1967.

¹⁹ Robert Shelton, "Janis Joplin is Climbing Fast in the Heady Rock Firmament," *New York Times*, Feb.19, 1968.

²⁰ Michael Lydon, "The Janis Joplin Philosophy: Every Moment She is What She Feels," *New York Times*, Feb. 23, 1969.

²¹ Ellis Amburn, *Pearl: The Obsessions and Passions of Janis Joplin* (New York: Warner Books, 1992), 276; Clive Seymour, "Janis Shows Up at Music Bash," *Austin American-Statesman*, July 11, 1970, 6.

²² Sam Monroe interview with Cynthia J. Beeman, Sept. 29, 2009, recording and transcript in possession of the interviewer.

²³ "Blues Star Here for Reunion," *Port Arthur News*, Aug. 14, 1970, 1; Jeff Millar, "One Night in Port Arthur," *Houston Chronicle*, June 23, 1988 (reprint of article originally published in August 1970).

²⁴ Echols, *Scars of Sweet Paradise*, 289.

²⁵ Joplin, *Love, Janis*, 298, 300.

²⁶ *Ibid.*, 309-310; Echols, *Scars of Sweet Paradise*, 297-298.

²⁷ *Port Arthur News*, Oct. 6, 1970, 1; *Houston Post*, Oct. 8, 1970; *Dallas Morning News*, Oct. 8, 1970; *Time*, Oct. 19, 1970; *Time*, Nov. 16, 1970.

²⁸ Coppell interview.

²⁹ Robert Draper, "O Janis," *Texas Monthly*, Oct. 1992, reprinted in *Texas Monthly on Texas Women* (Austin: University of Texas Press, 2006), 136-152.

³⁰ Dorothy Joplin to Sam Monroe, June 15, 1988, Janis Joplin Collection, Museum of the Gulf Coast, Port Arthur, TX.

³¹ Monroe interview.

³² Joplin, *Love, Janis*, 314.

³³ "Janis Joplin" (brochure), Museum of the Gulf Coast.

US Judge Joe Fisher and the *Borel* Asbestos Case

ROBERT Q. KEITH & ROBERT J. ROBERTSON*

For 40 years, between 1959 and 2000, Joseph J. Fisher served as US District Judge for the Eastern District of Texas. During his tenure, he presided over *Clarence Borel v. Fibreboard Paper Products Corporation, et al.* (1973), a historic case which established important precedents for asbestos litigation throughout the United States. The decision opened the door for thousands of products liability cases for personal injury claims—when asbestos workers, their families, and their lawyers sued asbestos companies for financial awards for disease and death—and later for property damage claims—when school districts, other public entities, and their lawyers sued for the costs of removal of asbestos products from public buildings.¹

Joseph Jefferson Fisher was born in 1910 in San Augustine County, Texas. He attended public schools, Stephen F. Austin State University, and in 1936 earned the LLB degree from the University of Texas School of Law. As a

* Port Arthur native and UT School of Law alumnus, Robert Q. Keith practiced law for more than 50 years, first in Beaumont with Mehaffy, Weber, Keith, and Gonsoulin, and later in Johnson City with the firm Keith & Weber. He handled cases in the courts of Texas, Louisiana, New Mexico, and Washington, DC, where he argued three cases before the US Supreme Court. He died November 24, 2011. Robert J. Robertson is the author of *Her Majesty's Texans: Two English Immigrants in Reconstruction Texas* (1998) and *Fair Ways: How Six Black Golfers Won Civil Rights in Beaumont, Texas* (2005). He is an adjunct instructor in history at Lamar University and is currently associate editor of the *Record*. In the preparation of this paper, the authors received valuable assistance from Austin attorney Richard Hile, Lamar University librarian Theresa S. Hefner-Babb, Beaumont attorney Richard Scheer, Beaumont attorney Louis Scofield, Ft. Worth attorney Gene Dozier, Beaumont attorney Robert Black, and Beaumont attorney Frank Newton.

member of the Democratic Party, Fisher served as San Augustine County Attorney (1937-1939) and as District Attorney for First Judicial District of Texas (1939-1946). He entered private practice in Jasper, Texas, joining Joe H. Tonahill and Thomas M. Reavely in the firm of Fisher, Tonahill, & Reavley. The partners were members of the Texas Trial Lawyers Association, an organization founded by plaintiffs' attorneys in 1949, and where in 1952 Tonahill served as president. In 1957, Fisher won election as District Judge, First Judicial District of Texas, which included Jasper, Newton, Sabine, and San Augustine counties. In 1959, Pres. Dwight D. Eisenhower, a Republican, appointed Fisher US District Judge in the Beaumont Division for the Eastern District of Texas.²

During his career, Fisher served in a variety of professional and community organizations. He was a member of the State Bar of Texas, American Bar Association, American Judicature Society, and University of Texas law school Order of the Coif. Fisher published judicial and historical articles in the *Texas State Bar Journal*, *State Bar Education Program*, *St. Mary's Law Journal*, and *The Texas Gulf Historical and Biographical Record*. He belonged to the Texas Historical Commission, Sons of the Republic of Texas, Knights of the Order of San Jacinto, Philosophical Society of Texas, and Texas Gulf Historical Society. For the last, he served as president (1974-1976). In his honor, the University of Texas established the Joe J. Fisher Emeritus Endowed Presidential Scholarship in Law. Lamar University awarded him an Honorary Doctor of Laws Degree and inaugurated the "Joe J. Fisher Distinguished Lecture Series."³

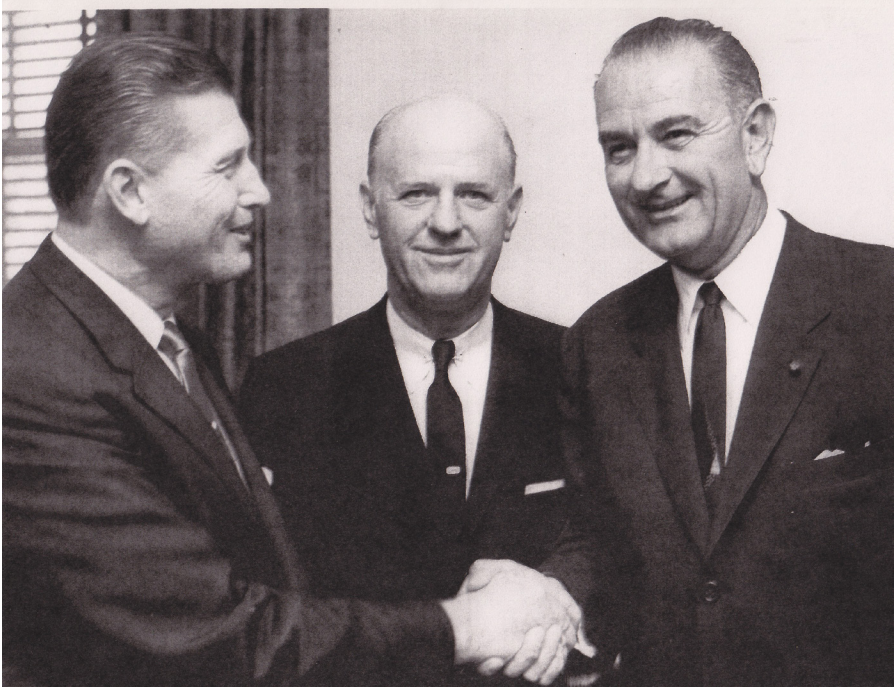
After Joe Fisher's nomination as federal judge by President Eisenhower in 1959, the Senate Judiciary Committee quickly approved his appointment with the support of Democratic senators Lyndon Johnson and Ralph Yarborough who testified on his behalf. Five months earlier, Beaumont attorney John G. Tucker had been nominated for this judgeship, but he withdrew his name from consideration when he failed to receive the judiciary committee's approval. Judge Fisher was inducted into his new position on October 23, 1959, in a majestic court room in the massive, neo-classical federal courthouse in downtown Beaumont. This was the same courtroom in which the late Judge Lamar Cecil had served four years (1954-1958) and issued important desegregation rulings for Beaumont's municipal golf course (1955) and for Lamar State College of Technology (1956). For Fisher's induction, Joe W. Sheehy

of Tyler, senior judge in the Eastern District of Texas, administered the oath of office in front of more than three hundred persons who came to celebrate the event, including Sen. Lyndon Johnson, Sen. Ralph Yarborough, Austin attorney Ed Clark who was Fisher's brother-in-law, Beaumont attorney Gilbert Adams, Beaumont banker John Gray, Port Arthur state Sen. Jep Fuller, Jasper Methodist minister Rev. Lamar Clark, Los Angeles attorney Walter Ely, and Jasper attorney Joe Tonahill who was Fisher's former law partner. During the ceremony, senators Johnson and Yarborough sat on the bench with judges Sheehy and Fisher.⁴

At a post-induction reception held at the Sky Room in Hotel Beaumont, Senator Johnson, a New Deal Democrat and the powerful Senate majority leader, made complimentary remarks toward Fisher. He discussed the great responsibility of senators to participate in the selection of federal judges. This was especially important and required the greatest care, he explained, when selecting judges for one's own state. "This is a happy and proud occasion for me," Johnson declared. "Joe Fisher is a big man in vision and spirit As a presiding judge in our state courts, he has shown that he knows not only the letter of the law, but the spirit of the law. In his hands the law is what it is supposed to be—an instrument of justice for all men."⁵

Johnson's praise of Fisher as a judge who would provide "justice for all men" is noteworthy, especially in view of age-old conflicts in the United States between labor and capital, between the interests of workers and the interests of corporations. Soon Judge Fisher would amend the jury selection process in his court to increase participation by working class citizens, and later, in 1969-1971, he would preside over the *Borel* case in which the jury would apply new legal doctrines and render a verdict in favor of the worker plaintiff and against the corporate defendants. This verdict established new precedents that would greatly increase the interests of workers and greatly reduce the interests of corporations.

For the Eastern District of Texas, Fisher served as US District Judge (1959-1966), Chief Judge (1967-1980), and later holding Senior Status from 1984 until his death in 2000. In the federal court, Fisher developed new procedures for selection of juries and for the expeditious handling of cases. Sometime during 1963-1964, he discarded the system of "blue ribbon juries" in



At his induction ceremony in 1959, Joseph J. Fisher (left) receives congratulations from Judge Joe W. Sheehy (center), who swore him in, and Sen. Lyndon B. Johnson (right), who testified on his behalf before the Senate Judiciary Committee. *Courtesy of the Associated Press.*

which handpicked business-class persons might be conservative and favor defendants. He adopted instead a “jury wheel” system where a randomly-selected group that included working-class persons who might be liberal and favor plaintiffs. Later, Congress would pass the US Jury Selection and Service Act (1968) that required nationwide adoption of the “jury wheel” system. While presiding over his courtroom in Beaumont, he handled a wide variety of civil and criminal cases. Between 1959 and 1980, Fisher disposed of more than 8,000 civil cases, and between 1967 and 1979, he handled more than 1,700 criminal cases. Of special interest from judicial and historical perspectives was Judge Fisher’s handling of *Clarence Borel v. Fibreboard Paper Products Corporation, et al.* (1973), a case that established important precedents with respect to asbestos litigation.⁶

In the *Borel* case, Ward Stephenson, a lawyer from Orange, Texas, represented Clarence Borel, a union worker from the nearby town of Groves. He worked for more than thirty years as an insulator in local refineries and shipyards, and became fatally ill with pulmonary asbestosis and mesothelioma, forms of lung disease. Stephenson, an experienced plaintiffs’ lawyer, handled numerous claims for other union workers suffering from occupational injuries or diseases. In most cases, he collected monetary awards from employers and their insurance companies for medical expenses and loss of income under state worker’s compensation laws. But in at least one instance, on behalf of Claude Tomplait, a refinery worker suffering from asbestosis, he had tried and lost a products liability, personal injury suit in 1966 against various asbestos products manufacturing companies.⁷

For Clarence Borel, Stephenson pursued a similar strategy. He initiated a personal injury suit against companies that manufactured asbestos products which Borel had used while working as an insulator. This material likely caused Borel’s lung disease. Asbestos products were often friable, releasing tiny, invisible fibers which, when inhaled by humans, caused asbestosis, mesothelioma, and other dangerous diseases. The symptoms often remained latent for long periods, as long as twenty to forty years between exposure to asbestos and the onset of the disease. On October 20, 1969, Stephenson filed suit papers on behalf of Borel in Judge Joe Fisher’s court in the Eastern District of Texas, seeking \$1 million in damages against Fibreboard Paper Products Corpora-

tion, Johns-Manville Products Corporation, and nine other asbestos insulation manufacturers.⁸

In the *Borel* case, Stephenson made customary charges against the asbestos manufacturers, accusing them of negligence and breach of warranty. But he broadened his attack, arguing that the manufacturers should also be subject to the doctrine of strict liability. Four years before, the American Law Institute—consisting of scholars, jurists, and lawyers—published the *Restatement of the Law of Torts (Second)* (1965), which set forth the revised standard in Section 402A. In 1967, the Texas Supreme Court officially adopted the new strict liability doctrine. Citing Section 402A, Stephenson charged that the asbestos manufacturers were subject to the doctrine of strict liability, arguing that their products were unreasonably dangerous because they did not carry adequate warnings of foreseeable dangers associated with them. As presented by Stephenson, the *Borel* case became the first litigation in the United States to test the application of Section 402A to asbestos materials.⁹

Judge Fisher opened the jury trial in his Beaumont courtroom September 21, 1971. Earlier, June 3, 1970, Clarence Borel had died from diffuse malignant mesothelioma of the lung, and his widow, Thelma Borel, was substituted as the plaintiff. In the trial, Stephenson attacked the asbestos manufacturers, accusing them of negligence and breach of warranty, and charging the companies with violations of the newly revised doctrine of strict liability, arguing that they were strictly liable for the disease and death of Borel. George Weller, John Tucker, George Duncan, Gordon Pate, and other Beaumont lawyers defended Fibreboard, Johns-Manville, and the other asbestos manufacturers. The team countered that scientific knowledge about the dangers of asbestos exposure was incomplete at the time, and that the plaintiff had assumed the risk and was guilty of contributory negligence. Disputing these arguments, Stephenson produced documentation showing that years earlier Dr. Irving J. Selikoff, Mount Sinai School of Medicine, New York, and other medical specialists had published abundant scientific information about the dangers of asbestos materials. Stephenson charged that the manufacturers knew or should have known about the dangers of their products, and had not warned Borel of their harmful effects.¹⁰

On the last day of the trial, after Stephenson and the opposing lawyers made their closing statements, Judge Fisher read his charge to the jury, discussing negligence and contributory negligence, as well as the revised doctrine of strict liability. Fisher reviewed the new strict liability doctrine carefully, explaining to the jury that a product manufacturer is held to the skill of an expert in that business and to an expert's knowledge of the product, and that the manufacturer is bound to keep abreast of scientific knowledge about the product and to issue warnings about possible harm that might come to people who use the product. Fisher also discussed the issues of negligence—issues that were separate and distinct from the question of strict liability. He explained that the jury could not find the asbestos companies guilty of negligence, if they found contributory negligence on the part of Borel. He then issued various interrogatories, instructing the jurors to answer specific questions about the negligence of the manufacturers, the contributory negligence of Borel, the strict liability of the manufacturers, and lastly, the amount of money, if any, owed to Thelma Borel.¹¹

The next day, September 29, 1971, in documents signed by the jury foreman Roy L. Jenkins, the jury issued its verdict, finding that Borel was guilty of contributory negligence, but more importantly, finding that the asbestos manufacturers were strictly liable for his injuries and death. Here was a critical decision: the finding of contributory negligence by Borel, the worker, was made irrelevant by the verdict of strict liability against the asbestos companies. For Ms. Borel, the jury found total damages of \$79,436, an amount that was reduced to \$32,222 by previous settlements and by legal fees owed to attorney Stephenson. A few days later, Stephenson filed a motion with Judge Fisher for written judgment, a resolution of all matters in favor of Ms. Borel, while the defense attorneys filed motions for judgment on behalf of the asbestos companies, notwithstanding the adverse verdict, and also requesting a new trial. Fisher issued the judgment in favor of the plaintiff and denied all motions by the defense, thus confirming victory for Stephenson and Ms. Borel in the District Court.¹²

Lawyers for the defendant manufacturers appealed the *Borel* judgment to the US Court of Appeals for the Fifth Circuit in New Orleans, filing their papers on April 29, 1972. Oral arguments were heard on November 14, before

judges John Minor Wisdom, Elbert Tuttle, and John Milton Bryan Simpson. Ward Stephenson, who was himself ill with cancer, was there to represent the appellee, Ms. Borel, while Fibreboard and the other appellant manufacturers were represented by W. Page Keeton, Dean of the University of Texas School of Law. An eminent scholar and member of the American Law Institute, Keeton had served as an adviser in the recent publication of the *Restatement of the Law of Torts (Second)*. In oral arguments before the Fifth Circuit, Stephenson and Keeton battled over various issues, including availability of scientific information about the dangers of asbestos materials, and about theories of negligence, contributory negligence, and strict liability. In the end, the Fifth Circuit issued a ruling in favor of Thelma Borel, affirming the judgment based on the verdict of strict liability against the asbestos manufacturers. Lawyer Stephenson, who reportedly received the good news of his victory by telephone, passed away September 7, just three days before the official publication of the *Borel* ruling on September 10, 1973.¹³

In an opinion authored by Judge Wisdom, the Fifth Circuit issued a landmark decision in the *Borel* case, pointing to Section 402A of the new *Restatement of the Law of Torts (Second)* which required a manufacturer to disclose the existence and the extent of reasonably foreseeable risk involved in the use of its products, saying that an insulation worker, no less than any other product user, has a right to decide whether to expose himself to the risk. The Fifth Circuit's ruling was appealed by the asbestos companies to the US Supreme Court, which declined to hear the case, thus leaving intact the finding in Judge Fisher's court that the asbestos companies were strictly liable for the death of Clarence Borel. The actions of attorney Stephenson, Judge Fisher, and the judges of the Fifth Circuit Court of Appeals had enormous implications. The affirmation of the strict liability doctrine against the asbestos companies advanced the interests of working-class Americans and diminished the interests of the asbestos corporations. Thousands of asbestos workers, their families, and their lawyers filed personal injury claims against dozens of asbestos companies and their insurers. According to Paul Brodeur, author of *Outrageous Misconduct: The Asbestos Industry on Trial* (1985), the *Borel* decision "triggered the greatest avalanche of toxic-tort litigation in the history of American jurisprudence. Some twenty-five thousand lawsuits were brought over the next decade

as word spread that asbestos manufacturers could be held strictly liable under the law.”¹⁴

During the next three decades, the implications of the *Borel* case continued to grow dramatically, with the filing of increasing numbers of personal injury claims based on asbestos exposure. Filed in federal and state courts, the large numbers of claims often evolved into multiparty or mass tort litigation, where plaintiffs’ lawyers represented multiple workers and initiated personal injury suits against multiple asbestos companies. According to data published in 2002 and updated in 2005 by the Rand Institute of Civil Justice, “asbestos litigation is the longest running mass tort in the United States.” More than 730,000 plaintiffs had filed personal injury claims, often against multiple defendants for asbestos-related injuries and a total of \$70 billion had been paid by defendants and insurers. At least 8,400 companies had been named as defendants and at least 73 companies, including Johns-Manville Corporation, had filed bankruptcies. The Rand Institute provided additional data in 2011, reporting that 56 asbestos personal injury trusts had been set up by asbestos companies which had filed for bankruptcy, and that as of 2008, the 26 largest trusts had paid out \$10.9 billion on 2.4 million claims.¹⁵

Dozens of books and hundreds of articles have been published about the story of personal injury asbestos litigation.¹⁶ Some publications provide special information about mass tort litigation, where multiple plaintiffs were represented by a relatively small number of law firms that specialized in asbestos litigation. In “Understanding Mass Personal Injury Litigation: A Socio-Legal Analysis,” *Brooklyn Law Review* (1993-1994), Deborah R. Hensler and Mark A. Peterson report that this mass tort litigation was concentrated during the 1980s in a few jurisdictions—Texas, Virginia, Mississippi, West Virginia, and Maryland—where plaintiffs had worked with asbestos products in coastal facilities such as shipyards, maritime industries, and petrochemical factories, and where lawyers who specialized in asbestos litigation represented the plaintiffs. In *Defending the Indefensible: the Global Asbestos Industry and its Fight for Survival* (2008), Jock McCulloch and Geoffrey Tweedale describe how during the 1990s plaintiffs’ lawyers won large awards for their clients and handsome fees for themselves. Numbering about 150, these attorneys were members of the Asbestos Litigation Group of the American Trial Lawyers Association. The au-

thors noted about twenty lawyers who enjoyed large earnings, which included six from Texas: Fred Baron (Dallas), Shepard Hoffman (Dallas), Mark Lanier (Houston), Larry Madeksho (Houston), Mike Moore (Amarillo), and Walter Umphrey (Beaumont). Another Texas member of Asbestos Litigation Group was Wayne Reaud of Beaumont. In 1996 he and Walter Umphrey, along with other Texas lawyers, filed product liability suits related to tobacco, representing the State of Texas, claiming damages for illnesses and medical expenses suffered by Texas citizens, and winning large financial awards from American tobacco companies.¹⁷

During the early 1980s, asbestos litigation broadened to include property damage claims, in which school districts and other public entities all across the nation sued asbestos companies for the costs of removing asbestos insulation and fire prevention products from public buildings. The issue was especially critical in districts where asbestos materials had been installed in many school buildings between 1946 and 1972. In 1980 Congress passed the Asbestos School Hazard Detection and Control Act, a law which established a federal task force to ascertain the extent of danger to school children and employees, required states to establish asbestos inspection programs, provided technical and scientific assistance to states and school districts, and authorized the United States to sue asbestos manufacturers on behalf of school districts to recover for costs of asbestos mitigation.¹⁸

In 1980 the Environmental Protection Agency (EPA) issued warnings about asbestos in the public schools, estimating that 8,500 schools contained friable asbestos which threatened the health of 3 million students along with related teachers and staff. In 1985 the EPA issued new data, estimating that more than 700,000 public buildings, including 31,000 schools, were contaminated by asbestos materials. In the school buildings, the EPA estimated that 15 million students and 1.4 million teachers were exposed to the dangers of asbestos. The exposure of students and teachers was a potent issue, because of the *Borel* decision which documented the health danger of asbestos materials and made the manufacturers strictly liable for the death of Clarence Borel.¹⁹

In response to the Asbestos School Hazard Detection and Control Act of 1980, US Attorney General William French Smith issued "The Asbestos Liability Report to the Congress" on September 21, 1981. Here the Attorney

General reviewed the problem of asbestos-containing materials in US public schools, pointing to health hazards for students and teachers, citing the legal precedents established in the *Borel* case, and concluding that “failure to warn” and other charges enunciated in *Borel* could reasonably be extended to asbestos problems in schools. Because the new asbestos law did not include any funds for federal litigation, the Attorney General recommended that school districts consult with qualified lawyers about the possibility of filing property damage claims against the manufacturers to recover the costs of removing the dangerous materials from school buildings.²⁰

The Attorney General’s report provided information about two school district cases already filed in the United States,—*Cinnaminson Township Board of Education, Burlington, New Jersey v. National Gypsum, et al.*, filed May 19, 1980, and *Dayton Independent School District, et al., v. W. R. Grace & Co., et al.*, filed April 22, 1981. The Dayton ISD case was filed by attorney Martin Dies III, a member of Stephenson, Thompson and Dies, the same law firm in Orange, Texas, where Ward Stephenson had represented Clarence Borel. Attorney Dies filed the suit papers in the US District Court of Judge Joe Fisher in Beaumont, the same court in which *Borel* had been decided in 1971.²¹

The Dayton ISD case, the first asbestos property damage suit in Texas, was a multiparty dispute, in which multiple plaintiffs claimed financial damages against multiple defendants. In this litigation, which lasted six years, Dies represented Dayton ISD and 82 other Texas school districts that made property damage claims against W. R. Grace Company, US Gypsum, and other asbestos manufacturers. Plaintiff school districts included Beaumont and Port Arthur, as well as Houston, Dallas, San Antonio, Midland, Lubbock, Waco, and Corpus Christi.²²

While the Dayton ISD case was being litigated in Beaumont, other property damage lawsuits were underway in courts elsewhere in the nation. On April 9, 1984, in the nation’s first school asbestos lawsuit to go to trial, School District Five of Lexington County, South Carolina reached an out-of-court settlement of \$675,000 from US Gypsum. In *City of Greenville v. W. R. Grace & Co.*, the first case in America resulting in a verdict on behalf of a building owner, the city won actual and punitive damages of \$8.4 million from the Grace company for removal of asbestos fireproofing materials from the city

hall. Decided in 1986, and affirmed August 28, 1987, by the US Court of Appeals, Fourth Circuit, the *City of Greenville* decision related closely to the *Borel* decision, ruling that the asbestos fire proofing materials posed a health risk, that the manufacturers knew of the dangers posed by the asbestos products, that they had acted willfully, wantonly, or recklessly, and that they were liable for actual and punitive damages.²³

In the Dayton ISD case, Dies worked with his partner, Richard Hile, and co-counsel Kelly Frels of Bracewell & Patterson of Houston, taking more than 1,000 depositions and collecting abundant evidence on behalf of his clients, the 83 Texas school districts. In May 1987, when a jury had been selected and the trial was about to begin, Dies negotiated a financial settlement with W. R. Grace Company and other asbestos manufacturers on behalf of the school districts. The amounts of the financial settlement remain confidential, but critical issues in this property damage suit are obvious. As ruled in Judge Fisher's court, and as affirmed in the Fifth Circuit, the legal precedents in the *Borel* personal injury case established that asbestos companies knew of the dangers of their products, had failed to issue warnings, and were strictly liable injuries and death. As further affirmed by the Fourth Circuit in the *City of Greenville v. W. R. Grace & Co.* property damage case, the asbestos manufacturers knew of the dangers of their products, had failed to issue warnings, and were liable to the city of Greenville for the costs of asbestos abatement.²⁴

The Dayton ISD litigation was just one of many asbestos cases that were handled in the Beaumont Division, Eastern District of Texas, where Fisher shared the docket with Judge Robert M. Parker who had been appointed to the bench in 1979 by Pres. Jimmy Carter. Confronted with large numbers of personal injury and property damage suits, Fisher and Parker developed new procedures, including consolidation for expeditious handling of the many asbestos cases.²⁵

Judge Fisher handled at least two other property damage suits filed by the attorneys Dies & Hile. In 1991 they initiated a suit *Dayton Independent School District, et al. v. U. S. Mineral Products, et al.*, known as "Dayton II," in which they negotiated financial settlements from asbestos companies and their insurers on behalf of 62 school districts, cities, counties, and other Texas public entities. In 1994 Dies & Hile initiated a multiple party, class action suit, *Kir-*

byville Independent School District, et al., Individually, and on Behalf of All Texas Public Entities v. Asbestospray Corporation, W.R. Grace & Co.,-Conn., and United States Gypsum Company. In this case, Dies and Hile represented the State of Texas and more than 950 other public entities. They negotiated financial settlements with asbestos companies and their insurers where the public entities received about 90% of the costs of asbestos abatement in public buildings. In the Kirbyville ISD case, payments from the asbestos companies to the public entities were ongoing when Judge Fisher passed away.²⁶

Judge Joe Fisher died June 19, 2000, after serving more than forty years as District Judge for the Eastern District of Texas. His long and distinguished judicial career is especially noteworthy with respect to asbestos litigation, having presided over *Borel v. Fibreboard et al.* (1973), the landmark case which established precedents for thousands of personal injury and property damage suits. Especially important were precedents related to the doctrine of strict liability, which in personal injury suits greatly increased the power of asbestos workers and their lawyers and greatly reduced the power of asbestos corporations and their insurance companies.

ENDNOTES

¹ In an October 14, 2011 email, attorney and co-author Robert Q. Keith (1934-2011) praised Judge Joe Fisher for his role in the *Borel* case and derived precedents, in which “product manufacturers have been held financially responsible for product defects, new judicial procedures have been conceived to deal with the mass tort phenomenon, insurance policies and practices have been amended, and comprehensive health and safety regulations have undergone substantial revision.” All these improvements, Keith said, “stem from the acumen of United States District Judge Joe J. Fisher and his courage to apply the law equally to all parties coming before him.”

² Mildred Campbell Yates, “In Memoriam: Joseph Jefferson Fisher,” *Texas Gulf Historical and Biographical Record*, 36 (2000): 65-76; *Texas Legal Directory* (Dallas: Legal Directories Publ. Co., 1968), 144; Texas Trial Lawyers Association website (tla.com).

³ *Beaumont Enterprise*, June 20, 2000.

⁴ *Ibid.*, Oct. 23 and 24, 1959; *Washington Bureau of The News*, Sept. 9, 1959. For service of US Judge Lamar Cecil, see Robert J. Robertson, *Fair Ways: How Six Black Golfers Won Civil Rights in Beaumont, Texas* (College Station: Texas A&M University Press, 2005).

⁵ *Beaumont Enterprise*, Oct. 24, 1959.

⁶ *Ibid.*, June 20, 2000. For notes about Fisher’s change in procedures for jury selection, see Dewey J. Gonsoulin, “Historical Note Book,” *Jefferson County Bar Journal* (Winter, 2009). For nationwide adoption of the “jury wheel” selection plan, see The United States Jury Selection and Service Act of 1968. For quantification of civil and criminal cases handled by Fisher, see remarks by Hon. William Wayne Justice, Chief US Judge for the Eastern District of Texas, published in “Presentation of Portrait of The Honorable Joe J. Fisher,” May 15, 1980. For *Borel v. Fibreboard*, see *Borel v. Fibreboard Paper Products Corporation*, 493 F. 2d. 1076 (5th Cir. 1973), *cert. denied*, 419 U. S. 869 (1974).

⁷ Paul Brodeur, *Outrageous Misconduct: The Asbestos Industry on Trial* (New York: Pantheon Books, 1985), 3-36.

⁸ *Ibid.*, 39-70; Jock McCulloch and Geoffrey Tweedale, *Defending the Indefensible: The Global Asbestos Industry and its Fight for Survival* (New York: Oxford University Press, 2008), 2-11.

⁹ Brodeur, *Outrageous Misconduct*, 39-70; American Law Institute, *Restatement of the Law of Torts* (Second Edition, St. Paul: American Law Institute Publishers, 1965), 347-358. The revised doctrine of strict liability was officially adopted by the Texas Supreme Court in the case, *McKisson v. Sales Affiliates, Inc.*, 416 S. W. 2nd 787 (Tex.1967).

¹⁰ Brodeur, *Outrageous Misconduct*, 45-52.

- ¹¹ *Ibid.*, 61-63; *McKisson v. Sales Affiliates, Inc.*
- ¹² Brodeur, *Outrageous Misconduct*, 63-65. The name of the jury foreman, Roy L. Jenkins, was reported by Fort Worth attorney Gene Dozier, who reviewed the *Borel v. Fibreboard* case files in the National Archives in Fort Worth, Jan. 14, 2013.
- ¹³ Brodeur, *Outrageous Misconduct*, 65-70; Joel William Friedman, *Champion of Civil Rights, Judge John Minor Wisdom* (Baton Rouge: Louisiana State University Press, 2009), 144-146; *Beaumont Enterprise*, Sept. 9, 1973; State Bar of Texas, *Texas Bar Journal*, 36 (Nov. 22, 1973): 1097-1099; "In Memoriam W. Page Keeton," Office of the General Faculty & Faculty Council, University of Texas.
- ¹⁴ Brodeur, *Outrageous Misconduct*, 73-77.
- ¹⁵ Stephen J. Carroll, et al., *Asbestos Litigation Costs and Compensation: An Interim Report* (Santa Monica, CA: RAND, 2002); Carroll, et al., *Asbestos Litigation Costs, Compensation, and Alternatives* (Santa Monica, CA: RAND, 2005); Lloyd Dixon and Geoffrey McGovern, *Asbestos Bankruptcy Trusts and Tort Compensation* (Santa Monica, CA: RAND, 2011).
- ¹⁶ Brodeur, *Outrageous Misconduct*; Carroll, et al., *Asbestos Litigation Costs, Compensation, and Alternatives*; Barry Castleman, *Asbestos: Medical and Legal Aspects* (Cliffs, NJ: Aspen Law & Business, 1996); Deborah H. Hensler, et al., "Asbestos in the Courts: The Challenge of Mass Toxic Torts" (Santa Monica, CA: RAND, 1985); Rachel Maines, *Asbestos and Fire: Technological Trade-offs and Body at Risk* (New Brunswick, NJ: Rutgers University Press, 2005); Jack Weinstein, *Individual Justice in Mass Tort Litigation: The Effect of Class Actions, Consolidations and other Multiparty Devices* (Evanston, IL: Northwestern University Press, 1995); Michelle J. White, "Explaining the Flood of Asbestos Litigation: Consolidation, Bifurcation, and Bouquet Trials" (Cambridge, MA: National Bureau of Economic Research, 2002).
- ¹⁷ Deborah R. Hensler and Mark A. Peterson, "Understanding Mass Personal Injury Litigation: A Socio-Legal Analysis," *Brooklyn Law Review*, 59 (1993-1994): 961, 1003-1006, 1025-1030; McCulloch and Tweedale, *Defending the Indefensible*, 161-165. For Walter Umphrey, Wayne Reaud, John O'Quinn, Harold Nix, John Eddie Williams Jr., and other Texas lawyers, and their role in the Texas tobacco case, see *The State of Texas v. American Tobacco Co., et al* (96-CV-91), see 1996-2012 MoreLaw.aw.com.Inc.
- ¹⁸ Asbestos School Hazard Detection and Control Act of 1980 (Pub. L. 96-270, June 14, 1980).
- ¹⁹ McCulloch and Tweedale, *Defending the Indefensible*, 202-209; Brodeur, *Outrageous Misconduct*, 307-354.
- ²⁰ William French Smith, "The Attorney General's Asbestos Liability Report to the Congress, Pursuant to Section 8(b) of the Asbestos School Hazard Detection and Control Act of 1980," Sept. 21, 1981, v-xiii.
- ²¹ *Ibid.*, 61-70.

²² Dies & Hile, LLP, Notes, “Asbestos Property Litigation in Texas (2012).” For *Dayton ISD vs. United States Gypsum, et al*, Civil Action B-81-277-CA /B-81-293-CA, see case papers (Boxes 17-24) and docket sheets ARC 573246 and ARC 581150, National Archives Branch, Fort Worth.

²³ Brodeur, *Outrageous Misconduct*, 307-354. For *City of Greenville v. W. R. Grace and Co.*, see notes Speights & Runyan, and US Court of Appeals, Fourth Circuit, *City of Greenville v. W. R. Grace Co.*, 640 F.Supp. 559 (D.S.C. 1986), aff’d 827 F2d 975 (4th Cir. 1987).

²⁴ Dies & Hile, “Asbestos Property Litigation in Texas.”

²⁵ For Judge Robert Parker and consolidation of cases, see Carroll, et al., *Asbestos Litigation Costs and Compensation: An Interim Report*, 34-35.

²⁶ Dies & Hile, “Asbestos Property Litigation in Texas.”

Primary Sources

*Lewis Hine's Photographs of Child Labor in
Southeast Texas, 1913*

Edited by JIMMY L. BRYAN JR. & COLLIN M. ROHRBAUGH*

At the turn of the twentieth century, the rapid urbanization and industrialization in the United States often created deplorable working and living conditions. Civic leaders lacked the organizational experience to provide the infrastructure for proper sanitation and housing, leading to overcrowding, disease, homelessness, and violence. Unregulated capitalism permitted exploitive labor practices that created conditions like hazardous workplaces, sweatshops, 14-hour workdays and 7-day workweeks, and child labor. Concerned citizens, responsible business leaders, wealthy philanthropists, and others banded together to seek solutions to these problems. They were the Progressives, and they worked with local, state, and national governments to create reforms that could improve American lives and livelihoods.

Although the problems and the response often differed in each city or workplace, reformers of the period typically used similar methods. Many embraced the idea of a “scientific Progressivism,” using techniques developed by nineteenth-century academics. After identifying a specific concern, an investigator would collect and document data, organize then analyze that informa-

* Jimmy L. Bryan Jr. is the author of *More Zeal Than Discretion: The Westward Adventures of Walter P. Lane* (2008) and editor of *The Martial Imagination: Cultural Aspects of American Warfare* (2013). He is associate professor of History at Lamar University and current editor of the *Record*. Collin M. Rohrbaugh is working on his Masters Degree in History at Lamar University and is currently researching his thesis, “Bent’s Fort as North American Crossroads.”

tion, and formulate possible solutions. This cause and this method often drew journalists into the movement. These reporters purposefully sensationalized the distress and suffering of exploited Americans, and their photographs revealed the dire circumstances created by urbanization and industrialization. Publishers featured this new style of journalism, or “muckraking,” with mass-circulated magazines like *McClure’s* and *Collier’s*, photo-documentary books like Jacob Riis’s *How the Other Half Lives* (1890), or Upton Sinclair’s novel *The Jungle* (1906). Muckraking proved popular, but it also served a vital function in drawing attention to specific problems, galvanizing the Progressive effort, and calling for community action.¹

Progressives early identified children in the American workforce as a problem that required reform. By 1900, 1.8 million children between the ages of 10 and 15, nearly 20 percent, were employed on a full-time basis. They often labored in the very same hazardous conditions as adult employees, worked the same long hours, and received less wages. Progressives across the country campaigned against child labor at the community and state level, and in 1904, they combined their efforts with the creation of the National Child Labor Committee (NCLC). Three years later, the US Congress granted the group a federal charter. The NCLC used the Progressive method to gather information on the plight of children in the workplace, publicized their findings to inspire action, and occasionally resorted to muckraking sentimentality. In 1908, for example, secretary of the NCLC Alexander McKelway issued a “declaration of independence” for child laborers, arguing that “childhood is endowed with certain inherent and inalienable rights, among which are the right to be children, and not bread winners; the right to play and to dream . . . ; the right to an education, that we may have equality of opportunity.” The NCLC also recognized the transformative power of photography, and in 1908, hired Lewis Hine to travel, investigate, and document child labor in American communities.²

Lewis Hine was born in Oshkosh, Wisconsin, in 1874. He briefly attended the University of Chicago, but in 1901, he moved to New York City and joined the faculty of the Ethical Culture School. The principal introduced Hine to photography. At roughly the same time, he began taking routine trips to Ellis Island. Unlike many of his contemporaries, Hine was fascinated by the European immigrants who passed through, and he began taking their pictures.

Eventually his poignant photographs helped change the way most Americans perceived immigrants. Indeed, Hine's images brought him to the attention of the committee.

Hine worked for the NCLC for ten years, taking thousands of photographs, and sometimes traveling as much as 50,000 miles per year. The committee used Hine's photographs in a variety of media to bring attention to the cause. In 1916, Congress passed the Keating-Owen Act which established age limits in a variety of industries, but the US Supreme Court would ultimately strike down the measure. Not until the New Deal-era Fair Labor Standards Act (1938) would the federal government establish an enduring anti-child labor law. Nevertheless, the NCLC credited Hine for his influence, claiming that he "was more responsible than any or all other efforts to bring the facts of child labor . . . to public attention."³ After his work with the NCLC, Hine moved on to taking pictures of laborers in order to improve the image of the working class. Some of his most famous photos documented the construction of the Empire State Building in New York City.

In November 1913, as part of his investigations with the NCLC, Hine traveled through Southeast Texas. Usually posing as a salesman, he would enter a business and document any examples of children workers he might find. In the area sawmills, he did not find as many as he had expected. At the Beaumont Shingle and Lumber Company, Hine spoke to the supervisor, who explained, "We used to use some young boys in the shingle mill, but a Government inspector came along and said that, while he wouldn't do anything this time, he would advise us to get those boys out of the mill . . . Boys don't pay around this work anyway." Hine, however, located children working at three area mills—the Lucher and Moore Lumber Company at Beaumont as well as the Miller and Vidor Lumber Company and the Miller-Link Lumber Company at Orange. These children worked on the river rafts, power saws, and other adult tasks. In downtown Beaumont, Hine also documented a number of boys working as "newsies," children who peddled copies of local newspapers. He wanted to lift the veil that romanticized the newsies who often operated unsupervised in "red-light districts." He feared that the boys would obtain "information about the life of the underworld, gained at fist hand . . . that often ends in their own moral downfall."⁴

The Library of Congress preserves the collection of some 5,100 Lewis Hine photographs commissioned by the NCLC. The library has digitized the work which is accessible via its website (www.loc.gov). The following catalogue reproduces 11 of 18 photographs that Hine captured while in Southeast Texas. Each image includes the library's Reproduction Number, Hine's comments from the original caption cards, and additional information on the subject where possible. In a few cases, Hine specifically identified the children, but in others, they remained anonymous. In addition to revealing children workers in the area, Hine's Southeast Texas photographs also provide a glimpse—if quite narrow—into the operations of local lumber mills and daily life in downtown Beaumont.



Fig. 1. "Workers in Miller & Vidor Lumber Co. Location: Beaumont, Texas." A similar caption to fig. 3 accompanies this photo. The caption card does not identify the two boys standing at the foot of the stairs, but they appear to be Charlie McBride on the left (see figs. 4 and 5) and the "General Utility Boy" on the right (see fig. 3). In 1909 Charles H. Moore, A. W. Miller, and Charles S. Vidor of Galveston incorporated the Miller and Vidor Lumber Company with the consolidation of three area lumber concerns. The mill manufactured yellow pine, railroad ties, and mining material. In 1918, a fire destroyed the Beaumont mill.⁵ *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-04911)



Fig. 2. “Hard work and dangerous. This ‘river-boy’ Lyman Frugia. Poles the heavy logs into the incline that takes them up to the mill. It is not only hard work, but he is exposed to all kinds of weather and is dangerous too. Said he is 14 years old, has worked here several months, gets one dollar a day. Miller & Vidor Lumber Company. This is the only mill I found around Beaumont that employed boys—likely because they are located some distance from town. Location: Beaumont, Texas.” Lyman Frugia was born in Beaumont on May 11, 1899, to parents Pierre Frugia and Lydia Cundiff. He died in Beaumont on June 29, 1980, as a retired longshoreman and buried in the Magnolia Cemetery. In 2008, internet blogger Joe Manning interviewed Lyman Frugia Jr., son of the child mill worker. The son recalled that his father worked so young because “he needed the money. His parents died when he was about 12 He first started selling newspapers, and then he went to work with the newspaper company It was dangerous work. He was telling me about how they used to work the logs on the river and all when he was a young boy. In later years, he worked on a tow boat that towed logs down the river Then he worked on the city docks in Beaumont and eventually became a foreman During WWII, when they weren’t shipping out of the port here, he worked for Consolidated Steel, which was building ships in Orange (Texas).”⁶ *Courtesy of the Library of Congress (Rep. No. LC-DIG-nclc-04916)*



Fig. 3. "General Utility Boy in Miller & Vidor Saw-mill. 14 years old (he said). Part of the time he throws slabs into the chute that has chain carrying them to the mill. I saw him helping a man around moving and unprotected machinery. Everything in the mill is unguarded. No place for boys. Said he works only on Saturdays now, gets \$1.00 a day. Made \$25 a month here last summer. Location: Beaumont, Texas." *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-04908)



Fig. 4. "Dangerous work. Charlie McBride. Said twelve years old. This twelve year old boy has a steady job with the Miller & Vidor Lumber Company. He takes slabs out of a chute which has a moving endless chain to carry the wood up the chute. He passes the slabs onto the other boy who saws them on an unguarded circular saw. Charlie runs the saw himself whenever he gets the chance. He is exposed not only to the above danger, but to the weather—no roof even. Has been here for some months. 'Get four bits a day.' Fifty cents. Works ten hours. This was the only mill that I found around Beaumont that employed boys, likely because they are located some distance out of town. Location: Beaumont, Texas." See fig. 5 for note on Charles McBride. *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-04912)



Fig. 5. This photograph carries the same caption as fig. 4. Charlie might have been Charles Alfred McBride, born on February 10, 1901, to George McBride and Alice Mallau. In 1920 he was a pipe-layer working for the Texas Oil Company and living with sister and brother-in-law. In 1930, he was married and working for the Beaumont street railway. He died in Beaumont on February 13, 1945, working as a bus driver for the Beaumont City Lines. He was buried in the Magnolia Cemetery.⁷ *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nlc-04913)



Fig. 6. "General Utility Boy at Lutcher & Moore Lumber Co. 'I'm fourteen years old; been here one year. Get \$1.00 a day.' He runs errands and helps around. I saw him pushing some of these empty cars. Exposed to the weather and some dangers. In the saw mills, planing mills of this company I saw several boys who might be under fifteen. Location: Orange, Texas." In 1877, partners Henry J. Lutcher and G. Bedell Moore established one of the earliest industrial sawmills at Orange. They incorporated in 1890 or 1891, but Moore sold his interest in 1901, and Lutcher died in 1912. William H. Stark, Lutcher's son-in-law, took over operations. According to a 1906 report, the Orange mill processed 300 thousand feet of logs a day and 75 million feet of logs annually.⁸ *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-04904)



Fig. 7. “Thirteen year old boy. Exposed to all kinds of weather picking out slabs from chute with a heavy moving chain that carries up the wood. He gets \$5.00 a week. Miller-Link Lumber Co. Location: Orange, Texas.” In 1905, the partnership of Leopold Miller and J. W. Link purchased Mill D of the Kirby Lumber Company at Orange, but Link sold out five years later. In 1915, the mill produced 125 thousand feet of yellow pine per day. Note that this mill boy operates the machinery without footwear.⁹ *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-04906)



Fig. 8. "Five year old Sam is up at 5:00 A.M. daily to sell papers. Beaumont, like most other Texas towns, is overrun with boys such as these. Location: Beaumont, Texas." Note that this newsboy carries copies of the *Beaumont Enterprise*. *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-03919)



Fig. 9. “Beaumont is overrun with little newsies. This boy, Vincent Serio, eight years old, is up at 5:00 A.M. daily. ‘Have sold papers since I was four years old.’ Location: Beaumont, Texas.” Vincent Serio was born in Beaumont on December 3, 1904, to Italian immigrants Salvatore “Sam” Serio and Vincenza Fertitta. His father was a grocer. In 1930, Vincent was a resident of Beaumont and listed his occupation as a barber. He died in Galveston on April 17, 1978, with burial at the Calvary Cemetery.¹⁰ *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-03914)



Fig. 10. "Dunno how old I am." One of Beaumont's many little newsboys. Location: Beaumont, Texas." *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-03915)



Fig. 11. "Six year old Tony gets up at 5:00 A.M. daily to sell newspapers. He is a regular beggar. 'P-l-e-a-s-e buy me papers.' Location: Beaumont, Texas." *Courtesy of the Library of Congress* (Rep. No. LC-DIG-nclc-03917)

ENDNOTES

¹ Recent scholarship on Progressivism includes, Alan Dawley, *Struggles for Justice: Social Responsibility and the Liberal State* (Cambridge: Harvard University Press, 1993); Maureen Flanagan, *America Reformed: Progressives and Progressivisms, 1890s-1920s* (New York: Oxford University Press, 2007); Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Oxford University Press, 2003).

² H. L. Bliss, "Census Statistics of Child Labor," *Journal of Political Economy*, 13 (March, 1905): 246. Alexander McKelway quoted in Verna Posever Curtis and Stanley Mallach, *Photography and Reform: Lewis Hine & the National Child Labor Committee* (Milwaukee: Milwaukee Art Museum, 1984), 17.

³ Owen Lovejoy quoted in Martin W. Sandler, *America through the Lens: Photographers Who Changed the Nation* (New York: Henry Holt and Company, 2005), 67.

⁴ *Industrial Relations: Final Report and Testimony Submitted to Congress by the Commission on Industrial Relations* (11 vols., Washington: Government Printing Office, 1916), 11:10910-10912; Curtis and Mallach, *Photography and Reform*, 13-29; Sandler, *America through the Lens*, 56-69. See also, Kate Sampsell-Willmann and Alan Trachtenberg, *Lewis Hine as Social Critic* (Jackson: University Press of Mississippi, 2009); Daile Kaplan, ed., *Photo Story: Selected Letters and Photographs of Lewis W. Hine* (Washington: Smithsonian Institution Press, 1992).

⁵ W. T. Block, *East Texas Mill Towns and Ghost Towns* (3 vols., Lufkin, TX: Pineywoods Foundation, 1994), 1:136-137; *Poor's Manual of Industries*, 7 (1916): 1971.

⁶ Lyman Frugia Certificate of Death, Texas Department of Health; Joe Manning, Mornings on Maple Street blog (morningsonmaplestreet.com).

⁷ Charles Alfred McBride Certificate of Death, Texas Department of Health; 1920-1930 US Census, Jefferson County, TX (ancestry.com).

⁸ Block, *East Texas Mill Towns*, 1:261-266; *American Lumbermen: The Personal History and Public and Business Achievements of One Hundred Eminent Lumbermen of the United States* (Chicago: The American Lumberman, 1906), 377-380.

⁹ Block, *East Texas Mill Towns*, 1:276-278.

¹⁰ Vincent S. Serio Certificate of Death, Texas Department of Health; 1920-1930 Census, Jefferson County, TX (ancestry.com)

Book Reviews

Trailing a Texas Eagle: The Life and Legacy of Lt. Commander Harry Brinkley Bass. By J. Glenn Cummings (Virginia Beach, VA: The Donning Company Publishers. Bibliography, index, illustrations, maps. Pp. 336. \$43.50 cloth.)

Celebrating a hero's life in print is not uncommon, but J. Glen Cummings, a long time scoutmaster and historian, brought together his passions in a remarkable biography of Lt. Commander Harry Brinkley "Brink" Bass. Born on the Fourth of July 1916 in Chicago, Illinois, Brink's family relocated several times before settling in Beaumont, Texas. At Beaumont, as many young men did, Bass joined the local Boy Scout Troop. Bass's leadership skills quickly developed in the scouts and he rose through the ranks, even earning an invitation to the World Jamboree, scouting's largest event. The 1929 World Jamboree convened in England where Bass met scouts from around the world as well as the founders of the American Boy Scouts. En route he toured New York and France, meeting the mayor of the former because of the national attention he received for criticizing how the Prince of Wales, a man known for his style, worn his shorts "sloppy."

As he grew older, Bass not only became an Eagle Scout, the Boy Scouts' highest rank, but was heavily involved in several high school organizations. After graduating he attended the US Naval Academy at Annapolis, Maryland. As a cadet he continued to travel extensively and played on the tennis team before graduating in 1938. By 1940, he earned his pilots wings at the US Air Station in Pensacola, Florida, and served as a carrier pilot. A year later the United States joined the Allies in World War II and Bass initially served aboard the USS *Lexington* at the Battle of Coral Sea. After the *Lexington* sunk he received a transfer to the European Theater of Operations flying combat air and sub-

marine patrol missions. His skills and leadership soon earned Bass a promotion to command the Escort Fighter Squadron Twenty-nine and eventually to lead Fighting Squadron Seventy-four. Beloved by his men, Bass was a rising star in naval aviation until small arms fire took his life on August 20, 1944, near St. Bonnet le Froid, France, while flying a mission for Operation Dragoon.

Bass's legacy continued after his death. Before the war ended the people of Orange, Texas, dedicated a ship, USS *Palisana*, in his memory and the US Navy named a destroyer after him. Though his exploits were numerous his memory faded over time, even in his hometown of Beaumont. To the author's credit, Cummings research and dedication to Bass's memory not only produced this book but memorials in France and in Beaumont, the later dedicated soon after the events of 9/11 by a local Boy Scout Troop.

Cummings does a remarkable job bringing depth into the examination of Bass's life. Most books that examine lives taken in their prime are shorter and do not contain as many illustrations. There are no pages within the body of this 336-page book that does not have multiple pictures or images. Though many come from a scrapbook the family made during and after the war, an American home front tradition dating back to the War of 1812, they provide a unique insight into the physical and social development of a young American from the 1920s to World War II. In many aspects this book is a modern day scrapbook that incorporates meticulous research. Many of Cummings's sources include personal interviews of Bass's contemporaries, personal letters, flight logs, along with military and Boy Scout records. Besides reviving the memory and legacy of an American hero, this book provides insight into the US military from a junior officer's point of view as well as the burgeoning of the Boy Scouts of America. This book will appeal to readers interested in World War II, Boy Scouts, and Texas history.

Charles David Gear
Prairie View A&M University

Still the Arena of Civil War: Violence and Turmoil in Reconstruction Texas, 1865-1874. Edited by Kenneth W. Howell. (Denton: University of North Texas Press, 2012. Acknowledgements, list of contributors, notes, bibliography, index, illustrations, maps. Pp. xii, 480. \$34.95 cloth.)

In the middle of America's centennial celebration of the Civil War, the great African American intellectual W.E.B. DuBois lamented the historical amnesia about slavery being the cause of the conflict and counterrevolutionary violence toward the freedmen's newly won rights being one of its major consequences. In that spirit, Kenneth W. Howell's *Still the Arena of Civil War* examines the presence of violence and its effects in Reconstruction Texas. This finely edited volume includes 15 essays and Howell's excellent historiographical introduction. All the articles in the book are thoroughly researched, well-documented, and nicely written by distinguished scholars such as Dale Baum, Richard McCaslin, Carl H. Moneyhon, William L. Richter, James M. Smallwood, Charles D. Spurlin, and Andrés Tijerina. The chief argument of *Still the Arena of Civil War*, convincingly demonstrated throughout by its contributors (with one important caveat), is that after 1865 irreconcilable Confederates, as Howell puts it, "were able to achieve through violence what they had not been able to achieve during the Civil War: the liberty to preserve white supremacy in their society" [1].

Still the Arena of Civil War builds on earlier works on the aftermath of the war in Texas, especially Randolph Campbell's micro history, *Grassroots Reconstruction in Texas, 1865-1880* (1998) and Moneyhon's more general account, *Texas After the Civil War: The Struggle of Reconstruction* (2004). It is also an excellent addition to the literature on the violence of the Reconstruction era. As several of the authors note, these essays add to the previous work of George Rable's *But There Was No Peace* (1984) and Alan W. Trelease's *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (1971). The authors tackle such wide-ranging and varied topics, such as Freedmen's Bureau agents and their murderous opponents (including but not limited to the Ku Klux Klan), Reconstruction politics in the state, the Texas State Police, Texas newspapers, and the ways in which violence affected different groups ranging from African American women to Tejanos in South Texas. This volume's contributors have

provided historians, indeed all Texans, with a series of invaluable case studies in how white Texans, through methods of theft, intimidation, rape, and mass murder, brutally wrested control of their state away from those who sought a more inclusive and egalitarian society. As Howell writes in his introduction, “the Civil War did not end in 1865” but was a “continuous conflict between the northern and southern states, which lasted from 1861 to 1877” [23].

The essays make it abundantly clear that white supremacy was restored to Texas and that homicidal violence played a key role in that counterrevolution. But, it was not white supremacy that the Confederacy was fighting for, although to be sure it was enormously important; rather, it was the establishment of a slaveholding republic on the North American continent that the Confederates pursued by seceding and then fighting a Civil War. And, it must be emphasized, that particular goal was not achieved. So, although the freedmen were certainly oppressed in Texas and elsewhere, they were no longer slaves. As John Gorman states in his essay, “Reconstruction Violence in the Lower Brazos Valley,” there were only “16 schools serving 1,000 black students at the end of 1865 and by the end of 1868, at the time of the [Freedmen’s] Bureau’s closing, there were 150 schools serving 9,806 black students” [393]. This was a far cry from antebellum slavery, as whites in Texas understood. So, they embarked on a murderous path in order to restore whatever forms of power they could in order to maintain white supremacy—but not slavery. So, Reconstruction was a failure, but as DuBois once said, it was a “splendid failure.” *Still the Arena of Civil War* shows the horrific events that transpired in that era, how Reconstruction has been distorted in the American mind, and the betrayal of its egalitarian ideals forgotten. In so doing, this collection will assist Texans in having a more accurate sense of their past to better guide their future.

John M. Barr
Lone Star College—Kingwood

Los Brazos de Dios: A Plantation Society in the Texas Borderlands, 1821-1865. By Sean M. Kelley (Baton Rouge: Louisiana State University Press, 2010. Appendices, bibliography, index, maps. Pp. xii, 283. \$42.50 cloth)

In this well-written, well-researched book, Sean M. Kelley argues that plantation slavery in the counties along the lower Brazos River, represented a distinctive, “borderlands” variation of the institution that differed considerably from slavery in the rest of the American South. Kelley notes that while most historians recognize that slavery in Texas during the period of Mexican rule served as a major catalyst to rebellion in the 1830s, but they have not appreciated the extent to which Mexico shaped slavery along the lower Brazos in the subsequent decades. The author points to the legacy of Mexican laws governing marriage and inheritance in Texas, to the growth of a diverse population that scholars consider a defining characteristic of borderlands, and to the potential of Mexico as a refuge for fugitives, a potential that weighed heavily on the minds of both slaves and slaveholders. The Rio Grande, Kelley argues, therefore represented for Texans what the Ohio River represented for Americans to the east: a promise of freedom that nurtured hope for the slave and a threat that gnawed on the minds of the planters.

The presence of a significant population in the Brazos region of German and other foreign-born residents, whose firmness on the slavery issue was questionable, contributed to the hopes and anxieties of plantation residents. Although approximately 300 miles separates the lower Brazos region from the Rio Grande—a distance comparable to the distance from Georgia to Ohio—the relative sparsity of the population west of the Brazos and the potential for aid from sympathetic immigrants served to reduce the actual distance to freedom. Furthermore, Mexico, as a sovereign nation that outlawed slavery, provided the kind of security from re-enslavement that only Canada could offer to those who escaped from the US South. Emancipation transformed this borderland to a “bordered land” in which the importance of Mexico diminished and the region and the state turned its attention northward.

Kelley makes a good case for considering the borderlands nature of slavery in the lower Brazos during the early decades covered by his study and during the period of the Civil War. Yet once slavery was established, the United States

annexed Texas, and slaveholders exerted control over the region and state, the day-to-day workings of the plantations described by Kelley strongly resembled plantations that historians have been describing as common through the American South. Nevertheless, the similarities tend to underscore the differences highlighted by the author. Kelley's fine work thus provides a global historical approach to local plantation slavery that places American history in a transnational perspective. In doing so, he recasts the familiar depictions of slavery in Texas as something distinct in important ways from what historians have found elsewhere in the Old South.

Robert S. Shelton
Cleveland State University

Granbury's Texas Brigade: Diehard Western Confederates. By John R. Lundberg (Baton Rouge: University of Louisiana Press, appendices, bibliography, index, illus. maps. Pp. xii, 321. \$39.95 cloth.)

Understanding soldiers' motivations for staying in the ranks is an important facet of the history of the Confederacy. Possessing smaller manpower resources, the rebel states needed as many men on the field as they could muster. In contrast to the successes that elevated morale and encouraged persistence in the Army of Northern Virginia, Confederates in the Army of Tennessee had little reason to celebrate. Hampered by poor leadership in the upper echelons of command, they repeatedly experienced defeat. Some abandoned the cause in response to these challenges, yet many more soldiered on until the war's conclusion. In *Granbury's Texas Brigade*, John Lundberg explores this seemingly paradoxical situation by examining one of the army's premier units. The Texans eventually led by Hiram Granbury not only endured, but they became some of the most effective combatants from late 1863 to late 1864. Lundberg argues that early psychological trauma caused by time in prisoner of war camps and the dismounting of the original cavalry regiments weeded out men unwilling to serve the Confederacy across the Mississippi, reducing the brigade to a core of diehard soldiers determined to prove themselves. Their resolve combined with the ability to adopt a localized perspective and the guidance

of stellar division, brigade, and regimental officers allowed them to overcome battlefield reverses and failures of higher leadership.

Much of Lundberg's text supports the work of previous scholars like Larry Daniel's *Soldiering in the Army of Tennessee* (1991) that asserts that men in the Army of Tennessee persevered because of allegiance to good low-level officers and the ability to focus on personal battlefield achievements rather than the difficulties of the army as a whole. What sets *Granbury's Texas Brigade* apart, however, is Lundberg's emphasis on the early ordeals that forged the stalwart veterans before their integration into the problem-plagued army. Coming from counties across Texas and enrolling before the passage of conscription in 1862, the members of the eight initial regiments (three infantry and five cavalry) appeared highly supportive of the Confederate cause. However, events steadily whittled down their numbers. Dismounting the cavalry regiments delivered an emotional blow, substantially reducing their strength as men deserted to serve closer to home and in a manner they preferred. The prospect of surrender at either Fort Donelson or Arkansas Post further diminished their numbers as soldiers fled to avoid the unenviable fate of imprisonment, while death and oaths of allegiance to the United States claimed others during detention.

According to Lundberg, those who underwent such experiences emerged with a thirst to repay the Yankees on the battlefield as well as escape the stigma of submission. These soldiers, therefore, had more than just what Daniel identifies to sustain them. This foundation also enables Lundberg to offer a more nuanced assessment of the role of officers in nourishing the willingness of Confederates to continue fighting. Fresh from their time in Union prisoner of war camps, the Texans that became Granbury's brigade had to stomach taunts and disparaging remarks about their manhood from other members of the Army of Tennessee. As a result, Maj. Gen. Patrick Cleburne's willingness to accept them into his division endeared him to the men in a way far stronger than an officer merely joking with them or providing a good example in battle. They wanted to reward his faith in them, thus they performed to their best ability on the field. The deaths of respected officers like Cleburne, Granbury, and others understandably took a toll and effectively ended their ability and desire to perform well.

In general, Lundberg furnishes a useful addition to the scholarship, though some of the conclusions seem overstated. The middle and latter portions work, which cover the coalescence of the brigade and its collapse, are undoubtedly the strongest sections of the text, affording numerous illustrations of the enlisted and officers' perspectives of events. On the other hand, a more consistent method of footnoting throughout and additional examples in early sections, especially the imprisonment of the Seventh Texas, would have further strengthened some of the crucial portions of the argument. Regardless of these slight reservations, anyone interested in Civil War or Texas history will find it an accessible assessment of why soldiers like those of Granbury's brigade not only continued fighting but also became some of the best troops in the Army of Tennessee.

Ariel L. Kelley
University of North Texas

PROCEEDINGS

Texas Gulf Historical Society Minutes

ANN CRESWELL

Fall Meeting
September 25, 2012

The Texas Gulf Historical Society met in the Tyrrell Historical Library. President Gilbert Adams Jr. called the meeting to order at 7:00 p.m. Chaplain Marilyn Adams offered the opening prayer.

Membership Chair Linda Cummings stated there were no new members to announce. There were no other committee reports.

Recording Secretary Ann Creswell read the minutes of the Annual Meeting, May 8, 2012, and they were approved as read.

President Adams introduced Bill Grace, Branch Manager of the Tyrrell who presented the program for the evening.

Mr. Grace gave a brief history of the library before talking about its current functioning. The building was originally the First Baptist Church. William Tyrrell bought the building and gave it to the city of Beaumont, and it served as the city library from 1926-1972. The Tyrrell Library Association was instrumental in its renovation, and the Tyrrell reopened in 1974 as the Tyrrell Historical Library. The recent annex has almost doubled the space. Mr. Grace stated that although many are aware of the genealogical collections, the Tyrrell has much more to offer. It contains the Texas Biographical Collection and other holdings include a local history archive, and numerous collections re-

lated to art, Texana, and American history. The Tyrrell is developing its digital collection with around 3,600 images digitized and described, and the library is committed to moving forward. Mr. Grace then introduced new archivist Stephanie Soule.

A brief question and answer session followed with a reminder that the Tyrrell collections include the TGHS *Record* from 1965-2011 plus two indexes. It also has the current *Record* for sale. In answer to a question about online usage, Mr. Grace stated that it has grown two- or three-fold over prior months and that digital advancements have actually resulted in an increase in items added to collections as more online users have made contact about miscellaneous things related to Beaumont. In conclusion, Mr. Grace invited all present to tour the facilities before leaving.

Dr. Mary Scheer reminded us of “An Evening with Thomas Jefferson on the American Presidency” in which Bill Barker of Colonial Williamsburg, a nationally acclaimed historian and interpreter of Thomas Jefferson, will appear in period clothing to interpret Jefferson’s presidency, 1800-1808. Dr. Scheer stated there were limited spaces still available for the private 18th century dinner prior to the lecture and encouraged all to attend the event on October 17, 2012.

President Adams thanked Mr. Grace and those in attendance, reminded them that the library was open for those who wished to tour before leaving and to be sure to enjoy the refreshments provided by Suzanne Stafford and Sue Philp.

The meeting adjourned at 7:50 p.m.

Spring Meeting
February 21, 2013

The Texas Gulf Historical Society met in the Broussard's Event Centre. President Gilbert Adams Jr. welcomed members and guests and called the meeting to order at 7:00 p.m. Chaplain Marilyn Adams offered an opening prayer.

Recording Secretary Ann Creswell read the minutes of the Fall Meeting, Tuesday, September 25, 2012, and they were approved as read.

Treasurer Joe Fisher Jr. presented his report. Dues & interest total \$4,065.04. Expenses included printing of the *Record* at \$3,142.00 and mailing & misc. at \$1,321.61, for a total of \$4,463. The current balance as of February 8, 2013, is \$12,304.04. Mr. Fisher reminded us to send dues to him.

Robert Robertson presented the report of the Nominating Committee for 2013. The Nominations Committee consisted of Curtis Leister, Dr. John Nelson, and Robert Robertson.

The following slate of officers was proposed:

President—John L. Nelson

Vice President—Judith Linsley

Recording Secretary—Ann Creswell

Corresponding Secretary—Linda Cummings

Treasurer—Joseph J. Fisher, Jr.

Curator—Rosine McFaddin Wilson

Genealogist—Margaret Davis Parker

Librarian—Penny L. Clark

Parliamentarian—Marion Holt

Sergeant-at-Arms—David E. Heinz

Members-at-Large—Dr. Mary Scheer, Dr. Richard Gachot, and Earl Brickhouse

Chaplain—Marilyn Thornton Adams

Constitution—David Montgomery

Membership—Joy Crenshaw

Nominating—Dr. John Storey, Ellen Rienstra, and Robert Robertson

Social Committee—Sue Philp, Suzann Stafford, and Anne Nelson

President Gilbert Adams made brief remarks about the early history of the organization and stated he would appoint a planning committee for the 50th anniversary in 2014 and asked for input and/or volunteers.

Membership Chair Linda Cummings announced that membership forms had been sent out and reminded us to please send in dues and encourage others to join.

Dr. Jimmy Bryan stated that the current issue of the *Record* has been released. They are now soliciting articles for the next issue and are thinking about the return of book reviews for future issues.

Jerry Nathan introduced our speaker for the evening, Mr. Robert Robertson, who has been very active in our organization and this community. He has served as president of several organizations including this one. Mr. Robertson is a skilled researcher who has written two books and numerous articles and is well known for his excitement about history and his inspiration to others.

Mr. Robertson referred to an article he wrote for the November 1976 *Record* on Judge Joe Fisher and stated that he worked with Bob Keith on an article about Judge Fisher for *The Handbook of Texas*. Tonight's presentation is about Federal Judge Joe Fisher and the *Borel vs. Fibreboard* asbestos case (1973).

Joe Fisher practiced law in Jasper prior to his appointment as a Federal Judge by President Eisenhower in 1959. He was famous for his expeditious handling of cases and served for forty years. The *Borel vs. Fibreboard* asbestos case before Judge Fisher became one of major historic importance as it established a precedent still impacting us today. Mr. Borel was a refinery worker from Groves with asbestosis. His lawyer, Ward Stevenson, from Orange, worked with workman compensation cases and sued the manufacturer. The jury ruled the manufacturer responsible for Mr. Borel's death, and the case

went to the Fifth Circuit Court in New Orleans which affirmed the decision. It was submitted to the US Supreme Court which declined to consider. *Borel vs. Fibreboard* became precedent-setting as the first personal injury case in the United States against an asbestos manufacturer. In the early 1980s, there was growing concern about asbestos, especially in schools. The US Attorney General's Asbestos Liability Report in 1981 cited the *Borel Case* precedent and suggested that it could be applied to schools. Martin Dies III, part of the same firm as Ward Stevenson, filed suit on behalf of Dayton ISD in Judge Fisher's court. It eventually included eighty-two school districts.

In 2005 the Rand Institute of Civil Justice stated the amount of money involved to that date to be in the billions with numerous companies out of business. The importance of this decision regarding asbestos is obviously bigger than just the *Borel Case* as it is still impacting us today and the importance of the role of Judge Fisher should not be forgotten.

President Adams thanked Mr. Robertson for his insightful presentation and the Broussards for the use of their wonderful facility. He invited those in attendance to enjoy the refreshments provided by the Social Committee before leaving, thanked them for coming and reminded them of the annual meeting to be held in April or May.

The meeting adjourned at 8:00 p.m.

Board Meeting
February 21, 2013

The Board of The Texas Gulf Historical Society met Thursday, February 21, 2013, at 6:15 p.m. at the Broussard's Event Centre. Present were: Gilbert Adams Jr., Dr. John Nelson, Joseph J. Fisher Jr., Robert Robertson, Dr. Jimmy Bryan, Linda and Glenn Cummings, and Ann Creswell.

Robert Robertson presented the report of the Nominations Committee for 2013. The Nominations Committee consisted of Curtis Leister, Dr. John Nelson, and Robert Robertson.

The following slate of officers was proposed:

President—John L. Nelson

Vice President—Judith Linsley

Recording Secretary—Ann Creswell

Corresponding Secretary—Linda Cummings

Treasurer—Joseph J. Fisher, Jr.

Curator—Rosine McFaddin Wilson

Genealogist—Margaret Davis Parker

Librarian—Penny L. Clark

Parliamentarian—Marion Holt

Sergeant-at-Arms—David E. Heinz

Members-at-Large—Dr. Mary Scheer, Dr. Richard Gachot, and Earl Brickhouse

Chaplain—Marilyn Thornton Adams

Constitution—David Montgomery

Membership—Joy Crenshaw

Nominating—Dr. John Storey, Ellen Rienstra, and Robert Robertson

Social Committee—Sue Philp, Suzann Stafford, and Anne Nelson

Joe Fisher moved and Dr. Jimmy Bryan seconded that we accept the slate as proposed. The motion was unanimously approved.

President Gilbert Adams suggested that as we move toward the 50th anniversary in 2014 perhaps a committee should be appointed to consider things such as a five-year plan and an expanded *Record*. A brief discussion followed.

Meeting adjourned at 6:50 p.m.

Annual Meeting
April 16, 2013

The Texas Gulf Historical Society met in the home of Frank and Kay Eastman. Attendees enjoyed socializing prior to the meeting, which was called to order at 7:20 p.m. by President Gilbert Adams, Jr. He thanked the Eastmans for their hospitality and welcomed members and guests. Linda Cummings offered an opening prayer.

Recording Secretary Ann Creswell read the minutes of the Board Meeting, and the Spring Meeting, both on Thursday, February 21, 2013 and they were approved as read.

Treasurer Joe Fisher Jr. presented his report. Dues received for 2013 total \$2,895.00. Mailing expenses were \$388.20. The current balance as of April 16, 2013, is \$14,836.66. Mr. Fisher reminded us to send dues to him.

Membership Chair Linda Cummings announced new member Rob Blain and asked us to encourage others to join.

John Nelson presented the report of the Nominating Committee for 2013. The Nominations Committee consisted of Curtis Leister, Dr. John Nelson, and Robert Robertson.

The following slate of officers was proposed:

President—Dr. John L. Nelson

Vice President—Judith Linsley

Recording Secretary—Ann Creswell

Corresponding Secretary—Linda Cummings

Treasurer—Joseph J. Fisher Jr.

Curator—Rosine McFaddin Wilson

Genealogist—Margaret Davis Parker

Librarian—Penny Clark

Parliamentarian—Marion Holt

Sergeant-at-Arms—David E. Heinz

Members-at-Large—Dr. Mary Scheer, Dr. Richard Gachot, & Earl Brickhouse

Chaplain—Marilyn Thornton Adams

Constitution—David Montgomery

Membership—Joy Crenshaw

Nominating—Dr. John Storey, Ellen Rienstra, and Robert Robertson

Hospitality—Sue Philp, Suzann Stafford, and Anne Nelson

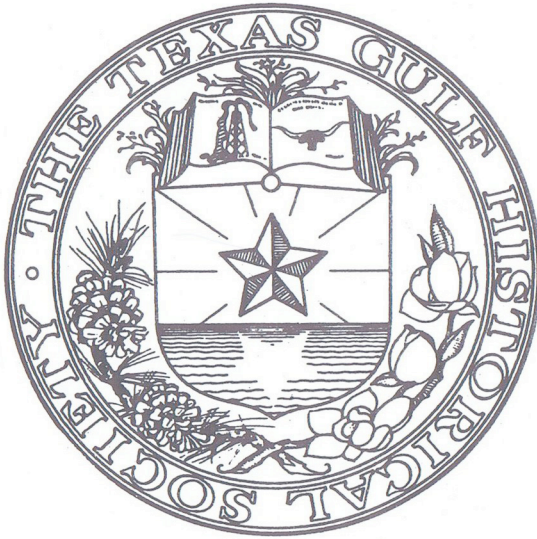
Glen Cummings moved and Ann Winslow seconded that we accept the slate of officers. The vote was unanimous.

Judith Linsley expressed how delighted we were to have our speaker for the evening Dr. Mary Scheer. She is an author and co-editor of previous books, Associate Professor and chair of the history department at Lamar University and contributor to and editor of a new publication, *Women and the Texas Revolution*.

Dr. Scheer explained how this book originated from a roundtable session, “Did the Texas Revolution Benefit Women?” at the 2010 Texas State Historical Society meeting. Contributors, some of whom were on that panel, were asked to evaluate varied experiences of women in the Texas Revolution and the role they played in that conflict. They were to look at its effects on women and determine if the Texas Revolution was really revolutionary for women. Contributors to the various chapters looked at Native, Hispanic, Anglo, and African American women and female involvement in major events such as the Alamo, Runaway Scrape, and San Jacinto. Dr. Scheer briefly discussed some of the notable women mentioned in the book. Women who worked the fields, fed soldiers, nursed the wounded, made bullets and flags, and helped spread the word. They ran boarding houses and inns and even owned the land on which the battle of San Jacinto occurred. *Women and the Texas Revolution* is a well-written scholarly work which gives new incite into the role of women during that time period. It concluded that although women were at the center of the conflict and contributed to the victory, many lost personally, legally, politically and economically. The Revolution did not change the social order and some women were better off before. It was still a patriarchal society and after the Revolution women in Texas actually had less rights.

President Adams thanked Dr. Scheer for the enlightening program and announced that she would sign copies after the meeting. On behalf of The Texas Gulf Historical Society and in appreciation of their gracious hospitality, President Adams presented the Eastmans a signed copy of Dr. Scheer's book. Anne Nelson was also presented a signed copy in recognition and appreciation of her years of devotion and service to this organization.

President Adams turned the meeting over to newly elected President Dr. John Nelson who reminded us the next meeting would be in the fall. The meeting adjourned at 8:25 p.m.



Vox audita perdit, littera scripta manet.

MEMBERS

*Gilbert T. Adams Jr.
 Marilyn Thornton Adams
 Kent Morrison Adams
 Molly S. Adams
 *Patricia Adams
 *Dr Charles L. Allen
 Hez Aubey
 Rexine A. Aubey
 Dr. Barbara D. Batty
 Louis Henry Beard
 Carrie Marie Beard
 Larry Beaulieu
 Caliste Boykin Benckenstein
 Don J Benton
 Francis Blair Bethea
 Vida B Blair
 Dr. Robert R. Birdwell
 Susanne Brown Birdwell
 Karla Schwartz Blum
 Lawrence H. Blum
 Faye Byer Blum
 C. Kathleen Boudreaux
 James Earl Brickhouse
 The Hon Jack Bascomb Brooks
 Charlotte Collins Brooks
 James Blue Broussard
 Paula Ann Comeaux Broussard
 Joseph Eloi Broussard II
 William Alex Broussard
 Marie Martin Broussard
 Jimmy L. Bryan Jr.
 Elizabeth Ann Bryant
 Barbara Ellen Buchanan
 Marvin R. Bullard
 Linda Birdwell Bullard
 Marjorie Rembert Carroll
 Dr. Lamar John Ryan Cecil Jr.
 Kathryn R. Cherry
 Stewart M. Chisum
 Bessie F. Chisum

Penny Lousia Clark
 Eugenia Coffin
 Edwin Gerald Cordts Jr.
 Grace Naquin Cordts
 Regina Babin Cox
 Mary Ann Snowden Crabbe
 *Will Block Crenshaw
 *Joy Hopkins Crenshaw
 Elizabeth Ann Creswell
 Kevin Bryan Cronin
 Susannah McNeill Cronin
 C. Cohron Crutchfield Jr.
 Rosalie Woodhead Crutchfield
 James Glenn Cummings
 Linda Parmer Cummings
 George Austin Dishman III
 Phoebe Hambright Dishman
 George Dishman
 Judy Gay Dishman
 Melanie Dishman
 *James Dale Dowell
 Dianne Duperior
 Frank Allan Eastman
 Kaye Eastman
 Harold Eisen
 James A. Elkins, III
 Ronald D. Ellington
 Ronald Coleman Ellison
 Joseph Jefferson Fisher Jr.
 Gerald R. Flatten
 Carol K. Flatten
 Charlotte P. Fontenot
 Joanne Stedman Fulbright
 Richard Michael Gachot
 Jonathon Kirk Gerland
 Patricia Gilbert
 Mary Anna Glasgow
 Charles D. Glass
 Guy Neil Goodson
 Kimberly White Goodson

MEMBERS

Carroll Berley Gorham
*Madelon Douglas Graham
Edward H. Green
Margaret Phelan Green
Joseph Martin Green
Margaret Woodin Green
Hon Carl R. Griffith
Elizabeth Marion Logan Gwin
Dr. Howell Holmes Gwin Jr.
Kathryn Manion Haider
John T. Halbert
Wilma D. Strickland Halbert
Mildred Powell Hall
Robert J. Hambright
Kathleen W. Hambright
Robert L. Hansen
Coleen C. Hansen
Joseph Denton Harris IV
Donna Walters Harris
William B. Hataway
Joan Mayfield Hataway
David W. Hearn Jr.
The Honorable Thad Heartfield
Cornelia Bozada Heartfield
J. Thad Heartfield
Melanie L. McAllen Heartfield
Theresa L. Storey Hefner-Babb
David Eric Heinz
Carolyn Benford Henderson
Lewis Hoffer
Marsha Hoffer
Charlotte A. Holliman
Marion Ware Holt
Charles Allen Howell Jr.
Elizabeth Perkins Wells Howell
Alan E. Hubner
Benny Hughes
Allison Hughes
Tanner Truett Hunt Jr.
Mary Ellen Phelan Hunt
Romona G. Hutchinson
Ethelyn Ann George Jenkins
Helen Dunshie Johnsen
Andrew Jay Johnson
Betty Holmes Johnson
Maxine Johnston
Christine Sanders Juckett
Dr. Mavis P. Kelsey Sr.
Paul A. Kessler
Martha Kate King
Jeanne Cranmiller Lamb
Thomas K Lamb Jr.
Elizabeth Morgan Lamb
Wanda Cruise Landrey
Kathleen Lamont Leaf
Curtis W. Leister
Laurie Hall Leister
Judith Walker Linsley
Charles B. Locke
Gloria Searts Locke
Dean Lovejoy
James R. Makin
Lynda Kay Makin
*Mildred Yount Manion
Dr. Paul W McCormick
Karen Campbell McCormick
Alan McNeill
Barbara Gordon McNeill
The Hon. James D. McNicholas
John Gregg Middleton
David E. Montgomery
Leslie Millard Moor Jr.
Yvonne Lyle Osborne Moor
Theodor Edwin Moor Jr.
Barbara Strong Moor
Jerry J. Nathan
Marilyn A. James Neathery
Nancy Brooks Neild
*Dr. John Lockwood Nelson
*Anne Shepherd Nelson

MEMBERS

Dr. Edward Alexander Neusel
 Sharon Ruddy Neusel
 *Lipscomb Norvell Jr.
 *Cynthia Tate Norvell
 James Rowland Old Jr.
 Ann Clary Fancher Old
 Dr. Sam Frank Parigi
 Margaret Davis Parker
 Lou Birdwell Parris
 T. Michael Parrish
 Carroll Douglas Phillips
 Roy Marvin Philp
 Susan Phillips Philp
 Gwili E Posey
 Wiley Ken Poston II
 Brenda Chance Poston
 James Cornelius Potter Jr.
 Lula Langham Potter
 Ida McFaddin Pyle
 William Reed Quilliam Jr.
 Betty H. Rienstra
 Joyce Fergusson Richardson
 Ellen Walker Rienstra
 Stephen Christopher Roane
 Rachael Ann Low Roane
 Robert J. Robertson
 June Peckham Robertson
 Regina J. Rogers
 Kenneth E. Ruddy
 Billie Sain Russell
 Christine Moor Sanders
 Yasuko Sato
 *Robert L. Schaadt
 Dr. Mary L. Scheer
 Ron E. Schroeder
 Lucinda Lewis Smith Seale
 William Seale Jr.
 *William Smythe Shepherd Sr.
 Katherine Quick Sibley
 Dr. John Terry Smith

Lulu L. Washburn Smith
 Joedna Mills Smyth
 Mathew M. Sooudi
 John P. Stafford
 Suzanne K. Stafford
 Dr. Jeremiah Milton Stark
 Jo Ann Pankratz Stiles
 Dr. John W. Storey
 Yvonne Aaron Sutherlin
 Vallie Fletcher Taylor
 Helen Hebert Travis
 Marjorie Shepherd Turner
 Cecilia Gutierrez Venable
 Jules R. Viterbo
 *Dr. Charles R. Walker
 Patricia Brandow Walker
 Charles H. Weinbaum
 Betty Perkins Wells
 Margaret Collier Wheelus
 Melanie S. Wiggins
 Elta Smith Williams
 Mary Clare Wilsford
 Rosine McFaddin Wilson
 Callie Mae Coe Wilson
 Anne Fisher Winslow
 Ben S. Woodhead Jr.
 Sharon Compton Woodhead
 Naaman Johnson Woodland Jr.
 Mary Baldwin Woodland
 Dr. Ralph Ancil Wooster

Life Members shown with *

Institutional Members located inside back cover.

PAST PRESIDENTS

Lipscomb Norvell	1964-1968
Chilton O'Brien	1968-1970
Dr. Charles Walker	1970-1972
Gilbert T. Adams	1972-1974
Judge Joseph J. Fisher	1974-1976
W. Smythe Shepherd	1976-1978
Jack B. Osborne	1978-1980
Peter B. Wells	1980-1982
Fred Lock Benckenstin	1982-1984
Gilbert T. Adams Jr.	1984-1986
Judge Wendell Conn Radford	1986-1988
Dale Dowell	1988-1990
Don Kelly	1990-1992
Robert J. Robertson	1992-1994
Naaman J. Woodland Jr.	1994-1996
Joan Mayfield Hataway	1996-1998
Yvonne Osborne Moor	1998-1999
William B. Hataway	1999-2001
Alex Broussard	2002-2003
Penny Lousia Clark	2004-2006
Curtis Leister	2006-2008
James Earl Brickhouse	2009-2011
Gilbert T. Adams Jr.	2012-2013

PAST EDITORS

Charlsie Berly, as managing editor	1965-1966
Alyce J. McWilliams	1966
Joseph F. Combs	1966-1967
Beatrice Burnaby	1968-1969
Alexine Crawford Howell	1970
J. Roger Omohundro	1971-1972
Charlsie Berly	1973, 1976, 1978-1985
W. T. Block	1974-1975, 1977
Ellen Rienstra and Judith Linsley	1986-1989
Marion Holt	1990-1995
Jonathon K. Gerland	1996-1999
Judith W. Linsley	1999-2002
Penny Lousia Clark	2004-2006
Robert Schott	2007-2008
Dr. Ralph Wooster	2009-2010
Dr. John Storey	2011

INSTITUTIONAL MEMBERS

Allen County Public Library	Fort Wayne, IN
American Antiquarian Society	Worcester, MA
Baylor University Libraries	Waco, TX
Beaumont Heritage Society	Beaumont, TX
CB#3938 Davis Library	Chappel Hill,NC
Detroit Public Library	Detroit, MI
Daughters of the Republic of Texas Library	San Antonio, TX
EBSCO Publishing	Ipswich, MA
Ed Rachal Memorial Library	Falfurrias,TX
EP Ipswich	Ipswich, MA
Fire Museum	Beaumont, TX
Galveston Texas History Center	Galveston, TX
Gates Memorial Library	Port Arthur, TX
Harvard College Library	Cambridge, MA
Houston Public Library	Houston, TX
Jefferson County Historical Commission	Beaumont, TX
Lamar University Library	Beaumont, TX
Lamar University Orange Library	Orange, TX
Lewisville Public Library	Lewisville, TX
Magnolia Cemetery	Beaumont, TX
McFaddin Ward House	Beaumont, TX
New Orleans Public Library	New Orleans, LA
New York Historical Society Library	New York, NY
Orange Public Library	Orange, TX
Port Arthur Public Library	Port Arthur, TX
Sam Houston Regional Library	Liberty, TX
Southwest Collection	Lubbock, TX
Stephen F. Austin State University	Nacogdoches, TX
Sterling Municipal Library	Baytown, TX
Texas Christian University, Burnett Library	Fort Worth, TX
Texas A & M University, Evans Library	College Station, TX
Texas Entergy Museum	Beaumont, TX
Texas Tech University Library	Lubbock, TX
History Center	Diboll, TX
Newberry Library	Chicago, IL
University of North Texas Library	Denton, TX
University of Texas at Arlington	Arlington, TX