

Jace Weaver and Robert H. Henry, *Then to the Rock Let Me Fly: Luther Bohanon and Judicial Activism*. (Norman: University of Oklahoma Press, 1993) pp. 212. \$27.95 ISBN 0-8061-2554-3

Then to the Rock Let Me Fly is a valuable contribution to the political, legal and social history of Oklahoma. The role of the judiciary has received too little attention in most recent histories of the state. Jace Weaver, an attorney, and, student at Union Theological Seminary, states that his purpose is: "...to sketch the life and career of one trial court judge, Luther Bohanon..." In a poetic metaphor Weaver observed: "The actions of federal trial courts form lasting threads in the invisible tapestry of social control that we call law". Weaver selects four major cases from Bohanon's 180 published opinions to demonstrate Bohanon's courage and persistence.

The book's title, "*Then to the Rock...*" is taken from an old Methodist hymn which, according to Weaver, is "an appropriate metaphor for the struggle of African-Americans for civil rights."

It also reflects the consistently strong religious beliefs evidenced in some of Judge Bohanon's judicial decisions by his use of Biblical quotations.

Luther L. Bohanon was appointed to the federal bench in 1961 by President John F. Kennedy, at the insistence of U.S. Senator Robert S. Kerr and over the objections of U.S. Attorney General Robert Kennedy and the American Bar Association's Standing Committee on the Federal Judiciary. Robert Kennedy, years later, did write a letter to Bohanon commending him for his eminent career as a judge. Throughout his career Bohanon maintained a reputation for strict judicial procedural dignity.

Weaver emphasizes Bohanon's legal and jurist career. The biographical sections briefly but adequately paint a portrait of Bohanon surviving a rigorous childhood on the family farms in eastern Oklahoma and becoming self-supported at an early age. At the University of Oklahoma School of Law, his mentor, Dean Julien Monnet, instilled in Bohanon deep reverence for the United States Constitution.

Bohanon, because of his friendship with several political leaders could have easily become one of the "good ole boys" of Oklahoma politics, but his deep moral and religious foundations evidently directed him to a more noble path, and sustained him through the backlash which followed his controversial decisions.

All four cases selected by Weaver illustrate Bohanon's devotions to equality, justice and concern for human rights. Weaver presents succinct summaries and brief historical background information for each of the four cases. He does not resort to "legalese" but uses uncluttered prose throughout.

In the chapter, "The School Board Case," (*Dowell v. Board of Education*, 219 F.Supp 427), Weaver presents a review of the history of "Jim Crow" in Oklahoma and the civil rights struggles of African-Americans and describes the recalcitrance of the urban school boards to comply with federal desegregation mandates. This protracted legal battle continues today. Weaver does not, however, address the changes in housing patterns which resulted from the proposed integration of schools and subsequent "white flight."

In "The Prison Case" (*Battle v. Anderson*, 447 F.Supp 516), Weaver briefly describes the archaic, abusive and corrupt conditions which were prevalent in state correctional institutions at the time that Bobby Battle brought suit against Warden Park J. Anderson and the Oklahoma Department of Corrections. This case resulted in a complete reorganization of the Department and continued oversight to prevent continuation of the overcrowding and other conditions.

"The American Indian Land Case" (*The Choctaw Nation v. Cherokee*, 393 F Supp.224) and earlier related cases trace the sad history of the treatment of American Indians by white settlers and the violation of treaties by the government. Bohanon determined the title to the Arkansas River Navigation Project riverbed section by section and divided the land between the involved tribal entities.

In "The Laetrile Case" (*Rutherford v. United States*, 429 F Supp. 513), Judge Bohanon expressed his support of an individual's freedom to select medical care in face of the Federal Food and Drug Administration's restricting laetrile without previous standard testing procedures. Bohanon's decision was ultimately reversed.

This compact book (159 pages of text) will interest students of political science, social history, Oklahoma history and legal history. Because of its easy flowing style the book will appeal to a general audience as well. It is well researched, and includes copious notes, an extensive bibliography and an appendix which gives the complete citations for the published opinions of Judge Bohanon in chronological order from 1962 through 1992. If there is a shortcoming, it is the limited biographical section, which serves to whet one's appetite for the Bohanon autobiography to be published in the near future. This is not intended to be a critical judicial study and Weaver does not compare Bohanon's opinions with those of other federal jurists. Enough background material is provided for

additional study by legal scholars if desired.

Readers of *Then to the Rock Let Me Fly* from any background will gain an informed and more sympathetic understanding of the contributions of one federal judge to some of the forces of change which have molded Oklahoma culture over the past three decades.

Hannah Atkins O'Neal