

**BURNITA SHELTON MATTHEWS:
THE BIOGRAPHY OF A PIONEERING WOMAN,
LAWYER AND FEMINIST**

1894-1988

by

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Women's Legal History
Course No. 579
Spring 1996

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Burnita Shelton Matthews was the first woman appointed to the Federal District Court Bench, an event which did not take place until 1949. This fact appears in the history books, but Burnita accomplished many other things throughout her life that made her an exceptional person. She spent a lifetime fighting for women's rights under the law. The issues Burnita tackled spanned from suffrage to jury service, and from property to citizenship. The image of a train steadily making its way uphill exemplifies the way that she worked for women. She tirelessly and steadily labored first on one issue then on the next, putting together pamphlets, writing articles, making speeches, testifying before Congress and other legislative bodies, even picketing if that was what was called for. She focused much of her energy on educating women about the legal impediments to their equality and was frustrated by the inability of women to stand together on issues affecting them. Not emotional or flamboyant, Burnita was always characterized as intelligent, caring, logical, and sincere.

Burnita, who participated in the push for national woman suffrage in the 1910s, admired many early woman suffragists. She often quoted Abigail Adams' "remember the ladies" passage in her speeches and articles, stating sadly "But the ladies were not remembered in the Constitution."¹ She also referred back on occasion to the 1848 Seneca Falls Convention², lamenting that "in 1934 all of these rights remain to be won except the right to vote." As much as she may have admired early suffragists, Burnita held nothing but contempt for Blackstone, the famous legal scholar, who wrote treatises of the common law. Whenever possible she mocked his statement, "So great a favorite is the female ... of the law," by pointing out the many ways that the common law subordinated women because of a "defect" in their sex.

No one who studies the life of Burnita Matthews could doubt that she was a feminist. In fact, Burnita's affiliation with the National Woman's Party made her somewhat of a radical in the eyes of her contemporaries. She broke barriers for women by being a first and provided a path for other women to follow in her footsteps by performing her duties in an exemplary manner. She consistently advocated for the advancement of women in the eyes of the law, and she did this not simply by writing about it, although she did that as well, but by putting herself right in the middle of the fight. And, she helped other women organize in favor of their causes, by educating women and by serving as a leader in many women's groups. Though Burnita was not a superwoman, like those who ably juggled a career with their many children, she treated the Movement as her child and raised it as best she could.

FAMILY BACKGROUND

Burnita was born near Hazelhurst, Mississippi, on December 28, 1894. She had four brothers of whom only one was older, and all of whom she outlived. Burnita's

father, Burnell Shelton, served as Clerk of the Chancery Court and Tax Collector for Copiah County, Mississippi, in addition to farming the family's land. Because Burnita often accompanied her father to his office in the courthouse building, she felt comfortable in that environment from an early age, and said that she always wanted to be a lawyer. An old family friend even remarked when Burnita was but a young girl that she should be a lawyer. Somewhat unusually for the time, Burnita's mother, Lora Barlow, was college-educated, having graduated from Whitworth College in Mississippi. At 16, Burnita took over motherly responsibilities over the four boys and her father after her mother died. This experience kept Burnita from lamenting the fact that she never had children of her own.³

Burnita's father sent her to the Cincinnati Conservatory of Music, so that she could earn a living by teaching music lessons, in his eyes a suitable occupation for a member of the fairer sex. Consistent with this, he sent Burnita's older brother, a gifted pianist, to law school. One of her younger brothers also became a lawyer and worked in her firm for a short time in the 1920s. After leaving Cincinnati, Burnita taught piano in Georgia for a while before getting back on course to pursue her dream of becoming a lawyer, a decision supported by her then fiancée, Percy Matthews. The two wed in 1917, the same year that Burnita started law school at what is now George Washington University. Percy, who also grew up in Mississippi and went to high school with Burnita, was himself a lawyer serving as a judge advocate general in the U.S. Army.

LAW SCHOOL

Aware that her father would not finance her endeavor into the law, Burnita took a job as a clerk in Veterans' Administration (VA). She worked all day at the VA, attended classes from 6:30 to 10:00 at night and then studied before doing it all again the next day. While others might think this was more than enough to do, Burnita also often spent her Sundays picketing the White House for woman suffrage. Always pragmatic, Burnita kept in mind the law against speaking without a permit, "So when anybody tried to get me to talk with them, I didn't talk, I didn't answer, because I was a law student, and I thought that if I got arrested and had an arrest record, it would be counted against me when I tried to get admitted to the bar." Even when one passerby inquired of her, "What are you being paid for this?" Burnita would not respond for fear that it would catch up with her, even though she desperately wanted to explain that she marched, not for pay, but because she believed in the cause. Though her law school classmates were generally accepting and friendly with her, they never fully understood why she participated in these marches, and thought it was unpatriotic of "these women" to bother the President when he should be worrying about the war (WW I). Burnita was puzzled by the reactions of the public to the picketing as well as the opinions expressed by her classmates, who were supposed to be intelligent.

How could people not understand that voting was a fundamental right in this country which had been far too long denied to women. If anything, demanding the right to vote for the country's leaders is the essence of patriotism.

Despite these differences of opinion and though her professors "would tell little jokes that would put women in their places so to speak," she always said she felt comfortable in law school and was proud to be elected vice-president of her class, one election in which she was allowed to vote at the time. Raised in Mississippi, Burnita always conducted herself with a kind of southern etiquette, which kept her from complaining about the treatment she received. She considered it improper, like criticizing the meal after having dinner over at someone's house. Also, Burnita was not possessed of a terribly aggressive personality particular in the context of a face to face encounter. She found it more effective to logically explain her position than to get angry or excited. She thought that the right way to secure equal rights for women was to work within the legal system and change the laws. This attitude is consistent with her reaction to her classmates and professors.

Burnita passed the District of Columbia Bar in 1920, but was not received into the profession with open arms. Though she was admitted to practice, the DC Bar Association returned her application and check for dues, as well as those of the other women who applied for membership at the time. And, despite her years of service and the enthusiastic recommendation of her boss, the VA would not hire her for one of the available positions in their Office of General Counsel. Like so many other woman lawyers at the time, she found refuge with others of her kind and with two other women opened her own firm -- Matthews, Berrien, and Greathouse.

Before joining her, Laura Berrien held a high ranking position with the Internal Revenue Service (IRS). Laura and Burnita worked together for many years and frequently traveled together to conventions and other meetings. Laura participated in Congressional hearings with Burnita, often testifying right after her. She also served as an officer of the Woman's Party while Burnita was their counsel. Rebekah Greathouse served as Assistant U.S. Attorney before going into private practice. She left the firm after a few years to accompany her husband to New Orleans.

THE WOMAN'S PARTY

As she had during law school, Burnita worked with the National Woman's Party after she became a lawyer. She took up with them when she was asked to join in picketing the White House for suffrage during law school and stuck with them for years to follow. At the time the Party was headed up by Alice Paul. Alice Paul was one of the early suffragists and was forced out of the National American

Women's Suffrage Association (NAWSA) after differences of opinion among the membership of that group. The Woman's Party, which Alice Paul formed only after splitting with NAWSA, stood to the left on the political spectrum and was considered quite radical at the time. While NAWSA organized grass roots efforts in the states to gain suffrage, the National Woman's Party picketed the White House⁴, sometimes chaining themselves to the fences there, went on hunger strikes, and even burned a paper figure of the President in protest. Typical was a demonstration in front of the Metropolitan Opera House in New York where President Wilson was attending a performance. The demonstration led to the arrest of six members of the Woman's Party, including Alice Paul, for disorderly conduct after a fight with police.⁵ Many of the other women's groups around the country opposed the tactics of the Women's Party, resulting in a schism in the movement for women's rights.

They also disagreed on political issues after women achieved the vote. While the Woman's Party favored the passage of the Equal Rights Amendment and the eradication of any laws that treated women and men differently, other groups such as the League of Women Voters, supported many of the laws that were targeted specifically toward women, like protective labor legislation. When the governor of Mississippi appointed Burnita as the state's representative to the International Woman Suffrage Alliance Meeting in Paris in 1926, the League of Women Voters spoke out in opposition to her attendance. Burnita was disappointed that after suffrage, women's groups did not seem to be able to get together on issues. "It's much easier to concentrate women on working for one thing like suffrage. Suffrage seemed to be the answer to everything."

The press also regarded the Woman's Party with some contempt. The March 1923 volume of *Hearst's International Magazine* included an editorial lambasting the Woman's Party.

Stupidity takes many forms.... The only thing that annoys us more than mosquitoes is the Woman's Party. Women belong in politics. ... But the few dozen women, largely childless, who form the so-called Woman's Party, have no talent except pugnacity and no principle except mathematical equality.

The editorial goes on to call the women a "little group of energetic, un-female, and ignorant women" and a "pugnacious little band of similarity maniacs." The members of the Woman's Party got a kick out of such commentaries, including them regularly in their publication entitled *Equal Rights*.

Burnita devoted herself to the Woman's Party and eventually served as their counsel. But, her sense of propriety kept her from taking part in some of the more radical events. In her later years, she would point out that there was a line she did not cross. She described the tactics of the suffragists in England, such as putting flyers covered with glue into mailboxes so the flyer would stick to their

hands, as “annoying” and “childish,” making clear, “I never participated in this sort of thing.”

The Party set Burnita the task of researching laws that were discriminatory to women in the states. Burnita’s approach was systematic as always. When she uncovered a law that put women of that state at a disadvantage, she promptly drafted a bill that would rectify the situation and sent it off to the appropriate legislative committee in the state government. Burnita eventually served as counsel for the Woman’s Party and in that way was able to make a living and at the same time toil for women’s rights. Her devotion to women’s issues was never more apparent than in those early years of her law practice. In fact, Burnita worked on securing equal rights for women almost nonstop from the day she became a lawyer in 1920, until she was appointed to the bench in 1949.

In addition to her feminist work, Burnita represented the Party in what turned out to be one of her most famous cases. In 1927 the U.S. government sought to condemn the Party’s headquarters, along with some other properties, in order to construct a new building for the U.S. Supreme Court. Burnita represented the Woman’s Party and many of the other property owners in the proceeding. Some of the property owners had asked a local restaurant owner who knew all about the properties, who would be the best man to represent them. He responded, “The best man for the job is a woman,” and that woman was Burnita. Before ending up in court, she tried to talk the decisionmakers out of taking the Woman’s Party’s sanctuary. She went to see Justice and former President William Howard Taft at his home to make her plea. This attempt was unsuccessful though and the Supreme Court eventually got their new building, but not before Burnita had secured for her clients the largest award in such a condemnation proceeding up to that date. For the Women’s Party alone she got \$300,000. As a result of this case, she was well-known in real estate circles bringing in many future clients to the firm of Matthews, Berrien, and Greathouse.

Burnita’s property work never took her away from women’s issues for long. She realized that many women, particularly those without legal training, did not fully understand the implications of laws that kept them “in their place”. One of her first projects as counsel for the Woman’s Party was to author a pamphlet, entitled “The Denial of Justice to Women,” targeted at a lay audience explaining the areas of the law that put women at a disadvantage and what the real life consequences of the laws were. There was no area of the law for which Burnita could not present a moving example of the discriminatory law in action. In decrying the laws that favored the father of a child over the mother, she told the story of “a 17 year old boy ... killed due to the caving in of the roof of a theater and his destitute mother sought to recover the damages she sustained by his death. The Court pointed out that any damages recovered would be only for the ‘next of kin’” who was the father.

WHY AREN'T WOMEN ON JURIES?

Of all the areas of the law that Burnita sought to change, two in particular received her most concerted attention -- jury service and workplace legislation. "It is manifestly unfair that women should be excluded from the panel from which jurors are drawn," she told members of the House Judiciary Committee when she testified in favor of a law to put women on federal juries in 1937. By that time she had already spent over 10 years trying to get women on juries. Like many other suffragists she thought that since jurors were selected from voter registration that as soon as women got the vote, they would be eligible for jury service. This was the case in nearly half the states, but the others persisted in excluding women from the jury box for decades after they had gained suffrage.

In "The Denial of Justice to Women," Burnita attacked the reasoning of the Supreme Court when it held that "colored men" could not be barred from juries because that "would brand them as an inferior class of citizens," considering that the same statement did not seem to apply to women. She wrote with apt sarcasm that, "Nevertheless, the Court in this case, by a peculiar process of masculine reasoning, said that certain restrictions might legally be put upon jury service, such as limiting it to males." So as to be an authority and a successful defender, Burnita acquainted herself with the status of women serving on juries throughout the states and also abroad. She learned which states called women in as a result of voter registration and which had to pass special laws. She also made herself familiar with the states that had special provisions to excuse a woman upon her request. It was generally accepted that these provisions resulted in fewer women being called in the first place since, it was thought, they would not serve anyway. For states that did not allow women, Burnita would draft a new law rectifying the problem and send it on to that state's lawmakers. In DC, she herself made regular trips to the courthouse to monitor the number of women called and also the number who exercised their option to be automatically excluded. She felt that to be the most effective advocate for putting women on juries she needed to know what was actually going on in the courthouses first-hand.

When Burnita finally went to testify before Congress in favor of a bill allowing women on federal juries, she went with an arsenal of knowledge and experience and strong reasoning on her side. On a spring day in Washington, she and a group of women gathered together before heading over to the Congressional buildings. The group included her law partner Laura Berrien, who at the time was Secretary of the Woman's Party, and Anita Pollitzer, with whom Burnita had traveled to Europe several years earlier. As they walked over to the Capital, they plotted strategy and discussed which Congressmen were likely to be sympathetic. By this time, Burnita was an old-hand at this type of thing, she and Laura having previously testified before Congressional Committees on several occasions. She knew her arguments in favor and knew well what objections would be raised against the bill.

After introducing herself to the Committee, Burnita began to lay out the Woman's Party's reasons for supporting the Bill. But no sooner than she got started the Congressmen started to fire questions at her. She kept her cool and responded to each question as it came. She appeared not to notice that the Congressmen sometimes cut her off before she could finish her point. Burnita became annoyed, though, when it seemed to her that the legislators were too deeply concerned with trivial matters, considering that jury duty is a fundamental part of citizenship. Congressman Robert L. Ramsay of West Virginia, questioned her on the impropriety of having women and men "and colored people" sitting in such proximity as would be required during jury service, to which she responded glibly, "My observation is that we always worry most about those things that never happen." She then pointed out "Well, on Pullmans, the people are all kept in one room, and there is just a small curtain there that separates them, and they seem to get along very well."

Burnita also sent a letter to judges in jurisdictions that allowed women on juries requesting "their experience and observations with respect to women jurors," in order to pass this information on to the Committee. The responses she received generally expressed a positive attitude toward women jurors, but were not always filled with glowing praise. Bert Haney of the Ninth Circuit Court of Appeals wrote, "For a considerable number of years ... women have been eligible for, and have actually been serving upon, juries in [Oregon] courts.... the change ... has neither benefited nor harmed the situation with respect to the type or class of service rendered by juries." Most letters described the service of women on juries as "satisfactory" or as no different than men.

The bill putting women on federal juries was passed and signed into law by the President in March of 1937. Public sentiment though was mixed on the issue. In a letter to the *Washington Post*, one opponent suggested that many women did not want to serve on juries. At the same time, the writer⁶ chastises these women for not speaking up sooner, "if the good women of the District [of Columbia] who desire immunity from jury service are forced to serve they will be getting only their just desserts for allowing the high pressure feminist lobby to jam through Congress [this] legislation."

EQUALITY VERSUS PROTECTION⁷

Another of Burnita's pet projects was the eradication of "protective" workplace legislation. The term refers in particular to laws providing special protections for women workers. Minimum wages and maximum hours for women workers are two examples. The majority of organizations of progressive women in the late 1800's and early 1900's supported protective legislation. In fact, the National Consumers' League (NCL), headed up by Florence Kelley, helped pass such laws and defended them against challenges in cases such as Muller v. Oregon

(208 U.S. 412 (1908)), a case upholding an Oregon statute that limited the number of hours a woman could work per day to 10. The National Woman's Party, after women gained suffrage in 1920, found itself at odds with the NCL and other organizations that stood behind protective legislation. For one thing, the Woman's Party vigorously fought for the passage of the Equal Rights Amendment, which Alice Paul, then president of the Party, drafted. The Equal Rights Amendment, necessarily, would have invalidated any laws applying differently to women than to men. Second, the Woman's Party opposed protective legislation as a matter of principle, believing that any labor laws that applied to women should also apply to men.

Burnita was well aware that early feminists had fought long and hard for these protections, but she was confronted with the real life effects of laws that limited the hours that a woman could work, or that required an employer to decide between hiring a woman and having the government tell him how much to pay her or hiring a man making the decision himself. In speeches and articles on the subject, Burnita cited example after example of the ways in which women were harmed by the laws that claimed to protect them. In a 1934 speech before the General Federation of Women's Clubs, she praised California women for defeating a protective bill, "Fortunately, [they] saw that the Bill would give them the theoretical protection of an 8-hour day and take from them the actual protection of well-paid jobs." She also repeatedly cited the case of Harvard University's discharge of 20 scrubwomen in favor of hiring men for the jobs rather than comply with the minimum wage law for women in Massachusetts. Burnita believed that protective labor legislation rested on the patently false assumption that women could have equality in the workplace and protective legislation at the same time. She advocated for the passage of labor laws based on the nature of the work rather than on the sex of the worker. She ridiculed the "scientific" evidence that was held up in favor of special labor laws for women, such as the finding "that the rhythm of machinery is not adapted to the female organism" or that "intellectual work is said to be a still heavier cause of sickness among women," and predicted that "a future generation will be as amused at the present-day conception of 'protection'" as the women of the 1930s were at the common law "protections" that gave the husband all decisionmaking power over the wife.

In 1935, she and law partner Rebekah Greathouse authored an amicus brief in the case of Morehead v. New York ex rel. Tipaldo (298 U.S. 587 (1936)). Their brief displayed a solid understanding of the law up to that time and was appropriately lacking in emotional or inflammatory rhetoric. Notable, the brief for the NCL in the same case was authored by future Supreme Court Justice, Felix Frankfurter. In Morehead, the Supreme Court struck down New York's minimum wage law for women. The victory for Burnita and the Woman's Party was short-lived, however, as the Court repudiated the decision only nine months later in West Coast Hotel v. Parrish (300 U.S. 379 (1936)).

Burnita remained committed to ridding the U.S. of labor legislation that applied only to women until her appointment to the bench in 1949, "If the labor legislation is beneficial, why not give the benefit to all?" She never saw it as a betrayal to those feminists who had come before her. She stridently advocated the Equal Rights Amendment and saw equality in the workplace as a necessary factor as well as one the desirable outcomes of the Amendment.

NATIONAL ASSOCIATION OF WOMAN LAWYERS

Labor legislation is one example of an area of law that would have been affected by the ERA but which many women wished to preserve. Despite the rifts that existed among women's groups, though, Burnita attained the respect of her fellow women lawyers, as evidenced by her election as president of the National Association of Women Lawyers (NAWL) in 1934.

Burnita and Laura Berrien were attending the American Bar Convention in Milwaukee when the election took place. Their hostess in Milwaukee, Anne Clement Rotter, a National Woman's Party leader and lobbyist, reported on their visit and Burnita's reaction to the honor in a letter to *Equal Rights*. "[O]ur newly elected president, somewhat shocked at the turn of events, began immediately to think of the great responsibility rather than the great honor which had been bestowed on her. Such a serious-minded woman is our little Burnita." Mrs. Rotter was clearly taken with both Burnita and Laura and felt it was a great honor to have them stay in her home. Burnita, while a strident advocate for equal rights, felt that it was crucial that women continued to participate in organizations, like NAWL, that were strictly for women. In an article entitled, "Why An Association of Women Lawyers," she wrote, "[W]e live as yet in a man's world instead of a world for all human beings. Women, in the field of law, represent a small minority. And it is fundamental that the interests of minorities are best served by their banding together." Burnita made an effort to remember the women that had broken the barriers in order that she and her contemporaries could take up where they left off. In 1927, she wrote a short biography of Emma M. Gillett, co-founder of the Washington College of Law⁸, for publication in *Equal Rights*. Burnita eventually taught evidence at the law school founded by Emma Gillett and Ellen Spencer Mussey.

Burnita also brought women together in other groups and represented women in leadership positions in various organizations. She knew that, in a way, suffrage was the easiest battle in the war for equality, because from there on out, women were divided on issues such as jury service, workplace legislation, and property rights.

JUDGE MATTHEWS

When in 1949 30 new judgeships were created on the Federal District Courts, Burnita's name was presented to President Harry Truman by India Edwards, from the Democratic National Committee, as a candidate.⁹ Burnita received wide support from women's groups throughout the country, including NAWL, the Federation of Business and Professional Women's Clubs, and 15 state federations of women's clubs. In addition, through her extensive lobbying and other legal work around Washington, D.C., Burnita became known and respected by numerous senators, congressmen, and other politicians who also rallied to support her for the position.

Upon her appointment, Judge T. Alan Goldsborough said, "Mrs. Matthews would be a good judge, but there is just one thing wrong with her: she's a woman." Although Judge Goldsborough later told Burnita that while he thought it was a mistake to appoint a woman, he no longer resented the fact that she was a judge. Most, however, did not share the sentiment of the Judge and made Burnita feel quite welcome in the position. The *Washington Post* treated her appointment with some interest, but the focus was more on what to do about a "powder room," than on any questions about her qualifications. William M. Boyle, chairman of the Democratic National Committee, vowed that the Democrats would continue the trend and appoint more women to government positions. It is noteworthy that Burnita was not appointed to a vacated position, but was the only woman appointed when 30 new judgeships were created, despite the big talk by the democrats. Burnita always said that the other judges made her feel welcome, pointing out that the head judge gave up his own chambers for a short period until hers could be ready. In her obituary, however, the New York Times recounted the "icy" welcome she received from the other judges on the court who conspired to assign her all of the long motions, "the most technical and least rewarding part of the court's docket." As was her nature, Burnita never complained about her assignments, choosing instead to quietly work to gain the respect of her fellow judges.

Burnita did not think it proper to continue her work for women's rights once she began to serve on the bench, and so curtailed her activities. She did, though, appear on "Bill Moyers' Journal" in 1973, to talk about ERA. She continued to help women in the legal field by hiring exclusively women as her law clerks and by conducting herself with the utmost skill and integrity. "The reason I always had women was because, so often, when a woman makes good at something they always say that some man did it. So I just thought it would be better to have women. I wanted to show my confidence in women, so I always chose women."

Judge Matthews presided over some well-known trials over the years, including a passport dispute for singer Paul Robeson and one upholding the right of Black Muslims to conduct religious services in prison. Perhaps the most well-known trial, though, was the bribery trial of teamsters leader Jimmy Hoffa in 1957. The

press covered the trial extensively and reports appeared daily in the *Washington Post*. When Burnita found out that some of the jurors had received copies of an article favorable to Hoffa, she sequestered the jury, an unusual move in a non-capital case made even more noteworthy by the fact that the sequestered jurors spent the duration of the trial, about 3 weeks, living in the courthouse itself rather than a hotel.¹⁰ There was much speculation as to the reason since she did not reveal it in court.¹¹ During the course of the trial, Hoffa's attorney, Edward Bennett Williams, employed every legal maneuver in the book. He moved to exclude the government's star witness, the man that Hoffa was accused of bribing, moved for mistrial twice and directed verdict once. In addition, Hoffa had a codefendant whose lawyer became ill during the trial, leaving Burnita to decide whether to declare a mistrial or sever the other defendant. Throughout all of the excitement, Burnita's rulings were considered proper and each was supported by sound legal reasoning. She also received a confidence vote from the D.C. Circuit Court of Appeals when the court affirmed one of her early rulings, which Williams had immediately appealed. The judge severed the trial of the other defendant, and the jury acquitted Hoffa after deliberating for 3 1/2 hours. The trial was a 1950s version of the O.J. Simpson murder trial in several respects. First, Edward Bennett Williams was widely considered one of the best defense lawyers around. Second, there was a lot of discussion about the racial make-up of the jury, which was made up of 8 African Americans and 4 Caucasians. Both legal teams brought in an African American colleague to sit at the counsel table during the trial, and celebrities such as Joe Lewis turned up to show support.

Despite the fact that the press pointed to these trials as highlights in her judicial career, when asked which trials were most special to her, the Judge, the consummate professional said, "all the cases were important, if not to the legal world, then to the litigants themselves. I don't like to designate any as special."

Judge Matthews never retired from the court but took senior status in 1968, and continued to serve in a limited capacity. During that time, she also occasionally was asked to sit with the Court of Customs and Patent Appeals, and was the first woman to do so. In 1984, President Ronald Reagan wrote to her that, "in furthering the administration of justice in our legal system, [her] diligence, distinguished efforts and pioneering spirit serve as an inspiration to all." Burnita Matthews died after a stroke in 1988; she was 93.

CONCLUSION

Burnita Shelton Matthews lived an exceptional life as a woman lawyer and judge. She led an independent life - never having children and married to a man who spent much of their life apart serving the Army in foreign lands. On a personal level, Burnita was a conservative person with a defined sense of propriety. On a political level, though, she can be described as radical, at least early in life. And,

she was a consummate feminist, believing without doubt, in the need for equality of women under the law. Burnita devoted herself to setting right the legal relationship between men and women issue by issue. Finally, Burnita was a talented lawyer and a skilled judge, the two things not necessarily being equal. As a biography subject, she is still somewhat mysterious, as very little is written about her private life and inner feelings, but her work and her writings paint the picture of a woman utterly dedicated to securing equality for her gender.

DIRECTION FOR THE FUTURE BIOGRAPHER

This paper only begins to scratch the surface of the accomplishments in the life of Burnita Matthews. There were many roads that appeared before me but which I could not go down during the course of my research. First, Burnita's papers are housed in the Schlesinger Library at Harvard University. Before her death, she organized both personal and working papers and donated them to the library. Sadly, time constraints prevented me from ever seeing them, either at the library or through interlibrary loan. I understand that there are diaries on microfilm and a second copy was recently made for loan to other libraries. The remainder of the papers is catalogued but does not circulate.

The papers are the single most important source which I was unable to make use of, and there are several topics that should be explored through the papers. First, I am curious about her relationship with her husband and why she never had children. Percy was a lawyer and it seems likely that he supported Burnita's endeavors in the law. However, it is clear that they spent much of their time apart either because he was abroad with the Army or because she was traveling doing work for equal rights. I think it is worth exploring this relationship because it may shed light on why the fight for women's rights played such an important role in Burnita's life. I think that the choice not to have children, if in fact it was a choice, may also reveal something about Burnita's strict devotion to women's issues. Second, I think it would be interesting to pursue some of the women that were such a big part of Burnita's life, like Anita Pollitzer, Laura Berrien, Rebekah Greathouse, and Alice Paul. She spent a great deal of time working with these women and no doubt formed close personal relationships with them. Something in her papers may reveal the reasons that Burnita was so drawn to the group of women that formed the National Woman's Party, and how she chose to form a partnership with Laura and Rebekah. It would also be interesting to find out how Burnita felt when Rebekah left their practice. Did she feel betrayed or disappointed that Rebekah abandoned the firm? Did they keep in touch afterwards?

Finally, I wonder whether Burnita meant it when she said she felt comfortable from the first in law school, in court, and on the bench. How, if at all, does she explain that she could feel comfortable in the midst of the ridicule she endured in

school and the not-so-subtle discrimination that she faced when she was appointed to the bench.

I feel strongly that Burnita is a figure worth pursuing and that her story as a pioneer and a feminist should be studied by women, especially women lawyers, as an example of how to blend a career with your beliefs.

Endnotes

1 Abigail Adams wrote to her husband, John Adams, just before the Declaration of Independence urging, “I desire you would remember the ladies... If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation...”

2 In 1848, Elizabeth Cady Stanton and Lucretia Mott organized a two-day convention for women’s rights during which was written a famous “Declaration of Sentiments.”

3 I have no hard evidence to support this statement, but from everything I have read it seems plausible.

4 These demonstrations were particularly bold because the country was in the midst of World War I.

5 The *Washington Post* reported that 50 policeman came down on the suffragists demonstrating. In the end, they were released without being charged and only a few hours later the women were back on the street parading and burning a copy of President Wilson’s speech.

6 The writer signed using only his or her initials and it is not clear from the letter whether the writer was a man or a woman.

7 I have borrowed the title for this section from one of Burnita’s own speeches on the topic.

8 The Washington College of Law was founded specifically to give women a place to study law, although it was open to men from the beginning. It is now a part of American University in Washington, D.C.

9 According to Mabel Vernon, Chairman of the Peoples Mandate Committee, India Edwards’ recommendation came only when, “no competent Democratic woman candidate for the appointment appeared,” suggesting that Burnita was a

republican as many have assumed she was. Burnita, however, when asked about this said she was neither a registered democrat nor republican.

10 At the time, it was not uncommon to house sequestered jurors in the actual courthouse building as many of them were equipped with dormitories.

11 The newspapers reported the names and addresses of the jurors once they were chosen, a practice very different from the present day.

Rough Chronology

Dec. 28, 1894	Born near Hazelhurst, Mississippi
1910	Mother died leaving Burnita in a motherly role Sent to Cincinnati Conservatory of Music Taught piano lessons in Georgia
Apr. 28, 1917	Married to Percy Matthews; Percy went into the service shortly after
1917	Moved to Washington, DC; worked as a clerk in the Veterans' Administration and went to law school at night at what is now George Washington University
1919	Participated in suffrage protests in front of the White House
Feb. 9, 1919	Members of the Woman's Party burned paper figure of the President during suffrage protest
1919	Elected vice-president of her law school class
June 1919	Graduated from law school
June 1920	Took the bar
Fall 1920	Admitted to the bar
1921	Started law practice with Laura Berrien and Rebekah Greathouse
1921	Started legal research work for the Woman's Party; researched discriminatory laws in the different states at the request of Alice Paul
April 1921	Part of a delegation from the Woman's Party that went to see President Harding

1923	Research on jury service for Woman's Party
1926	Attended International Woman Suffrage Meeting in Paris; Participated in suffrage parade in England and traveled around Europe
1927	Represented Woman's Party and others in condemnation proceeding for property for the current Supreme Court Building
1930/31/33	Testified before Congress regarding citizenship issues for women and children
Sept. 8, 1934	Elected president of NAWL; trip to Milwaukee with Laura Berrien
1935	Wrote successful brief in <u>Morehead v. Tipaldo</u> , which removed "protection" for women workers
1937	Speech against Woman's Charter, Atlantic City, NJ
1937	Testified before Congress in favor of having women serve on federal juries
1940's	Taught evidence at Washington College of Law
Oct. 1949	Appointed to federal district court for the District of Columbia
Nov. 1949	First day on the bench
1957	Jimmy Hoffa trial
1968	Took senior status
1969	Husband died
1971	Ruled that disabled were entitled to hearing before social security benefits could be terminated
Apr. 1988	Dies at age 93 after a stroke

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