

Dorothy Kenyon

by Meera Trehan

I am a lover of democracy, of individual freedom and of human rights for everybody, a battler, perhaps a little bit too much of a battler sometimes, for the rights of the little fellow, the underdog, the fellow who gets forgotten or frightened or shunned because of unpopular views, but who is a human being just the same and entitled to be treated like one.¹

I. Introduction

Dorothy Kenyon lived by her ideals. Though born to a well-to-do New York family of patent attorneys, she broke with tradition and became a cause lawyer. Her life's work reflects the struggles of this century: She did legal research for the Versailles treaty, supported the labor movement, battled prostitution, served on a United Nations commissions, championed women's rights, fought Senator McCarthy, advocated civil rights, and developed programs to improve her neighborhood in New York. Kenyon met life with an impassioned strength tempered only by charm and wit.

Her guiding principle inspires: "This storm is our storm, the storm of human beings crying for fair play everywhere, and we cannot stand aside. We must move with the wind."² Dorothy Kenyon, ever-constant in her principles, moved with the winds to fight the injustices of her time.

II. A Family of Lawyers

On February 17, 1888, Dorothy Kenyon was born in her family apartment at 101 West 78th Street in Manhattan. She was Maria Wellington Stanwood and William Houston Kenyon's first child, and would be their only daughter. Two years later, her brother Theodore Stanwood Kenyon (Ted) was born in the same apartment; William Houston Kenyon, Jr. (Houston) was

born eleven years after Dorothy at the family's summer home in Lakeville, Connecticut. As her father became increasingly successful, he moved the family a few blocks to 321 West 82nd Street, where he and his wife raised their three children.

The Kenyons were a family of lawyers. William Houston Kenyon (Will), the son of Scottish immigrants, had established himself as a premier patent lawyer with the firm of Witter & Kenyon³ at the time of Dorothy's birth. He had already testified before Congress supporting a statutory minimum recovery of \$250 for the infringement of a design patent.⁴ A year after Dorothy's birth, at the age of 33, he argued his first case before the Supreme Court.⁵ For over fifty years he, and his firm, played a prominent role in shaping the emerging patent law. The firm also shaped his personal life. He met Maria Wellington Stanwood⁶ through his law partner-
-she was Mrs. Witter's first cousin.

Dorothy's father influenced her throughout her life, yet he was by no means the only lawyer in Dorothy's life. He had three younger siblings, Alan, Robert, and Mary, all of whom became lawyers. Alan and Robert followed in Will's footsteps at the City College of New York, and then Columbia Law School. Alan joined his brother's firm after several years in general practice; Robert became an associate as soon as he completed law school.⁷ Mary Houston Kenyon graduated from Hunter College, and then New York University Law School, which at the time was the only law school in New York accepting women.⁸

Unlike her brothers, Mary Kenyon was late to the practice of law. Instead, she stayed at home, caring for her invalid mother. When her mother died in 1899, Mary Kenyon was forty years old. She joined her brothers' firm that year as an associate, and worked with the firm, on-and-off, for twenty-four years, taking years off to help with family emergencies. At the firm she

found her place in the law library, not the courtroom.⁹ She created an invaluable resource, a legal research index, known to the firm as the “MHK index” which became “the firm’s hidden and occasionally decisive weapon in litigation.”¹⁰ She eventually left Kenyon & Kenyon to form her own firm, specializing in trust and estates, with her friend Mary G. Potter. She never married. Undoubtedly, Dorothy was influenced by her lawyer aunt, but she must have also recognized that her Aunt Mary was still bound by tradition, lacking the freedom her brothers had.

Dorothy’s cousins and brothers followed the course of the previous generation. All five of her brothers and male cousins choose to become lawyers. Three, including her two brothers, spent their careers at Kenyon & Kenyon. Another cousin, George Ross Kenyon, joined the firm upon graduating from law school, but later decided that he wanted a practice more generalized than patent law. Her cousin, Nelson Kenyon, had been at Columbia Law School when the United States entered World War I. He never had the chance to join the Kenyon firm; he was killed in action, two days before the Armistice.

Dorothy would be surrounded by lawyers for her entire life. Her father, uncles, and aunt established a family tradition for the next generation to follow. Before the turn of the century, Dorothy’s aunt was a law firm associate. Unlike many of the women lawyer’s of her generation, Dorothy’s eventual decision to practice law is unsurprising. With her roots, it seems somehow inevitable.

III. School Days

Dorothy grew up as a member of the privileged class, living in Upper Manhattan, attending prestigious private schools, and summering in Connecticut.¹¹ In many ways her

childhood was typical for her class and time. As a young girl she described “playing Indians in the chicken coop” with her brothers and cousins, and holding their nurse “prisoner.”¹² Once, while they played in a make-believe army she astutely observed, “There is no common soldier, we are all bosses and colonels, isn’t that queer?”¹³ She also reported some typical sibling rivalry: While vacationing at the summer home with her cousins and brother, she wrote to her parents, “I don’t like to tell tales, but at the table [my brother Ted] screams and one time he got angry at me for doing nothing, and scratched before all the grown-ups”¹⁴ Dorothy was close to her siblings and cousins despite the expected skirmishes.

Dorothy had an exceptional relationship with her father. She looked up to him both as a beloved parent and as a brilliant lawyer. As a little girl, she asked the prominent patent attorney, “Can girls be lawyers, father?” He replied with a smile, “Why not, my dear?”¹⁵ Later as a schoolgirl Dorothy composed an ode to him describing his lawyerly, athletic, and parental abilities. She wrote:

My father is a patent lawyer/He is like a great employer . . .He is one of the best lawyers in New York./He once had a case about a fork . . .He is fond of golf no wonder/for he seldom makes a blunder. . . He is very kind and good/And supplies us well with food/He is six feet, some inches./In work he never flinches.¹⁶

Dorothy even followed her father’s court battles long distance. “Congratulations on winning your case,” she wrote him from a vacation spot, “How quickly the judge decided it. It must make you feel pleased to think that your trip had such a quick and satisfactory result.”¹⁷

Dorothy extreme respect for her father was unique. As she grew up, she became a spirited, if not rebellious, young woman, and listened to no one, except him. Her father, too, was devoted to her. Her birth catalyzed a radical shift in his priorities. He later told her that she, the

“tumultuous little sprit who answered our call out of the great unknown . . . became our Mecca.”¹⁸ Although they diverged ideologically, they remained extremely close until his death in 1933.

Despite her posh surroundings, Dorothy’s childhood was not trouble-free. In the summer of 1905, Maria Kenyon took her children to their Connecticut home for a vacation. While there, she became ill with typhoid fever. On August 22, she died leaving behind seventeen-year old Dorothy, fifteen-year old Ted, and five-year old Houston. Upon Maria’s death, Mary Kenyon took a leave of absence from Kenyon & Kenyon in order to “keep house for Will and become a surrogate mother to his three children.”¹⁹ Aunt Mary cared for the family until Will Kenyon remarried Lestra Kinney in 1909.

At the time of her mother’s death, Dorothy was a student at Smith College. She had started there in 1904, after graduating from the Horace Mann School. A self-described “social butterfly,” she was actively involved in campus activities, including the hockey team. Despite her extracurricular involvement and active social life, she excelled academically and was elected to Phi Beta Kappa. Dorothy reacted unusually to the honor. Instead of being thrilled, she was miserable. She ran away from the chapel when her name was announced, not wanting to be “a scholar, a learned person, a bookworm, a blue stocking, an egghead.”²⁰ Decades later she confessed to a group of Phi Beta Kappa graduates, “I was a little anti-intellectual in those days, I fear.”²¹

In 1908, Dorothy graduated with Bachelors of Arts in Economics and History. Dr. Charles W. Eliot spoke at her graduation, stating that, “the experiment of higher education for women had not proved an utter failure and that women were demonstrating that they could make

excellent *assistants* to men.”²² His words proved motivational. Kenyon later reflected that. “[h]aving a family consisting entirely of brothers, none of whom I has the faintest intention of ever assisting in any shape or manner, this speech made a profound impression upon my youthful mind and in fact may be said to have been responsible for my unorthodox behavior ever since.”²³

Her behavior upon graduating from Smith was hardly unorthodox. She returned home to the life of a New York society girl, and filled her days with reading, horse-back riding, visits with friends, and, of course, suitors. Tall, slim, blond and attractive, she had many admirers. A family friend said of her, “Why the trouble is, all the boys are in love with her.”²⁴ Her youngest brother wrote her a teasing letter about the ten young men who had tagged her as their future wife.²⁵ Yet, for whatever reason Dorothy chose to marry none of her numerous callers. Her sister-in law hypothesized that perhaps, “her mind was too bright and her tongue too quick for any man’s comfort.”²⁶

During this time, Dorothy visited Mexico, where she first opened her eyes to the effects of poverty. The plight of the Native Americans moved her.²⁷ She also befriended a family friend’s handsome Mexican chauffeur who spoke to her of his family’s poverty, and toured poorer neighborhoods with her.²⁸ Her awakened idealism eventually combined with her boredom with society life. After clerking in a law office, she decided to go to law school to challenge her mind and pursue social justice. Despite her previous phase as a “social butterfly,” her intelligence and family background rendered this choice both logical and expected.

In 1914, Kenyon entered New York University Law School, as her aunt has done years earlier. She did reasonably well, receiving mostly As and Bs, with an occasional C, and a disappointing D in Partnership. In 1917, she graduated and passed the bar.

IV. A Promising Start

The most notable aspect of Kenyon's first legal job is not what it was, but what it wasn't. She chose not to join her father, aunt, two uncles, brother, and cousin in the firm of Kenyon & Kenyon. Will Kenyon envisioned Kenyon & Kenyon as a family firm, and had hired his sister as an associate in the past. With the impending war threatening the younger Kenyon men, Will Kenyon surely would have welcomed his daughter's talents to the firm. Nevertheless, she had no desire to be a patent lawyer, and, bucking tradition, took her first legal job as a research specialist for a group of lawyers who were advising delegates to the Versailles Peace Conference.

During the early years of Kenyon's career, she supplemented her job responsibilities with activist involvement. After the treaty had been reached Kenyon went to work for the firm of Pitkin, Rosenson & Henderson, where she worked with a variety of clients, including the then-Siamese government and agricultural cooperatives. About a decade later she went out on her own, starting her own firm with another notable New York lawyer, Dorothy Straus. They opened their office on 475 Fifth Avenue.

Kenyon's law firm work was just the tip of the iceberg. Throughout this time she was supporting birth control and women's rights, and labor rights. She also advocated measures that would allow working men and women to register to vote with greater ease. She took leadership positions in the American Association of University Women, the American Civil Liberties Union, Consumer Cooperative Service, Inc., and the New York League of Women Voters. She kept her position with the ACLU until her death.

As the Legislative Chairman of the New York League of Women Voters, she frequently voiced her frustration, often wittily, with the New York Assembly's tortoise-like pace on women's issues. After hearing that all the bills supported by her organization were killed in the Assembly Judiciary Committee, Kenyon asked, "Will our legislators never learn to study these bills on their merits? Will they never learn to let go of that archaic idea of theirs that any measure suggested by a women, no matter how reasonable, must somehow be inconsistent with maternity and housekeeping?"²⁹ In a letter to the editor advocating women on juries Kenyon quipped, "Why not call women into our jury boxes? The worst misogynist must admit that it would double the number available if nothing else."³⁰

During this time Kenyon was also vocal about her political independence. She immediately responded to the New York Times's characterization of her as a "Republican Lawyer." Her swift denial stated, "Lawyer I am, but Republican never--unless a consistent refusal to enroll in any party, a vote for La Folette in 1924 and one for Smith in 1928 constitute the ingredients of Republicanism."³¹ Interestingly, at the time Kenyon issued this denial, her brother Houston was serving as a special Assistant U.S. Attorney General with the Republican Hoover administration.³² Her father, whom she so adored, was also a life-long Republican. This break from her family tradition opened her career in a new direction.

V. The Public Servant at Home and Abroad

Kenyon's career path shifted to public service in the mid-1930s and stayed that course for the next fifteen years. At first her focus was local, serving in various capacities in the New York City government. But her city service was soon interspersed with international missions to the

League of Nations, and then the United Nations.

Kenyon's first appointment to the city government in 1935 created a controversy. Elmer Andrews, the State Industrial Commissioner, selected Kenyon as a public representative to the Hotel and Restaurant Wage Board. The Board was responsible for fixing the wages and working conditions for 60,000 hotel and restaurant workers.³³ An employer advocate immediately protested Kenyon's appointment, claiming that she was not disinterested and would always side with the employees.³⁴ Kenyon, offended by the charges, insisted on resigning. She called the accusation "unfounded and unfair," but noted that they "nevertheless destroy my usefulness. Any conscientious judge whose fairmindedness is challenged in any proceeding will immediately withdraw. . . . [the] attack instantly transformed the hearing from a judicial proceeding into guerilla warfare I refuse to permit myself to be dragged into anything so unseemly."³⁵ Though Kenyon insisted on resigning, Andrews refused to accept her resignation. Eventually Andrews yielded, but only to expedite the Board's work.³⁶

Kenyon soon returned to the city government, bringing her progressive spirit to the job. Later that year, Democrat Mayor Fiorello La Guardia appointed and swore in her as Deputy License Commissioner. In a move that garnered both acclaim and criticism, Kenyon refused to close down burlesque houses. She remarked that "she saw no reason to prohibit 'the only beauty in the lives of icemen and messenger boys.'"³⁷ Kenyon's open-minded attitude also shaped her study of the women's court system. She chaired a committee of the Welfare Council studying the issue and concluded that prostitutes needed sympathetic social treatment, not criminal prosecution. "Instead of being tried and sentenced for a penal offense," Kenyon commented, "[prostitutes] should be offered shelter, food, vocational training, and in this fashion be led to a

better way of life.”³⁸ At the same time, she strongly supported the prosecutions of pimps, calling them “the only real criminal offenders in any prostitution case.”³⁹ At the close of 1937, Kenyon resigned as Deputy Commissioner to return to “her real love,” the law. Mayor La Guardia accepted with regret, thanking her for “very fine service to the city.”⁴⁰

Mayor La Guardia was so impressed with Kenyon’s work that he decided to appoint her as a judge. Decades later Kenyon reported, “[h]e hounded me to put me on the bench . . . [a]nd I told him I couldn’t be a magistrate--it’s just the dregs . . . And I didn’t want to be on the children’s court, or the family court . . . Because I said that’s a social worker’s court and I’m a lawyer.”⁴¹ Mayor La Guardia “didn’t have much in his power beyond that.”⁴² He did however have the authority to appoint her to a municipal court vacancy. He swore her in on January 21, 1939. She served until her term expired in 1940. Kenyon’s re-election bid was unsuccessful-- as she put it, “the big Tammany machine rose up and knocked me down.”⁴³

The efforts of Kenyon and many others to gain greater rights for New York women finally bore fruit during this time. In 1937, women attained the right to serve on juries in New York. Kenyon was among the first women in the state to file for jury duty; the *New York Times* featured a picture of her taking the requisite oath.⁴⁴ The private sector also opened up as the prestigious New York City bar association admitted its first female members that year. Kenyon and her law partner Dorothy Straus were among the elite group of twelve women lawyers. Prior to their admittance women were allowed to use the bar association’s excellent research facilities only one day a year. Kenyon and Straus expressed delight at “the opening of one more of those doors that had been closed to women for so long.”⁴⁵ The *New York Times*, in the timeless spirit of lawyers jokes, commented that “usually it would be a subject for congratulations, but after

what we have recently been told about lawyers it is hard to say.”⁴⁶

Kenyon’s talents soon became known outside the borders of New York City. In January 1938, the Council of the League of Nations appointed her to serve as the American delegate on an eight-person committee on the status of women in various countries. The Young Women’s Christian Association submitted her name to the League, and other international group quickly endorsed her. Upon hearing the news Kenyon was thrilled, telling reporters, “I am terribly pleased and proud to be included. I had planned a cruise to the Caribbean, but now it seems that I shall be going to Europe instead I believe I was chosen because I am a lawyer and in that capacity I will contribute everything I can.”⁴⁷ Two organizations, the American Labor Party and the Women’s City Club, honored her with send-off parties. Mayor La Guardia attended the latter. The *New York Times* also complimented Kenyon, stating that “[t]he caliber of the women [on the League of Nations Committee] is indicated by the American member, Judge Dorothy Kenyon, an expert in the field of social legislation whose qualifications, already well known to New Yorkers, are now recognized in the international field.”⁴⁸ In late March of 1938, Kenyon set sail for Europe on the Cunard White Line *Aquitania* with a copy of “George Slocombe’s gossipy volume ‘A Mirror to Geneva,’” which explored the people and history of the League of Nations.⁴⁹

Kenyon served on the League of Nations Committee for its duration, 1938-43, traveling between New York and Geneva. That Committee was the League’s first to have a majority of women members, and, according to Kenyon, one whose work “encompasses the biggest piece of comparative law ever undertaken.”⁵⁰ The experiences of her international colleagues showed her that while Americans led the push for equality in some areas of life, they were sorely lacking in

others. For example, the French representative did not have the right to vote, but was a law professor at a law school. Kenyon noted, “such a thing would not be considered by Columbia or Harvard University, neither of which have women members on their law faculties. Harvard still does not even admit women to its law courses.”⁵¹ She described this paradox as a “higgledy-piggledy situation,” demonstrating the different types of rights at issue.⁵²

World War II channeled, but did not change, Kenyon’s focus. In addition to her League of Nations Work, Kenyon fought for the rights of women who wanted to serve. She testified before the House Military Affairs Subcommittee, supporting a proposal to allow the medical departments of the Army and Navy to commission women doctors and nurses. Although the measure did not pass, Kenyon encouraged women health professionals to serve in any capacity possible, so as to remain loyal to America. The Women’s Medical Society of New York conferred honorary membership on Kenyon, in recognition for her support of the legislation. Kenyon also chaired the Women’s Council of the Greater New York Fund, aimed at improving the health and welfare of the City. On the international front, she co-wrote a letter supporting the release of a Spanish women lawyer held prisoner by the Franco regime. And as always, she remained vocal in support for civil rights, seeing the war effort as aimed at protecting such rights.

In a letter to the editor she questioned:

What is Mrs. Luce driving at by these insinuations, anyway? Is she saying that it is “American” to be Anglo-Saxon, but not Russian; American to be Gentile but not Jewish; American to be rich, but not poor? Shame on you Mrs. Luce, to drag that fine word “American” into the gutter with you. Shame so to dishonor it as to tag as “un-American” the poor immigrant from a foreign land who comes here thinking that this is the land of freedom. How can such despicable bigotry be possible, right now above all, when our boys are fighting and dying to end forever that very thing?⁵³

Kenyon's voice remained a prominent one during the war. In 1943, the *New York Times* sponsored a national conference of women to discuss their visions of a post-war world. Kenyon, as one of twelve women selected to participate as a speaker, was in distinguished company: others in the group included Pearl Buck, Margaret Mead, Frances Perkins, and Edna St. Vincent Millay. She used this forum as yet another opportunity to advocate women's rights, stating, "A world which freely utilizes the brains and capacities of its women is a complete and rounded world in the sense that a world that keeps its women swathed in veils can never be. . . . Not only this nation, but this world too cannot exist half-slave and half-free."⁵⁴

After the Allied victory, Kenyon had the opportunity to work to achieve this vision in a new, but very familiar capacity. President Truman appointed her to a three-year term on the United Nations Commission on the Status of Women. Again Kenyon played an active role in a host of women's issues--she fought to end polygamy, to institute worldwide suffrage, to secure the right of married women to choose their own nationality, and openly deplored the lack of women in important positions in the United States government. She tempered her activist spirit with cultural tolerance. For example, while she opposed polygamy, she refrained from forcing her views on unwilling people "because that too is contrary to civil liberties."⁵⁵ She also supported human rights generally, noting that equality is meaningless if the entire population is enslaved.⁵⁶

Kenyon's served her term exceptionally. The Women's Trade Union League, which represented 120,000 women workers, bestowed upon her their "Women of the Year" award for her contribution "to the advancement of women workers."⁵⁷ At the completion of her term, the *New York Times* called Kenyon "a shining example of the role qualified women can play in the

United Nations organization.” It continued,

no one has done more effective spadework in [the area of international women’s rights] than Judge Kenyon. Her term is now expiring and for the experience she has gained and the prestige she has won for her country--and her countrywomen--in the pioneer period of the U.N. we hope that she will be re-appointed to represent the United States on this important commission.⁵⁸

Despite this recognition, on January 15, 1950, President Truman nominated Democratic party activist Mrs. Olive Remington Goldman to fill Kenyon’s position.⁵⁹ Though Kenyon would practice law for two more decades, she would never be appointed to public office again.

VI. The Specter of McCarthyism

A political bomb dropped on Kenyon less than two months after President Truman declined to re-appoint her: On March 8, 1950, Senator Joseph McCarthy publicly accused her of having been “affiliated with twenty-eight Communist-front organizations”⁶⁰ and having collaborated with known Communists. He asserted that

[t]he Communist activities of Miss Kenyon are not only deep-rooted but extend back through the years. It is inconceivable that this women could collaborate with a score of organizations dedicated to the overthrow of our form of government by force and violence, participate in their activities, lend her name to their nefarious purposes, and be ignorant of the whole sordid and un-American aspect of their work.⁶¹

Outraged, Kenyon immediately denied the charged and called Sen. McCarthy “an unmitigated liar . . . and a coward to take shelter in the cloak of Congressional immunity.”⁶² The next day she telegraphed the Senate Foreign Relations Subcommittee with a demand to appear to “attack Senator McCarthy’s outrageous and malicious charges against me.”⁶³ The subcommittee unanimously decided that she should testify the following week.⁶⁴

The *New York Times*, along with many other supporters, rose to Kenyon's defense as soon as McCarthy leveled his accusations. It remarked that Sen. McCarthy's investigation was "off to a feeble start" by charging Kenyon with subversive activities. The *Times* noted that Kenyon was 1) never employed at the State Department, 2) not accused of currently being a Communist, and 3) a member, like many respectable people, of organizations that merely wished to promote U.S.-Russian relations during the war.⁶⁵ Her work on the United Nations Commission, where she frequently clashed with the Soviet representative in support of democracy, was deemed "a sufficient reply to Mr. McCarthy's accusations."⁶⁶

While that may have been sufficient for the *Times*, Kenyon had more to say. So, in the afternoon of March 14, 1950, Kenyon testified in Washington to defend herself. She first stated under oath that "as emphatically and unreservedly as possible, I deny any connection with communism or its adherents."⁶⁷ Professing a "complete detestation of that political philosophy," she described her denial as "all-inclusive."⁶⁸ She then offered documentary evidence to prove her loyalty, including a letter signed by a former Presidential candidate, John W. Davis, and former Secretary of War, Robert P. Patterson, asserting that she "never has the slight sympathy with communism."⁶⁹ Kenyon acknowledged that she may have been a member of organizations that were later termed "subversive."⁷⁰ Nevertheless, she swore that she had never "been knowingly identified with any organization, or person, holding subversive views."⁷¹ She acknowledged that she may have been a "sucker" with regard to some of her affiliations, but she added that these charges might also stem from enemies she had made through her work on behalf of "little people and civil liberties."⁷²

She then lashed out at Sen. McCarthy for making accusations, without warning, that

“‘seriously jeopardized or destroyed’ the professional and personal reputation she had acquired in a lifetime.”⁷³ At one point the cross-examiner, Republican Senator Bourke Hickenlooper, noted that he saw no evidence of disloyalty, and suggested that Sen. McCarthy merely meant that her membership in certain organizations was a only a concern to the extent that she worked with the State Department. Kenyon tensely replied that she was “‘trying to keep her temper’ but that Mr. McCarthy had charged her with ‘a great deal more than that.’”⁷⁴

Despite the severity of the charges, Kenyon did not back down from her previous actions and statements. When Sen. Hickenlooper showed her letterhead of an organization with her name on it, she glanced at the other names and commented that she was “in good company.”⁷⁵ On another occasion, she not only admitted that she gave a speech calling the perjury trial of Alger Hiss, “a product of hysteria created by the House Committee on Un-American Activities,” she said she still believed it to be so.⁷⁶ Sen. McCarthy did not attend her cross-examination.⁷⁷

Approximately a month later, the Senate Foreign Relations subcommittee questioned Earl Browder, a former head of the Communist party in the United States about the affiliations of the accused. He testified that Kenyon had no connection “as a member or friend to the party.”⁷⁸

After several tense months, the Senate subcommittee issued a report denouncing McCarthy’s charges as “contemptible.”⁷⁹ It stated that Sen. McCarthy had “stooped to a new low in his cavalier disregard of the facts.”⁸⁰ It continued, “Senator McCarthy and McCarthyism have been exposed for what they are and the sight is not a pretty one.”⁸¹ The report then cleared all those accused on infiltrating the State Department, including Kenyon. It called some of Kenyon’s organizational affiliations “less than judicious,” but did not find her to be disloyal.⁸² She was only connected to one organization after it was considered subversive, and explained or denied

many allegations. The report also noted that, in many other cases “she had a great deal of distinguished company.”⁸³

While the report cleared Kenyon, it did not end her efforts against the outrageous Senator. In the early 1950s, she served on the advisory committee of Christian Action, a Protestant group that criticized the totalitarian McCarthy as a greater threat to America than communism. She also remained active in the ACLU and Americans for Democratic Action, both of which openly fought McCarthyism. But, in 1954, her fight became personal again.

That July, in an effort to prevent future abuse of the congressional system, the Senate considered changing its rules to abolish one-man Congressional committees. Sen. McCarthy not only denounced the proposal, he dredged up old accusations, including those against Kenyon. Supposedly relying on the word of two anonymous informants, he openly accused her of being a Communist.⁸⁴ Kenyon retorted, “Senator McCarthy has exhibited his usual accuracy. There’s not a word of truth in what he is reported to have said about me.”⁸⁵ The ACLU also jumped to her defense, denouncing the Senator reckless accusations.⁸⁶

Later that week, Senator Ralph E. Flanders moved to censure Sen. McCarthy. He cited Kenyon’s case as an example of Sen. McCarthy’s “habitual contempt for people.”⁸⁷ He asserted,

[t]he fact that [McCarthy] has made charges of such seriousness and lets them hang over the victim for the rest of her life, without any attempt on his part to prove them, or offering her the chance of disproving them, is a direct insult to the personality and the soul of the victim. . . . Unrebuked it casts a blot on the reputation of the Senate itself.⁸⁸

Kenyon certainly had sympathizers and supporters in her fight against Sen. McCarthy. But, despite her many backers, and the Subcommittee’s decision to clear her of all her charges, the accusations had real effects on Kenyon’s career. For the fifteen years prior to McCarthy’s

charges she actively served in public offices. In the two years prior she received four honorary degrees. Kenyon did not receive another honorary degree for sixteen years, and never held a government position again.

VII. Fighting the Good Fights

Not surprisingly, Kenyon emerged from her experience with McCarthyism undaunted and even more committed than before. During the next phase of her life she actively fought for civil and women's rights, and later became involved in the anti-war movement. As before, she mixed her broad world view with local concerns, fighting for neighborhood improvement in New York City. Her social vision remained clear, and her efforts remained forceful.

Kenyon, like so many others during that time, was an eager soldier in the fight for racial equality. She assisted the NAACP Legal Defense Fund and became a member of In Friendship, a group aimed at aiding Southern blacks who face economic reprisals when they attempt to exercise their constitutional rights. A. Philip Randolph chaired the group.⁸⁹ As the city chairman for Americans for Democratic Action she called for the end of private discrimination. "We have got to extend desegregation into private housing and that's got to be done by changing people's habits. . . . Our problem is the same as the South's. We have got to get accustomed to living in mixed neighborhoods without going into a panic and selling out."⁹⁰ Over a decade later, an eighty year old Kenyon would fly south to march with sanitation workers after Martin Luther King, Jr.'s assassination.

Kenyon also remained active in her fight for women's rights. She met Pauli Murray, a talented Yale Law School graduate whose professional prospects suffered as returned servicemen

flooded the job market. Kenyon, impressed with Murray's abilities helped her obtain a position with the ACLU.

At this time Kenyon was still fighting to secure women's right to serve on juries. When Kenyon met Murray, she was working on the brief for *White v. Cook*, which concerned African-American women's right to act as jurors in Alabama. She enlisted Murray's assistance, and together they won the case. Kenyon and Murray also co-wrote "The Case for Equality in State Jury Service."⁹¹ Kenyon was an expert in the field, having authored the ACLU's amicus brief in *Hoyt v. Florida*.⁹² In *Hoyt*, the Court upheld Florida's jury rules that mandated that men serve, but merely permitted women to do so. Until her death, Kenyon would sarcastically quote Justice Harlan's phrase, "woman is the center of home and family life."⁹³

In addition to her large-scale fights, Kenyon focused on local issues. For example, her neighbors frequently complained about the dangerous traffic patterns on Twenty-Sixth St., a street lined with churches, schools, and housing projects. Despite the repeated protests the City did nothing. Eventually, tragedy struck as a speeding taxi killed an eight-year old boy. The next day an assortment of concerned citizens, including Kenyon, built a wall across the street itself and then sat on it. She was carted off to jail along with the rest of the group. Not only did she get herself out of jail, she served as counsel to the other women and had them released without fines. The city, in response to the protest, permanently closed the street to traffic during the daytime.⁹⁴

Kenyon combined her neighborhood interests, her longstanding concern about poverty, and her legal talents to found the lower West Side Law Offices for the Poor. As a member of the lower West Side Anti-Poverty Board, she convinced the organization to implement her idea of

law offices which “help the poverty-stricken to rise to their feet and fend for themselves.”⁹⁵ She rejected traditional models of legal aid societies directed by a few elite lawyers. Instead she insisted that her creation should be “carried on by the Community with full participation of the poor themselves.”⁹⁶ Although she spear-headed the efforts, illness prevented Kenyon from putting the final touches on the Law Offices. When returned she voiced concern about the level of participation among poor community members. Although she may not have been completely satisfied with the end result, she nonetheless received public acclaim for her efforts to implement her brainchild.⁹⁷

VIII. The Victory of a Lifetime

Kenyon’s feminism wove itself throughout her career. She worked both in New York and on the international front to improve the lives of women and achieve equality. From her service in New York City government to her efforts near the end of her life with the ACLU Women’s Rights Project, she consistently sought to make her beliefs a reality. Her final victory came through her work on the brief for *Reed v. Reed*. In *Reed* the Supreme Court struck down an arbitrary sex-based classification as a violation of equal protection under the Fourteenth Amendment.⁹⁸ This decision vindicated Kenyon’s long-held beliefs.

Kenyon had been at odds with other feminists because she did not support the Equal Rights Amendment. Clearly, she supported expanded rights for women. Yet she felt the word “equality” could be misleading. True equality would not be desirable because it would ignore the real difference between men and women and destroy the good, along with the bad, protective legislation. For example, laws that grant maternity leave and protect their right to return to work after having a baby simply lack a male counterpart. Yet, Kenyon argued, these laws recognize

difference in a way that provides equal opportunities for men and women, even though they technically treat the sexes differently. She asked, “Why throw out the baby with the bath?”⁹⁹

Kenyon also criticized some feminists’ belief that the Equal Rights Amendment would be a panacea for inequality. In a *New York Times* article, she argued against the Amendment:

The proponents of this measure seem to think that with the passage of the amendment we will have equal rights everywhere. We will have nothing of the sort. . . . How can the amendment give women power in political parties or assure more of us getting elected to Congress? How can it give women lawyers equal opportunities with their male colleagues? Nothing but a revolutionary change in habits and customs will bring these things about. To rely upon the amendment to correct them is to expect the impossible.

The only way to get real equality is the hard, slow way of changing public attitudes. This includes passing laws to correct legal inequalities. But these laws must be specifically directed to the particular evil and specifically adapted to their cure.¹⁰⁰

Kenyon also thought that the Fourteenth Amendment should provide the necessary constitutional protection to secure women’s rights, but allow benign protective laws.¹⁰¹

Although Kenyon supported some protective legislation, she eschewed the stereotype of the “weaker sex.” In fact, as early as World War II she supported the draft for women. In 1950, she publicly advocated sending women soldiers to fight in the Korean War. “Manpower, money and material are all desperately needed and must be poured out without stint in the United Nations’ fight for Korea’s freedom. The greatest untapped source of manpower, both physical and mental in these United States is womanpower.”¹⁰²

Decades later, Kenyon remained active in the fight, marching alongside women young enough to be her granddaughter. She vigorously supported Title IX, saying that women’s aspirations should only be bounded “by their talents, abilities, and potentialities as individual

human beings.¹⁰³ Nevertheless she was somewhat critical of the tone of the modern women's movement. "We did all those things," Kenyon said, "I went swimming nude and worse things than that, but we did them privately. They do them publicly and I think that's a mistake."¹⁰⁴

Kenyon also sought to encourage women in her own field. In addition to mentoring Pauli Murray, she assisted others as she could. Recalled Cynthia Fuchs Epstein, who as a graduate student in 1966 interviewed Kenyon, "She was warm in an aristocratic way. . . . She was by no means a 'queen bee'--she definitely helped other women."¹⁰⁵ Kenyon enjoyed working with the next generation of lawyers. She co-authored the *Reed* brief with several rising legal stars, including Murray and now-Justice Ruth Bader Ginsburg.

Reed vindicated Kenyon's lifelong belief that the Fourteenth Amendment should protect women's rights. Ironically, less than a year before the Court decided *Reed*, Kenyon changed her position on the Equal Rights Amendment, remarking that "we better have [it] in a hurry because I'm afraid that the Supreme Court is going in a backwards wave for the next 20 years."¹⁰⁶ Contrary to Kenyon's prediction the Supreme Court took a step forward, a step for which Kenyon had worked a lifetime.

IX. The Final Years

Kenyon remained as active in her later years as she had in her earlier years. Retirement was a foreign word to her, and in her final years she more than compensated for her six years as a society girl. Unlike so many others, Kenyon remained constant in her idealism throughout her life.

Sometimes this idealism was sorely tested. At the age of 81, a young man attacked her with a radio antenna, badly cutting her hand. (She wore a hat which protected her from more serious injuries). She did not push for a lengthy jail sentence, instead she successfully recommended that he be hospitalized, as he was obviously disturbed. Twice she thwarted purse-snatcher who underestimated Kenyon's toughness. She did not take these opportunities to curse all youth or turn on her beliefs.¹⁰⁷

Despite these unfortunate incidents, Kenyon enjoyed her old age. In addition to remaining an active professional, and a dedicated leader in several organizations, she surrounded herself with her family and friends.

In 1968 they decided to throw her an eightieth birthday party. It was no ordinary party. Such notable figures as Senator Robert Kennedy, Senator Paul Douglas, and Dean Robert McKay of New York University Law School, as well as many friends and colleagues co-chaired the event. In true New York style, they held the party at the Tavern on the Green in Central Park. Over three hundred well-wishers attended this tribute. Kenyon was both touched and pleased.¹⁰⁸

The next year Kenyon went to the hospital because of a sharp pain in her stomach. The doctors quickly diagnosed stomach cancer and performed emergency surgery. The surgery sent her into a remission that allowed her to continue her life's work for a few years. And, as noted above she continued with an exceptional vigor. Indeed, she saw clients until the last month of her life. But, the cancer returned. Kenyon passed away just after midnight on February 12. Death stopped her persistent activism, but not her remarkable legacy.

X. Conclusion

Kenyon's funeral took place exactly eighty-four years after she was born. Pauli Murray, Kenyon's mentee, colleague and friend spoke of her "warmth, ageless vitality, never-failing humor and gaiety in the worst of times, fine intelligence and tenacious courage."¹⁰⁹ She continued, "Our legacy is the fire of that dauntless independent spirit, forever in rebellion against injustice and inequality, and having the capacity to endure and overcome many defeats."¹¹⁰ After further reminiscing about Kenyon's character and accomplishments, she finished, "I think when future historians assess the important issues of the Twentieth Century they may well conclude that Judge Dorothy Kenyon was one of the giants who stood in bold relief against the American sky."¹¹¹ For Kenyon's many struggles and successes throughout her lifetime, that is certainly the conclusion of this biographer.

XI. A Word on Sources and Future Leads

As I had hoped, I found Dorothy Kenyon to be an inspiring and exciting subject. She had such a full life that I could barely scratch the surface in this introductory sketch. I hope future biographers pick up where I leave off.

Because I was writing a "first chapter," and knew little about Kenyon, I relied primarily on newspapers and books. The *New York Times* provided the backbone of my research; I read each of the approximately 150 articles that mentioned her. I read biographical references, and books on women's legal history. Surprisingly, many of those women in the law books mention her cursorily, if at all. I also interviewed Cynthia Fuchs Epstein. A book by Kenyon's younger brother Houston, [The First Half-Century of the Kenyon Firm 1879-1933](#) gave helpful background information about her family. There is a copy at Harvard University's Law Library,

available through inter-library loan.

Her bother Houston, and his wife Mildred Adams Kenyon donated all of Kenyon's paper to Sophia Smith College Library. That library has sixty-four boxes, containing several hundred folders of her materials. I was unable to go to Northampton, but I received documents from them, including family letters, and most of an unpublished biographical manuscript by her sister-in-law, Mildred Adams Kenyon. The index indicated that the collection contains a multitude of sources, including photographs, letters between Kenyon and various friends and family members, her newspaper clippings, and even the baby book her father kept for the first year and a half of her life. Smith Library will copy and send requested materials for a fee.

Mildred Adams Kenyon's manuscript should prove to be a useful resource, because 1) the author knew the subject, and 2) it covers many areas of Dorothy Kenyon's life other sources left untouched. I limited my use of it because I didn't have a good enough sense of the two women's relationship to confidently assess Mildred Kenyon's biases, and I thought I needed additional sources to help me document certain events. The Smith Archives have files of correspondence between the two; that will surely aid any biographer relying on the manuscript.

Finally, interviews with Kenyon's former colleagues, and younger family members should also prove useful. My interview with Epstein definitely added to my picture of Kenyon.

I chose not to write about certain topics in Kenyon's life. I addressed Kenyon as a lawyer and activist, but intentionally discussed little about her personal life. I did uncover some leads in this area. Most notably, there is evidence that she was in love with her employer in the 1920s, Walcott Pitkin, who, in turn, was having a relationship with one her close friends, Gertrude King. Later, Kenyon had a close friendship, and possibly something more, with Pitkin's friend, Elihu

Root, Jr. Smith College has letter between Kenyon and King and Kenyon and Root. It would be irresponsible for me to discuss her relationships without fully examining all the available evidence. Also, I did not want speculation about her romantic life to overshadow her many accomplishment in this introductory sketch.

In closing, Kenyon would make an excellent subject for future biographers. So much material exists on her, and there are so many possible roads. One could study one of the many phases in her active life. What was her law school experience really like? What exactly did she do in her first years out of law school? What prompted her to start her own firm? How did her friendships shape her early career? Or, a biographer could trace her lifelong fight of a single issues, such as civil rights. Or, she may want to research Kenyon's legal writings to get a better sense of her lawyering. Kenyon's life provides almost limitless opportunities for the curious biographer. I strongly encourage others to become acquainted with this strong-willed, witty, singular woman lawyer.

XII. Bibliography

Berry, Dawn Bradley, *THE FIFTY MOST INFLUENTIAL WOMEN IN AMERICAN LAW* (1996).

Epstein, Cynthia Fuchs, *WOMEN IN LAW* (1981).

Interview with Cynthia Fuchs Epstein, Stanford, CA (Nov. 17, 1997).

Kenyon, Dorothy and Pauli Murray, *THE CASE FOR EQUALITY IN STATE JURY SERVICE* (1966).

Kenyon, Dorothy, "My Father," (1898?).

Kenyon, Mildred Adams, *Biography of Dorothy Kenyon* (1978?) (unpublished).

Kenyon, Jr., W. Houston, THE FIRST HALF CENTURY OF THE KENYON FIRM 1879-1933 (1979).

Kerber, Linda et al. eds., U.S. HISTORY AS WOMEN'S HISTORY (1995).

Letter from Dorothy Kenyon to William Houston Kenyon and Maria Wellington Stanwood Kenyon (Aug. 1897).

Letter from Dorothy Kenyon to William Houston Kenyon (July 18, 1906).

Letter from Dorothy Kenyon to William Houston Kenyon (June 10, 1897).

Letter from William Houston Kenyon, Jr. to Dorothy Kenyon (Sept. 20, 1910).

Letter from William Houston Kenyon to Dorothy Kenyon (Feb. 17, 1918).

Murray, Pauli, Remarks at Dorothy Kenyon's Memorial Service, Feb. 1972.

Reed v. Reed, 404 U.S. 71 (1971).

Selected Articles, THE NEW YORK TIMES, 1927-1972.

Schoenebaum, Eleanor W., POLITICAL PROFILES: THE TRUMAN YEARS (1978).

Sicherman, Barbara, et al. eds., 4 NOTABLE AMERICAN WOMEN: THE MODERN PERIOD, (1980).

ENDNOTES

-
1. Pauli Murray, Remarks at Dorothy Kenyon's Memorial Service 4 (Feb. 1972) (quoting Dorothy Kenyon testifying before the Senate after Sen. McCarthy accused her of disloyalty) (transcript available in Sophia Smith College Library).
 2. Id.
 3. The firm name changed several times in Will Kenyon's career. When he joined the firm in 1879, the firm was called Browne & Witter. In 1885, Kenyon's name was added to the firm (Browne, Witter & Kenyon) and, in 1887, Browne's name was dropped (Witter & Kenyon). In 1899 the firm became known as Kenyon & Kenyon, the name it still has today.
 4. W. HOUSTON KENYON, JR., THE FIRST HALF CENTURY OF THE KENYON FIRM, 1879-1933 33 (1979).
 5. Id. at 50. The case, which Kenyon lost, was *Brush v. Condit*, 132 U.S. 39 (1889).
 6. Maria Wellington Stanwood Kenyon's lineage traced back to colonial Massachusetts. See 4 NOTABLE AMERICAN WOMEN: THE MODERN PERIOD 395 (Barbara Sicherman, et al. eds. 1980).
 7. KENYON, JR, *supra* note 4, at 35-36.
 8. Id. at 67.
 9. Id. at 68.
 10. Id.
 11. See DAWN BRADLEY BERRY, THE FIFTY MOST INFLUENTIAL WOMEN IN AMERICAN LAW, 101.
 12. Letter From Dorothy Kenyon to William Houston Kenyon and Maria Stanwood Kenyon, August, 1897.
 13. Letter from Dorothy Kenyon to William Houston Kenyon, June 10, 1897.
 14. Letter from Dorothy Kenyon, *supra* note 12.
 15. Dorothy Kenyon, *Case (By One of Them) For Women Lawyers*, N.Y. TIMES, Feb. 18, 1950, § 6 (Magazine), at 14, 55. This query may seem odd in light of her Aunt Mary's profession. Her aunt, however, did not practice law until Dorothy was eleven.
 16. Dorothy Kenyon, *My Father*, (1898?) (unpublished manuscript, on file with Stanford Law Library.)

17. Letter from Dorothy Kenyon to William Houston Kenyon, July 18, 1906, (on file with Stanford Law Library).
18. Letter from William Houston Kenyon to Dorothy Kenyon, Feb. 17, 1988, (on file with Stanford Law Library).
19. Kenyon, Jr., *supra* note 4, at 69-70.
20. Mildred Adams Kenyon, Biography of Dorothy Kenyon, (unpublished manuscript, on file with Stanford Law Library).
21. Id.
22. Kenyon, *supra* note 15, at 14.
23. Id.
24. Kenyon, *supra* note 20, at 33.
25. Letter from William Houston Kenyon, Jr. to Dorothy Kenyon, Sept. 20, 1910 (on file with Stanford Law Library)
26. Kenyon, *supra* note 20, at 35
27. See NOTABLE AMERICAN WOMEN, *supra* note 6, at 395.
28. Kenyon, *supra* note 20, at 33.
29. *Sees Bias Against Women: Dorothy Kenyon Comments on Killing of Their Bills in Albany*, N.Y. TIMES, March 6, 1927 at 15.
30. Dorothy Kenyon, Letter to the Editor, N.Y. TIMES, Aug. 24, 1928, at 18.
31. Dorothy Kenyon, Letter to the Editor, N.Y. TIMES, Sept. 29, 1928, at 18.
32. Kenyon, Jr., *supra* note 4, at 124.
33. *Base for Fair Pay in Hotels Sought*, N.Y. TIMES, Apr. 12, 1935, at 25.
34. *Hotel Wage Board Halted by Charge*, N.Y. TIMES, Apr. 14, 1935, at 29.
35. *Miss Kenyon Firm on Quitting Board*, N.Y. TIMES, Apr. 16, 1935, at 11.
36. *Miss Kenyon Praised as She Quits Board*, N.Y. TIMES, Apr. 17, 1935, at 6.

-
37. Berry, *supra* note 11, at 102.
38. *Social Plan Urged to End Vice Racket*, N.Y. TIMES, June 17, 1936, at 48.
39. Id.
40. *Berle Named Head of City Plan Board*, N.Y. TIMES, Dec. 31, 1937, at 31.
41. CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW*, 239.
42. Id.
43. Id.
44. *50 New Statutes Effective Today*, N.Y. TIMES, Sept. 1, 1937, at 9.
45. *Bar Group Turns to Noted Women*, N.Y. TIMES, Oct. 24, 1937, at D7.
46. *Bar is Lifted*, N.Y. TIMES, Oct. 20, 1937, at 22.
47. *New York Woman Gets League Post*, N.Y. TIMES, Jan. 29, 1938, at 7.
48. *Women-in-Law*, Editorial, N.Y. TIMES, Apr. 6, 1938, at 22.
49. *Footnotes on Headliners*, N.Y. TIMES, Mar. 27, 1928, § 4 at 2. The book was a present from her former city government colleagues. See id.
50. Anne Petersen, *League of Nations World-Wide Study of Women's Status Hailed*, N.Y. TIMES, May 15, 1938, § 6 at 5.
51. Id.
52. Id.
53. Dorothy Kenyon, Member of Executive Committee of the National Citizens Political Action Committee, Letter to the Editor, N.Y. TIMES, Oct. 24, 1944, at 22.
54. *12 Women Leaders Agree World Cooperation is Vital*, N.Y. TIMES, Apr. 8, 1943, at 1.
55. *U.N. Women Balk at "Equal" Rights with Men, Saying These Are Sometimes Not Enough*, N.Y. TIMES, Feb. 12, 1947, at 10.
56. Id.

-
57. *Woman in U.N. Post is Cited by Unionists*, N.Y. TIMES, Apr. 13, 1948, at 34.
58. *Judge Kenyon in the U.N.*, N.Y. TIMES, Dec. 22, 1949, at 22.
59. See *New U.N. Aide Cites the Task of Women*, N.Y. TIMES, Jan. 15, 1950, at 61.
60. William S. White, *McCarthy Says Miss Kenyon Helped 28 Red Front Groups*, N.Y. TIMES, Mar. 9, 1950, at 1.
61. Id. at 3.
62. Id. at 1.
63. William S. White, *Clashes Highlight M'Carthy Hearings*, N.Y. TIMES, Mar. 10, 1950, at 2.
64. The charges did not halt Kenyon's work. The day after she testified she went to Philadelphia to speak to a Phi Beta Kappa audience about the ideological battle of the day. See Kenyon, *supra* note 20, at 153.
65. See *A Poor Beginning*, Editorial, N.Y. TIMES, Mar. 9, 1950, at 28.
66. Id. The Women's City Club also immediately rose to Kenyon's defense, stating the they were "appalled at the incredible allegations against Judge Dorothy Kenyon by Senator Joseph McCarthy." *Miss Kenyon is Defended*, N.Y. TIMES, Mar. 13, 1950, at 11.
67. William S. White, *Miss Kenyon Cites Patriotic Record to Refute Charges*, N.Y. TIMES, Mar. 15, 1950, at 3.
68. Id.
69. Id.
70. Id.
71. Id.
72. Id. at 1-3.
73. Id. at 1.
74. Id. at 3.
75. Id.

76. Id.

77. See id. Soon after Sen. McCarthy dropped this bombshell on Kenyon, he said “he was not much interested in her case.” Harold B. Hinton, *M’Carthy to Name ‘Important’ Figure*, N.Y. TIMES, Mar. 12, 1950. True to his style, he did not withdraw the charges, instead he let them hang over her, and tarnish her reputation.

78. William S. White, *Browder Ridicules Budenz, Calls Lattimore an Anti-Red*, N.Y. TIMES, Apr. 28 1950, at 15.

79. William S. White, *Red Charges By M’Carthy Ruled False*, N.Y. TIMES, July 18, 1950, at 1.

80. Id. at 17.

81. Id.

82. *Excerpts from Text of Majority Report on Charges by Senator McCarthy*, N.Y. TIMES, July 18, 1950, at 16.

83. Id.

84. See Anthony Leviero, *M’Carthy Defends One Man Inquiries*, N.Y. TIMES, July 28, 1954, at 1.

85. Id.

86. *Miss Kenyon Defended*, N.Y. TIMES, July 30, 1954, at 18.

87. *Text of Speeches by Flanders and Knowland*, N.Y. TIMES, July 31, 1954, at 4.

88. Id.

89. See *New Group to Aid Negroes in the South*, N.Y. TIMES, Mar. 1, 1956, at 15.

90. *City A.D.A. Hears Integration Plea*, N.Y. TIMES, Sept. 22, 1956, at 18.

91. DOROTHY KENYON & PAULI MURRAY, *ACLU, THE CASE FOR EQUALITY IN STATE JURY SERVICE* (1966).

92. 368 U.S. 57 (1961).

93. See Linda Kerber, *A Constitutional Right to Be Treated like American Ladies: Women and the Obligations of Citizenship*, in *U.S. HISTORY AS WOMEN’S HISTORY*, (Kerber, et al., eds.) 354 n.49.

-
94. See Kenyon, *supra* note 20, at 167.
95. See id at 170.
96. Id.
97. See Alfred E. Clark, *New Law Office Aiding the Poor*, N.Y. TIMES, Feb. 11, 1968, at 64.
98. *Reed v. Reed*, 404 U.S. 71 (1971).
99. *Equal Rights: A Debate*, N.Y. TIMES, May 7, 1944, § 6 (Magazine) at 14.
100. Id.
101. See Marilyn Bender, *Liberation Yesterday--The Roots of the Feminist Movement*, N.Y. TIMES, Aug. 21, 1970, at 29.
102. Dorothy Kenyon, Letter to the Editor, N.Y. TIMES, July 30, 1950, at 8E.
103. Dorothy Kenyon & Marvin Karpatkin, Letter to the Editor, N.Y. TIMES, Sept. 12, 1971, § 4 at 16.
104. Bender, *supra* note 104, at 29.
105. Interview with Cynthia Fuchs Epstein, in Stanford, CA (Nov. 17, 1997).
106. Bender, *supra* note 101, at 29. There has been some suggestion that Kenyon's change on this point was largely motivated by a desire to stay timely, and not simply a genuine change of opinion. See Kenyon, *supra* note 20, at 181.
107. See Kenyon, *supra* note 20, at 177.
108. See id. at 175-76.
109. Murray, *supra* note 1, at 1.
110. Id. at 2.
111. Id. at 8.

Dorothy Kenyon Bibliography

Berry, Dawn Bradley, THE FIFTY MOST INFLUENTIAL WOMEN IN AMERICAN LAW (1996).

Epstein, Cynthia Fuchs, WOMEN IN LAW (1981).

Interview with Cynthia Fuchs Epstein, Stanford, CA (Nov. 17, 1997).

Kenyon, Dorothy and Pauli Murray, THE CASE FOR EQUALITY IN STATE JURY SERVICE (1966).

Kenyon, Dorothy, "My Father," (1898?).

Kenyon, Mildred Adams, Biography of Dorothy Kenyon (1978?) (unpublished).

Kenyon, Jr., W. Houston, THE FIRST HALF CENTURY OF THE KENYON FIRM 1879-1933 (1979).

Kerber, Linda et al. eds., U.S. HISTORY AS WOMEN'S HISTORY (1995).

Letter from Dorothy Kenyon to William Houston Kenyon and Maria Wellington Stanwood Kenyon (Aug. 1897).

Letter from Dorothy Kenyon to William Houston Kenyon (July 18, 1906).

Letter from Dorothy Kenyon to William Houston Kenyon (June 10, 1897).

Letter from William Houston Kenyon, Jr. to Dorothy Kenyon (Sept. 20, 1910).

Letter from William Houston Kenyon to Dorothy Kenyon (Feb. 17, 1918).

Murray, Pauli, Remarks at Dorothy Kenyon's Memorial Service, Feb. 1972.

Reed v. Reed, 404 U.S. 71 (1971).

Selected Articles, THE NEW YORK TIMES, 1927-1972.

Schoenebaum, Eleanor W., POLITICAL PROFILES: THE TRUMAN YEARS (1978).

Sicherman, Barbara, et al. eds., 4 NOTABLE AMERICAN WOMEN: THE MODERN PERIOD, (1980).

Dorothy Kenyon

A Word on Sources and Future Leads

As I had hoped, I found Dorothy Kenyon to be an inspiring and exciting subject. She had such a full life that I could barely scratched the surface in this introductory sketch. I hope future biographers pick up where I leave off.

Because I was writing a “first chapter,” and knew little about Kenyon, I relied primarily on newspapers and books. The *New York Times* provided the backbone of my research; I read each of the approximately 150 articles that mentioned her. I read biographical references, and books on women’s legal history. Surprisingly, many of those women in the law books mention her cursorily, if at all. I also interviewed Cynthia Fuchs Epstein. A book by Kenyon’s younger brother Houston, [The First Half-Century of the Kenyon Firm 1879-1933](#) gave helpful background information about her family. There is a copy at Harvard University’s Law Library, available through inter-library loan.

Her bother Houston, and his wife Mildred Adams Kenyon donated all of Kenyon’s paper to Sophia Smith College Library. That library has sixty-four boxes, containing several hundred folders of her materials. I was unable to go to Northampton, but I received documents from them, including family letters, and most of an unpublished biographical manuscript by her sister-in-law, Mildred Adams Kenyon. The index indicated that the collection contains a multitude of sources, including photographs, letters between Kenyon and various friends and family members, her newspaper clippings, and even the baby book her father kept for the first year and a half of her life. Smith Library will copy and send requested materials for a fee.

Mildred Adams Kenyon’s manuscript should prove to be a useful resource, because 1) the author knew the subject, and 2) it covers many areas of Dorothy Kenyon’s life other sources left untouched. I limited my use of it because I didn’t have a good enough sense of the two women’s relationship to confidently assess Mildred Kenyon’s biases, and I thought I needed additional sources to help me document certain events. The Smith Archives have files of correspondence between the two; that will surely aid any biographer relying on the manuscript.

Finally, interviews with Kenyon’s former colleagues, and younger family members should

also prove useful. My interview with Epstein definitely added to my picture of Kenyon.

I chose not to write about certain topics in Kenyon's life. I addressed Kenyon as a lawyer and activist, but intentionally discussed little about her personal life. I did uncover some leads in this area. Most notably, there is evidence that she was in love with her employer in the 1920s, Walcott Pitkin, who, in turn, was having a relationship with one her close friends, Gertrude King. Later, Kenyon had a close friendship, and possibly something more, with Pitkin's friend, Elihu Root, Jr. Smith College has letter between Kenyon and King and Kenyon and Root. It would be irresponsible for me to discuss her relationships without fully examining all the available evidence. Also, I did not want speculation about her romantic life to overshadow her many accomplishment in this introductory sketch.

In closing, Kenyon would make an excellent subject for future biographers. So much material exists on her, and there are so many possible roads. One could study one of the many phases in her active life. What was her law school experience really like? What exactly did she do in her first years out of law school? What prompted her to start her own firm? How did her friendships shape her early career? Or, a biographer could trace her lifelong fight of a single issues, such as civil rights. Or, she may want to research Kenyon's legal writings to get a better sense of her lawyering. Kenyon's life provides almost limitless opportunities for the curious biographer. I strongly encourage others to become acquainted with this strong-willed, witty, singular woman lawyer.

Dorothy Kenyon
(1888-1972)

Family Background and Education

- Feb. 11, 1888 Dorothy Kenyon is born to William Houston Kenyon, a pioneer patent lawyer and Maria Wellington (Stanwood) in New York. She is their only daughter and the oldest of three. Her paternal ancestors emigrated from Scotland in the 1830s; her maternal ancestors lived in colonial Massachusetts. She is also the niece (?) of a U.S. Senator.
- 1888-1904 Grows up in Upper Manhattan summers at the family home in Connecticut. Asks father, "Can girl be lawyers, too?" He replies, smiling "Why not, my dear?"
- 1900(?) - 1904 Attends and graduates from Horace Mann High School.
- 1904-1908 Attends Smith College where she majors in Economics and History, and plays hockey, and has an active social life. Elected to Phi Beta Kappa.
- 1908 Dr. Charles W. Eliot speaks at Kenyon's graduation. He says, "the experiment of higher education for women had not proved an utter failure and that women were demonstrating that they could make excellent assistants to men." Kenyon later says that, "having a family consisting entirely of brothers, none of whom I had the faintest intention of assisting in any shape or manner, this speech . . . may be . . . responsible for my unorthodox behavior ever since."
- early 1910s When vacationing in Mexico the condition of the American Indians "aroused her sense of public obligation." Decides to go to Law School.
- 1914-1917 Attends New York University Law School,
- 1917 Graduates from NYU and passes the New York Bar. Her aunt also graduated from NYU.

Early Career

- 1918 Takes her first legal job as a research specialist to a group of lawyers advising delegates to the Versailles Peace Conference. Did she decline an offer from her father's firm? Her two younger brothers joined their father's firm when they graduated from law school.
- 1919 Joins the law firm of Pitkin, Rosenson & Henderson.
- 1920s Supports the use of birth control.
- 1930 Forms Straus & Kenyon with Dorothy Straus at 475 Fifth Ave. Leaves in 1939. Both lawyers campaign for women's advancement

Public Office

- Apr. 11 1935 Elmer Andrews, State Industrial Commissioner, appoints Kenyon as a public representative to the Hotel and restaurant Wage Board. The Board is responsible for fixing wages and working conditions for 60,000 hotel and restaurant workers.
- Apr. 14, 1935 Frank Boland, counsel for the Hotel Association protests Kenyon's nomination, claiming that she is not a "disinterested public representative." Kenyon offers her resignation, but Andrews refused to accept it.
- Apr. 16, 1935 Kenyon states that Boland's "unfounded and unfair" charges have "nevertheless destroy[ed] my uselessness on the Board. Any conscientious judge whose fairmindedness is challenged . . . will immediately withdraw. . . . [Boland's] attacks instantly transformed the hearing from a judicial proceeding into guerilla warfare. . . . I refuse to permit myself to be dragged into anything so unseemly."
- Apr. 17, 1935 Andrews accepts her resignation "with regret." Says his acceptance is only based on a desire to expedite work.
- Dec. 19, 1935 Mayor La Guardia swears in Dorothy Kenyon as Deputy License Commissioner. She refuses to close down burlesque houses, seeing no reason to prohibit "the only beauty in the lives of icemen and messenger boys."
- 1936 Chairs a committee of the Welfare Commission studying the women's court system. Concludes that prostitutes need "sympathetic social treatment," not criminal prosecution. "The exploiters are the only real criminal offenders in any prostitution case."
- Sept. 1937 Kenyon among first women in New York to sign up for jury duty and be placed on a jury list.
- Jan. 1, 1937 Kenyon resigns as Deputy Commissioner to return to "her real love," the law. La Guardia accepts with regret, thanking her for "very fine service to the city."
- Jan. 28, 1938 Appointed to the League of Nations committee on the Legal Status of Women. Says she is "terribly pleased an delighted. I had planned a cruise to the Caribbean, but now it seems I shall be going to Europe, instead, in the Spring."
- March, 1938 La Guardia and other honor Kenyon at a tribute dinner just before she sails to Europe. A few weeks later the NYT states, "The caliber of the women engaged in the [League of Nations] investigation is indicated by the American member, Dorothy Kenyon, an expert in the field of social legislation whose qualifications, already well known to New Yorkers, are now recognize in the international field."
- 1938-1943 Serves on the League of Nations Committee, travels between Europe and New York.

- Jan. 1939 La Guardia names Kenyon as a justice of the Municipal Court. Serves until her term expires in 1940. Runs for re-election but “the big Tammany machine rose up and knocked me down.”
- Apr. 1943 One of twelve speakers at national conference sponsored by the NYT. Other speakers include Frances Perkins, Pearl Buck, Edna St. Vincent Millay, and Margaret Mead. Speakers are asked about their visions for the post-war world. Kenyon responds, “A world which freely utilizes the brains and capacities of its women is a complete and rounded world in the sense that a world which keeps its women swathed in veils up to the eyes can never be. **Not only this nation, but this world too cannot exist half-slave and half-free.**”
- 1946-1950 *Harry Truman appointed her*
 Serves on the United Nations Commission on the Status of Women. While on the Commission she deplores the small role of women in the U.S. Government, fights for married women’s right to choose their own nationality, pushes for worldwide suffrage, among other things.
- Dec. 22, 1949 NYT editorial urges the re-appointment of Kenyon. “Her term is now expiring and for the experience she has gained, and the prestige she has won for her country--and countrywomen --in the pioneer period of the United Nations we hope she will be reappointed to represent the United States on this important commission.”
- Jan. 14, 1950 Truman appoints Mrs. Olive Remington Goldman, a regular in Democratic party politics.

The McCarthy Era

- Mar. 8, 1950 Sen. McCarthy accuses Kenyon of having been “affiliated with at least 28 Communist-front organizations.” Kenyon replies by calling him “an unmitigated liar” and “a coward to take shelter in the cloak of Congressional immunity.”
- Mar. 9, 1950 Kenyon telegraphs the Senate subcommittee demanding an appearance “to attack Senator McCarthy’s outrageous and maliciously false charges against me.” Senator Tydings invites her to testify.
 NYT publishes an editorial defending Kenyon.
- Mar. 11, 1950 McCarthy says that “he is not much interested” in the Kenyon case.
- Mar. 13, 1950 Women’s City Club of New York publicly defends Kenyon.
- Mar. 14, 1950 Kenyon appears before Senate Foreign Relations subcommittee and flatly denies charges.
- Apr. 28, 1950 Former Communist Chief, Earl Browder, testifies before a Senate subcommittee that Dorothy Kenyon had no “connection as a member of Friend of the party.”
- July 17, 1950 Senate subcommittee denounces McCarthy’s charges as “false and ‘contemptible.’” More specifically the subcommittee report states “[t]he evidence before [us] fails to establish that Dorothy Kenyon is a Communist or otherwise disloyal person. It is apparent she was less

than judicious in joining certain organizations during the late 1930s and early 1940s. . . . [M]any of the alleged associations were explained or denied. In other cases, she had a great deal of distinguished company.”

July 27, 1954 that Senate investigates McCarthy who raises the old accusations against Kenyon. He claims “two reliable former members of the Communist party” informed of her affiliations, but he declines to identify them. Kenyon replies, “Senator McCarthy has exhibited his usual degree of accuracy. There’s not a word of truth in what he is reported to have said about me.”

July 30, 1954 ACLU defends Kenyon. Sen. Flanders moves to censure McCarthy. He states that McCarthy’s recent accusation against Kenyon reflect McCarthy’s “habitual contempt for people. . . . The fact that he makes charges of such seriousness and lets them hang over the victim for the rest of her life without attempt on his part to prove them or offering her the chance to prove or disprove them is a direct insult to the personality and soul of the victim. . . . Unrebuked, it casts a blot on the reputation of the Senate itself.”

NOV. 1954 Kenyon refused to debate the question, “Should diplomatic relations with Russia be suspended?” on State of the Nation when she discovers that the show is sponsored by Facts Forum.

While the Senate subcommittee cleared Kenyon, the charges did affect her career: In the two years preceding 1950 she received four honorary degrees, yet she wasn’t awarded another one for sixteen years. More significantly: she never received another public appointment.

Later Years

1950s Challenges restrictive abortion legislation.

1950s-1960s Prepares briefs for NAACP Legal Defense Funds.

1961 Writes ACLU amicus brief in *Hoyt v. Florida*. Curses Justice Harlan until she dies.

Nov. 1965 Goes to Alabama to argue for women on juries. The judge requests written submission, and addresses Kenyon sharply when she insists on “making her argument despite the ruling.”

1968 Sets up the West Side’s first legal services office with Judd Jennings, a young lawyer. Marches with sanitation workers after the assassination of Martin Luther King, Jr.

1971 Co-authors *Reed v. Reed* brief with Ruth Bader Ginsburg. One of several lawyers who pushed for the ACLU Women’s Rights Project. Co-authors letter to NYT urging support of Title XI

Feb. 11, 1972? Kenyon dies of cancer

Organizational Involvement

- 1927(?) - 1936 Legislative Chairman, New York League of Women Voters. After she resigned her post, she remained as counsel to the organization.
- early 1930s Chairman, Consumer Cooperative Service, inc.
- 1930s Chairman, Committee on Legal Status of Women, American Association of University Women
- 1930-1972 National Board of Directors, American Civil Liberties Union. In 1940, she was among a minority of members who opposed to expulsion of Elizabeth Gurley Brown, a member of the communist party.
- Oct. 1937 Kenyon among the first twelve women elected to the prestigious New York City Bar Association. The N.Y. Times says that "usually it would be a subject for congratulations, but after what we have recently been told about lawyers it is hard to say."
- Mar. 1938 Named Chairman of the Citizens Advisory Committee to State, County and Municipal Workers of America, C.I.O.
- Feb. 1940 Chairman. Women's Council, Greater New York Fund.
- Mar. 11, 1940 Testifies before House Military Affairs subcommittee support proposals to allow the medical departments of the Army and Navy to commission women doctors and nurses.
- Dec. 1940 Writes to the Spanish Ambassador to U.S. requesting the release of Victoria Kent. A Spanish women lawyer and prisoner of the Franco regime.
- May 1943 Women's Medical Society of New York State confers honorary membership on Kenyon.
- 1944 Member, Executive Committee of the National Citizens Political Action Committee
- Apr. 1948 Named "Woman of the Year" by the Women's Trade Union League, an organization which represents 120,000 women workers.
- June 1948 Receives an honorary degree from Smith College.
- April 1954 Member, Honorary Council of Christian Action, a Protestant organization "to influence public policy on social, economic, and political issues. The group issues a strong anti-McCarthy statement linking him to the "totalitarian trend' imperling the nation."
- 1950s Chairman Americans for Democratic Action, "an independent liberal group that takes a kindly view of New Deal and Fair Deal Democrats but professes non-partisanship." Re-elected for her third term in 1955.

- Nov. 1955 Elected Vice-Chairman of the ACLU Board of Directors
- Mar. 1956 Member, In Friendship, an organization to aid Southern blacks “who suffer economic reprisals for attempting to exercise constitutional rights.” Its Chairman is A. Philip Randolph.
- 1967 Member, Committee for Constitutional Reform.
- 1969 Member, women’s coalition to urge Congress to appropriate money for social concerns, not defense.

Quotations

- 1927 “You referred to me as a Republican Lawyer. Lawyer I am, but Republican never--unless a consistent refusal to enroll in any party, a vote for La Folette in 1924 and one for Smith in 1928 constitute the ingredients of Republicanism.”
- 1944 “Is she saying that it is American to be Anglo Saxon, but not Russian; American to be gentile, but not Jewish? Shame on you, Mrs. Lute, to drag that fine word ‘American’ down in the gutter with you. Shame so to dishonor it as to tag as ‘un-American’ the poor immigrant from a foreign land who comes here thinking that this is the land of freedom. How can such despicable bigotry be possible, right now above all, when our boys are fighting the end forever that very thing?”
- 1944 “We should not have an Equal Rights Amendment because it would destroy our power to enact ‘special’ legislation. . . . The only way to get real equality is the hard slow way of changing public attitudes This includes passing laws to correct legal inequalities. But these laws must be specifically directed to particular evils and specifically adapted to their cure.”
- 1950 “Manpower, money, materials, all are desperately needed and must be powered without stint in the United Nations fight for Korea’s freedom. The greatest untapped source of manpower in these United States is womanpower.”
- 1956 In discussing the problems of school segregation: “We have got to extend desegregation into private housing and that’s got to be done by changing people’s habits. . . . Our problem is the same as the South’s. We have got to accept Negro families into our neighborhoods without going into a panic and selling out.”
- 1970 “We better have the Equal Rights Amendment in a hurry because I’m afraid the Supreme Court is going in a backward wave for the next 20 years.”

 “We did all those things. I went swimming nude and worse things than that, but we did them privately. They do them publicly and I think that’s mistake.”