
Slice of History: Television and the Making of a Lawyer-Hero

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Fifty-seven years ago, in the spring of 1954, America embraced an unlikely media star, a man of dignity, principle and gentle humor who was propelled to national fame by the emerging medium of television. From the crucible of 1954's [Army-McCarthy hearings](#)—history's first spectacular collision of law, politics and TV—came a hero described as “elfin,” “courtly,” “puckish” and “a demon at cross examination”: Hale and Dorr's Joseph Nye Welch. From 1954 until his death in 1960, Welch was the United States' reigning lawyer-hero, acquiescing to the mantle of celebrity that had been thrust so unexpectedly upon him.

As the hearings' April 1954 opening loomed near and Senator Joseph McCarthy prepared to go head to head with the US Army, the Eisenhower Administration scoured Washington DC and New York for an accomplished trial lawyer to bolster an Army legal team completely lacking in courtroom experience. The hotheaded Wisconsin senator had accused the Army leadership of deliberately obstructing his inquisition into alleged Communist subversion in its ranks.

Eisenhower, finding no lawyer willing to go up against McCarthy, finally turned to New York Governor Thomas E. Dewey, who enlisted the help of former appeals court judge and Cravath, Swaine & Moore partner Bruce Bromley,¹ who had once been handily beaten in a case by Welch,² chair of Hale and Dorr's Litigation Department for 25 years. Dewey and Bromley summoned Welch to a clandestine meeting in New York,³ where he agreed to take on the pro bono representation, despite the risk, and Bromley—mentor to future Wilmer Cutler Pickering founder John Pickering—had Pickering make introductions between Welch and the Army team.⁴

Welch's caliber and experience were impressive, says renowned litigator Jerome Facher (now WilmerHale senior counsel), who worked with Welch at Hale and Dorr upon joining the firm in 1959, but it was in Welch's persona that the Army found its true hidden weapon. In a skittish political climate, Welch embodied a solid, reassuring conservatism that was a necessary foundation for any offensive against McCarthy. A registered Republican who had never been active in politics or civic affairs, Welch dressed in bow ties and custom-made three-piece suits and had “the manner of a [Louisburg Square](#) patrician,”⁵ conveying a mature gravitas and gentility that, for a television

audience, provided the perfect foil for McCarthy's swarthy, aggressive persona.

More than a matter of appearance, however, Welch actually possessed the integrity and gentility he projected. "The qualities that he had of civility, competence, humor, patience and courtesy—even to people who perhaps did not deserve courtesy—were qualities that I think made all the difference," says Facher. "There are a lot of prominent lawyers and a lot of good lawyers, but Welch, in his own way, won the affection and admiration of everyone who saw him."

Over 36 days and 188 broadcast hours, the American public tuned in to watch Welch hold his ground at the center of a media and political storm. "There were no rules," says Facher of the hearings. "There were no rules of evidence, and the chairman, Senator Mundt, wasn't exactly in control." It was, Welch himself pointed out, a case of the lunatics running the asylum, as McCarthy—himself a subject of the hearings' investigation—"had the power at all times, through the device of a point of order, to command the attention of the seven senators and the audience."⁶ Welch adapted to the media circus with his customary mild good humor, and with an indulgence that even extended to taking random phone calls from the public that were put through to his room by the hotel operator each night.

In the absence of any procedural safeguards at the hearings, the McCarthy team introduced fabricated documents and doctored photographs into evidence, prompting cross examinations from Welch that captivated the viewing audience, and gave him ample opportunity to reveal the lethal wit beneath his courtly exterior.

With every gentle Welch witticism, McCarthy was pushed ever closer to his tipping point. On the afternoon of June 9, Welch tackled McCarthy's chief counsel Roy Cohn with a subtly histrionic line of questioning that perfectly parodied the more strident histrionics of McCarthy's Communist hunt. Pressuring Cohn to reel off a list of US defense plants sheltering known Communist subversives, Welch declared: "Mr. Cohn, you not only frighten me, you make me ashamed when there are so many in Massachusetts," prompting a wave of laughter from the hearing room. "This is no laughing matter, believe me," Welch continued. "Are you alarmed at the situation, Mr. Cohn? . . . Nothing could be more alarming, could it?"⁷

As McCarthy's face grew redder, Welch continued to gently needle Cohn, urging him to get any known Communists "out by sundown." Enraged, McCarthy interjected with what he clearly thought was a masterful stroke—outing an alleged Communist in Welch's own firm. In attempting to land the blow that would best Welch, however, McCarthy swung too hard. Cohn and Welch had previously made an agreement, endorsed by McCarthy, that the former membership of Hale and Dorr associate Fred Fisher in the National Lawyers Guild (an organization that Fisher left after some members were accused of political radicalism) would not be raised at the hearings if Welch would refrain from revealing Cohn's avoidance of military service. McCarthy violated the deal and forged ahead with an attack that the American public viewed as an unbecoming case of overkill. McCarthy's accusations had ruined careers and broken lives. There was no telling the impact his mean-spirited strike would have on Fisher.

With a husky voice and tear-filled eyes, Welch leaned in to halt McCarthy's tirade with the plea that would mark the beginning of the end for the senator: "Have you no sense of decency sir, at long last? Have you left no sense of decency?" Welch had cemented his fame, and had launched a television and movie career that would continue long after the applause in the Senate Caucus Room had finally died away.

Welch went on to become a television luminary, narrating the shows *Omnibus* and *Dow Hour of Great Mysteries*, and playing a judge in Otto Preminger's 1959 *Anatomy of a Murder* with Jimmy Stewart. The man who had won over the nation in the glare of the television lights had himself been seduced by the medium. Asked at the conclusion of his final trial in 1959—an eminent domain case on Cape Cod that had not gone his way—whether he planned to try any more cases, Welch is reported to have replied: "My first love is the law but the law is a young man's game. Now my second love is TV."⁸

¹ Haynes Johnson, *The Age of Anxiety: McCarthyism to Terrorism*, (Houghton Mifflin Harcourt, 2005), 381-2.

² John Pickering oral history interview, May 19 and May 21, 2004, conducted by William H. Becker (Business History, Inc. & The George Washington University) and William M. McClenahan, Jr. (Business History Group, Inc. & University of Maryland), 21.

³ Johnson, *The Age of Anxiety*, 381.

⁴ Pickering oral history interview, 21.

⁵ "National Affairs: The Other Joe," *Time*, May 17, 1954.

⁶ Joseph N. Welch, "The Lawyer's Afterthoughts," *Life*, Jul 26 1954, 97.

⁷<http://historymatters.gmu.edu/d/6444>.

⁸ John A. Dolan, *Hale and Dorr: Backgrounds and Styles* (Boston, Hale and Dorr, 1993), 186.