America's Founding Editors: Writing the Declaration of Independence

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In June of 1776, more than a year had passed since the Battle of Lexington and Concord ignited the American Revolution. An epic struggle loomed against the greatest military power on Earth, and the Second Continental Congress sensed that nationhood would depend on the force of written persuasion, and not solely on the force of arms.

On Congress’ behalf, one of its members, 33-year-old Virginia lawyer Thomas Jefferson, drafted the Declaration of Independence. For the next half century, Jefferson’s fierce pride of authorship, unrestrained by humility, kept him from crediting Congress for skilled editing that helped make him a national icon by sharpening his powerful, but less than polished, draft. The irony of lawyer Jefferson’s enduring bitterness and ingratitude can stimulate today’s lawyers to sharpen their own drafts by respecting cooperative editors as valuable allies, not as troublesome adversaries.

“You Can Write Ten Times Better Than I Can”

To draft the Declaration of Independence that would reverberate throughout the 13 colonies and the world, Congress appointed from its ranks a Committee of Five on June 11, 1776. The appointees were Benjamin Franklin, John Adams, Robert Livingston, Roger Sherman, and Jefferson, Congress’ youngest member.
Because Franklin was lame from severe gout, and because Living- 
tington and Sherman held no special gifts for the eloquence the 
hour demanded, the committee assigned Adams and Jefferson 
to produce a draft. Adams proposed that Jefferson write alone, 
reportedly citing the Virginian’s rhetorical gifts and explaining, 
“You can write ten times better than I can.”

Like other talented writers, Jefferson understood the anticipat-
ed audience’s needs and expectations. The moment called for an 
evocative appeal to the colonists’ hearts and minds, and to the 
sensibilities of European powers that might intervene on the colo-
nists’ side, as France did in 1778. Few of the Declaration’s read-
ers would share Jefferson’s knowledge of political philosophy, and 
fewer still would pursue this knowledge as war clouds loomed. To 
forge a bond that would ensure popular understanding, Jefferson 
the writer vowed to “place before mankind the common sense 
of the subject in terms so plain and firm as to command their 
assent.”

Writing in the second floor parlor of a Philadelphia home, 
Jefferson summoned extant political philosophy, added his own 
ideas, and presented his draft Declaration to the Committee of 
Five within a few days. “After decades as a writer and editor,” re-
ports biographer H.W. Brands, “Franklin knew good prose when 
he read it. He treated Jefferson’s draft gently.” The committee 
preserved the draft intact except for about two dozen relatively 
minor edits, though one memorable line changed. Jefferson had 
written, “We hold these truths to be sacred and undeniable.” For 
the last three words, either Jefferson himself or Franklin substi-
tuted the more concise, simpler “self-evident.”

Revision and Resentment

Beginning July 2, the full 65-member Congress convened in the 
Pennsylvania State House in Philadelphia and parsed Jefferson’s 
writing for nearly two and a half days. Historians have praised 
the Virginian as “a genius with language” whose Declaration 
resonated with “rolling cadences and mellifluous phrases, soar-
ing in their poetry and powerful despite their polish.” But Congress 
faced serious work because, according to historian Pauline 
Maier, Jefferson’s draft “revealed both splendid artistry and signs 
of haste.”

Most of Congress’ approximately 80 changes enhanced the 
Declaration’s persuasive force. Jefferson, for example, alleged that 
King George III had “suffered the administration of justice totally 
to cease in some of these states”; Congress chose conciseness, pre-
cision, simplicity, and clarity: “He has obstructed the administra-
tion of justice.”

Congress also deleted a few substantive passages that the Com-
mittee of Five had accepted a week earlier. One deleted passage 
(later denounced as a “vituperative, turgid and unfair indictment” 
by one historian, and as “patently false” by another) blamed the 
King for the slave trade, perhaps to salve Jefferson’s own conscience 
as a slaveholder torn by the inhumanity of human bondage. 
Another deletion displaced reason with passion before lamenting that 
“[w]e might have been a free and great people together.”

Watching Congress cut about a quarter of the draft, including 
several stinging passages that the committee had accepted, 
Jefferson was hurt for what he viewed as mutilations of his work.

Historian Maier calls Congress’ parsing of Jefferson’s draft “an 
act of group editing that has to be one of the great marvels of 
history.” This was no hack editing job, she continues, because 
“the delegates who labored over the draft Declaration had a splen-
did ear for language. . . . By exercising their intelligence, politi-
cal good sense, and a discerning sense of language, the delegates 
managed to make the Declaration at once more accurate and 
more consonant with the convictions of their constituents, and to 
enhance both its power and its eloquence.”

Jefferson nonetheless remained resentful in letters to friends 
within days after Congress approved the edited Declaration on 
July 4, 1776 and prepared it for publication. When he published 
his autobiography in 1821, the 77-year-old Jefferson continued to 
disparage congressional editing of his draft. Explaining that 
“[t]he sentiments of men are known not only by what they receive 
but what they reject also,” the autobiography presented his entire 
Declaration “as originally reported,” and underlined “the parts 
struck out by Congress.” He died five years later, still proud 
and still content to let readers decide for themselves which version 
should have carried the day five decades earlier.

By the end of Jefferson’s long life, his laurels included public 
service as president, vice president, and secretary of state. At his 
explicit request in his last months, his headstone at his Monticello 
home recites, “Here lies buried Thomas Jefferson, Author of the 
Declaration of American Independence . . . .” without reciting his 
three high offices, which evidently evoked no similar pride.

(The original headstone now rests on the University of Missouri Quadrangle a few yards from the Columns on the Columbia 
campus. Jefferson’s heirs presented the original headstone on July 4, 1883, to commemorate MU’s status as the first state university 
created in the Louisiana Territory, purchased from France during 
Jefferson’s Administration. The heirs made the presentation after Congress directed erection of a new headstone at Monticello.)

History’s Verdict

For more than two centuries, the Declaration of Independence has 
stood alone as an eternal statement of national aspirations. Historians and leaders alike recognize it as “the most lyrical and 
memorable statement of American values,” indeed as “the most 
cherished document in American history.”

President Abraham Lincoln revered the Declaration as an “im-
mortal emblem of humanity.” At Gettysburg in 1863, he told the 
nation that “[f]our score and seven years ago our fathers brought 
forth on this continent, a new nation”; he counted from the Dec-
laration of Independence in 1776, and not from victory in the 
Revolution or from the Constitution’s ratification.

In his 1946 Iron Curtain speech at Westminster College, Sir 
Winston Churchill declared that “the great principles of freedom 
and the rights of man which are the joint inheritance of the 
English-speaking world . . . find their most famous expression in 
the American Declaration of Independence.” President Dwight 
Eisenhower called the Declaration “a charter of human liberty and 
dignity.”

In his second inaugural address, President Barack Obama
echoed these sentiments in 2013: “What makes us exceptional – what makes us American – is our allegiance to an idea articulated in a declaration made more than two centuries ago. . . . Today we continue a never-ending journey to bridge the meaning of those words with the realities of our time.”

The rhetorical masterpiece was distinctively Jefferson’s, appropriately linked to him by later generations once Americans became generally aware of his primary authorship. Jefferson’s 64 congressional editors, however, deserve greater recognition for shaping the final document than they have received in the public mind.

Historian Carl L. Becker delivered the final verdict: “Congress left the Declaration better than it found it” by crafting a living document that was “brief, free of verbiage, a model of clear, concise, and simple statement.” “Jefferson and some of his Virginia friends,” wrote Jefferson biographer Dumas Malone, “believed that Congress weakened the Declaration, but there can now be little doubt that the critics strengthened it.” Biographer Catherine Drinker Bowen concurred unequivocally: “Congress . . . improved the document by every single alteration.”

Jefferson and Adams both died on the afternoon of July 4, 1826, at nearly the hour when Congress had announced the Declaration of Independence exactly 50 years earlier. In retrospect, the Sage of Monticello could have drawn far greater satisfaction from his sterling written achievement if he had viewed his congressional editors as valuable resources rather than unwanted meddlers.

Lessons for Today’s Lawyers

The story of the Declaration’s three-week gestation from draft to finality can encourage today’s legal writers to strive for the balance that eluded Jefferson for half a century. The balance is between a healthy pride of authorship in one’s own writing, and an equally healthy personal humility that welcomes editing by others.

In the public and private sectors alike, editing begins with the legal writer who will bear ultimate responsibility for the final product. “There is no such thing as good writing. There is only good re-writing,” said Justice Louis D. Brandeis, who sometimes rewrote his draft opinions for substance and style a dozen or more times before the pages satisfied him. A biographer similarly recounts how President Lincoln, the greatest writer ever to serve in the White House, would “shut himself away to write and rewrite his most important speeches,” whose expressive force remain national models today.

But the writer’s own editing only begins the march toward quality written expression. “I’ve never read or written a perfect first draft. Perfect first drafts don’t exist,” says British novelist and quality written expression. “I’ve never read or written a perfect first draft. Perfect first drafts don’t exist,” says British novelist and economist John Kenneth Galbraith was right about the value of editorial collaboration: “Good writing requires . . . the absence of vanity that allows a man to divorce his writing at least a little from himself.”

“[F]ierce pride of authorship . . . is, on balance, a good thing,” says U.S. Circuit Judge Bruce M. Selya. “It is the pride of the craftsman.” Before publication, however, unrestrained pride of authorship can compromise the final product by stiffening the writer’s resistance to an editor’s helpful suggestions. Economist John Kenneth Galbraith was right about the value of editorial collaboration: “Good writing requires . . . the absence of vanity that allows a man to divorce his writing at least a little from himself.”

“[T]he two most crucial aspects” of a writer’s character, summarizes law professor Ira C. Lupu, “are pride and humility. The perfect author has an optimum mix of the two. . . . Of the two qualities, . . . humility is by far the more important.”

“Whether or not I like the editor’s correction,” says Professor Lupu, “I always treat the editorial input as an invitation to revisit a thought or its expression. However frequently I accept an editor’s revision, I far more frequently use the proposed revision as a springboard for my own rewrite. Indeed, I try to look at my original sentence, and the editor’s proposal, as a self-editor as well as an author. When I can achieve that sort of simultaneous detachment from and proximity to the work, I always come away with a profound sense of improvement in the piece.”

Professor Lupu’s points are well taken. When the press of time and scheduling permits, lining up one or more colleagues as prospective editors is as essential to a lawyer’s advance planning as sketching early outlines of the brief, memorandum, or other writing project itself. When I write early drafts of a book or article, I solicit editors to review my work and contribute their perspectives. Editorial review and contribution invariably deliver improvement, and the final product is what counts. Pride of authorship is best postponed until publication, after editorial give-and-take has polished the words, phrases, and ideas that will endure on the printed page.

“When Thomas Jefferson Dined Alone”

On April 29, 1962, President John F. Kennedy and his wife,
Jacqueline, hosted a formal White House dinner honoring the Western Hemisphere’s 49 living Nobel Prize winners. “I think,” he toasted the laureates, “this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone.”

More than two centuries after it helped launch the American experience, the Declaration of Independence remains lawyer Jefferson’s singular written gift to the nation. Growth and change have marked the Republic’s history since 1776, but Jefferson’s lofty place among American writers remains secure — with help from his editors.

Endnotes

1 Douglas E. Abrams, A University of Missouri law professor, has written or co-written six books. Four U.S. Supreme Court decisions have cited his law review articles. This article appears as Chapter 9 of Professor Abrams’ latest book, Effective Legal Writing: A Guide for Students and Practitioners, West Academy Publishing (LEG, Inc. 2016). Reprinted by permission.
5 Carl L. Becker, The Declaration of Independence: A Study In the History of Political Ideas 142 (1942); id. at 141-71 (drafts showing the Committee’s edits); Dumas Malone, 1 Jefferson and His Time: Jefferson the Virginian 221 (1948).
6 Joseph J. Ellis, American Creation: Triumphs and Tragedies at the Founding of the Republic 56 (2008).
8 Pauline Maier, American Scripture 99 (1997).
9 McCullough, supra note 2, at 134.
11 McCullough, supra note 2, at 134-35.
12 Page Smith, Jefferson: A Revealing Biography 102 (1976); see also Becker, supra note 5, at 174-84 (showing Congress’ edits).
13 Brands, supra note 4, at 511-12.

14 Maier, supra note 8, at 98; see generally id., ch. 3 (1997) (“Mr. Jefferson and His Editors”).
15 Id. at 148, 150.
18 Frank F. Stephens, A History of the University of Missouri 295 (1962).
19 Ellis, supra note 6, at 234.
21 Charles Sumner, A Memorial of Abraham Lincoln, Late President of the United States 110 (1865).
25 Smith, supra note 12, at 98, 102.
26 Becker, supra note 5, at 209.
27 Malone, supra note 5, at 222. See also, e.g., McCullough, supra note 2, at 134-35.
31 Ronald C. White, Jr., The Eloquent President: A Portrait of Lincoln Through His Words xx (2005).
33 Id.
37 Id. at 74.
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13 Brands, supra note 4, at 511-12.
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   - e-mail: 

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   - Dorothy Kaiser Award
   - Warren Welliver Award

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Jefferson City, MO  65101
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