

Union of the West Endgame

A Straw Man Constitutional Amendment

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In his recent book, former French Prime Minister Edouard Balladur proposes a Union between Europe and the United States. Balladur argues that the need for such a union is urgent. Richard Rosecrance, writing in *The American Interest and Foreign Affairs*, has similarly pointed to the urgent economic need for larger markets. Rosecrance further reminded his readers that in 1938 Clarence Streit called for “an Atlantic Federal Union of the Free” to counter fascism. Streit’s book *Union Now* was a best-seller in its time, and the movement that he founded (which is carried on today by the Streit Council for a Union of Democracies) had considerable success over many years, with strong support from luminaries such as Senator Estes Kefauver as well as many others.

The implementation mechanism on which Streit and his organization focused the greater part of their energies was the Atlantic Union Resolution, introduced annually into the United States Congress for many years. The concept was to replicate Philadelphia, through having the free Western nations nominate delegates to a Constitutional Convention at which the new union would be hammered out more or less as happened so successfully in 1789.

Unfortunately (for those who favored such a union), when the Atlantic Union Resolution finally passed, the occupant of the White House, who was required to name the US delegates, did not favor the

union idea and so failed to name advocates as delegates. The result was what you would expect: a mere exchange of pleasantries.

Given this history and the breadth and strength of current interest in the possible formation of such a union, I thought it would be interesting and perhaps constructive to point to a means of (democratically) short-circuiting the process for creating such a union. I am not proposing the adoption of this means (and neither, certainly, is the Streit Council, of which I am President), but consideration of the mechanism that I have crafted illuminates many of the critical issues central to forming any such Union of the West.

In *Union Now*, Clarence Streit himself could not resist providing an “illustrative constitution” for his proposed union. It is in the same spirit that I have drafted the following “28th Amendment” to the United States Constitution for critical examination:

Section 1. *The Constitution of the United States of America, including its twenty-seven articles of Amendment, is subsumed under this article, which shall have precedence.*

Section 2. *This article extends the sovereignty of the individual over that of any state.*

Section 3. *We the people of the West do Establish this the Constitution of the West. This Establishment*

shall take effect upon the adoption of this article by the United States of America and by a majority of the states of the European Union; these actions together shall create the Union of the West.

Section 4. *All legislative powers shall be vested in a House of the People, comprised of members elected by approval voting from compact districts of nearly equal population.*

Section 5. *The House shall elect by approval voting a Prime Minister who will exercise all Executive powers, subject to the confidence of the House; regardless, an election of the House shall take place at least every six years.*

Section 6. *The House shall create an independent judiciary.*

Section 7. *All powers not specifically mentioned in this article shall remain with the people, and with the United States of America, and with the European Union, and with the states constituting the United States, and with the states constituting the European Union.*

Section 8. *Every person who is a citizen of the United States of America, or who is a citizen of a country of the European Union, shall be a citizen of the West, and if aged at least 18, be eligible to vote.*

Section 9. *The House of the People shall have the power to admit additional states to this Union.*

Section 10. *Union powers shall be limited to:*

- a) Union government and citizenship*
- b) Union defense force*
- c) Union customs-free economy*
- d) Union money*
- e) Union postal and communications system*
- f) Union patents and protection of intellectual property*
- g) Union protection of Habeas Corpus, freedom of speech, freedom of religion, freedom from intrusion, and other freedoms and liberties.*

In showing this draft amendment to Americans and Europeans alike, I have found uniform dislike, which suggests to me that there might be something to this approach! However, advocacy of adoption of

this amendment is not my goal, which is rather to contemplate, through this prism, the nature of the resulting union and to express a few thoughts on how such a union might come about.

I will confine my discussion to the various sections of the draft article, so as to get the fullest stimulative value out of the draft amendment.

Section 1. *The Constitution of the United States of America, including its twenty-seven articles of Amendment, is subsumed under this article, which shall have precedence.*

Perhaps the most powerful American argument against the approach of creating a union by amending the US Constitution is the extreme difficulty of passing any amendment, much less one so sweeping. But if our goal is to create a true federal union comprising (initially, at least) the present European Union and the United States, the only alternative to a constitutional amendment is a treaty. Recent history shows the extreme difficulty of passing any treaty remotely similar to the present draft—I am thinking of the Rome Statute that established the International Criminal Court (ICC). But the reluctance of United States administrations and Senators to subject American citizens to the ICC centers precisely on the lack of democratic authority behind such a court. For that very reason, it might actually be easier to pass the present draft amendment than to ever get the ICC treaty through. If that is so, perhaps this draft should be given more serious consideration than I am giving it here.

The most powerful European argument against the approach of creating a union by amending the US Constitution is European repugnance at “joining the United States of America.” But just as Americans have their problems with the ICC, so Europeans have problems with their own European Union. One clear example is the rejection of the Constitutional Treaty, in the voting booth, by citizens of France and the Netherlands. This difficulty arises, I think, for the very same fundamental reason: the lack of democratic legitimacy in the proffered instrument. For it is true that the European Union’s so-called “constitution” was not a constitution at all but was merely a treaty, much as the ICC is a treaty.

Prime Minister Balladur himself argues strongly that Europe needs to get its house in order before launching his projected union with the United

States. But Europeans might have second (that is, more favorable) thoughts about the amendment approach, as they realize two things: first, its adoption would preempt many of their internal European Union difficulties, rendering them largely moot. And second, EU members would not be subject to the United States Constitution beyond this one new article of amendment.

On the second point, of course no one would even toy with the idea of the European countries simply joining the United States: *e.g.* Germany becoming a state with two senators and so forth. The idea is absurd and is just one among a vast number of objections that would emerge on the applicability of the United States' Second Amendment to Germany. But this only highlights the beauty of the idea under discussion in this paper; that under this approach, the Second Amendment (and many other problematic items) would not apply to Germany or to any of the other countries of the European Union.

Section 2. *This article extends the sovereignty of the individual over that of any state.*

Only anarchists reject government totally. Libertarians recognize the need for a minimal level of governance, as do conservatives. Liberals are warmer to broader governmental roles, but like libertarians and conservatives they recognize that the purpose of having government at all is solely to strengthen, not limit, the sovereignty, security, and liberties of the individual. The recognition of this fundamental principle has evolved over the centuries, and I make it a separate section because of its fundamental character. It will be available to courts, under the putative union, to guide in the interpretation of the Constitution. It is the only item in my draft that I would describe as political, as opposed to architectural. The remainder of the draft Article has, as a goal, only the effective implementation of Section 2.

Streit's illustrative constitution is much longer and more detailed than the present draft. That is no accident; I strove to include only the *sine qua non* and nothing more. There are huge issues that would arise were the present draft ever to be taken seriously. Just as in 1789, when a side deal to locate the capital in the South helped seal the deal, such questions as the official language(s) and location of the capital would figure large in any attempt to

launch the union by this mechanism. I ignore these issues, important as they would be in reality.

Section 3. *We the people of the West do Establish this the Constitution of the West. This Establishment shall take effect upon the adoption of this article by the United States of America and by a majority of the states of the European Union; these actions together shall create the Union of the West. "We the people" The Constitution of the European Union opens with the less than stirring words "His Majesty the King of the Belgians." The present draft amendment, surely, might do better in European voting booths?*

One envisages the campaign: the introduction of the amendment into the United States House of Representatives and, upon passage, into the United States Senate, and then into the parliaments of Europe—perhaps, initially, the European Parliament. Passage in the US Senate would then require approval of the various state legislatures. Prohibition took thirteen months, from start to finish—please do not tell me it is impossible. For the Europeans, I recommend using voting booths, but there I am violating my self-restriction to the *sine qua non*.

Section 4. *All legislative powers shall be vested in a House of the People, comprised of members elected by approval voting from compact districts of nearly equal population.*

If Malta, the smallest member of the European Union by population, has a single representative in the House, then the House of the People will have just under 2,000 members (the present European Parliament has 750 members). The United States would have 38% of the seats and the Americans and the British combined would have 45%.

In creating my draft, a major goal has been to restrict the draft to the *sine qua non*; not just to avoid messy and inessential battles, but to ensure that the fundamentals are done right. I hope that anyone who should choose to proceed on the basis of this draft would preserve these essentials: one person, one vote; compact districts; approval voting, since it tends to produce unity rather than division; and consensus rather than confrontation.

Section 5. *The House shall elect by approval voting a Prime Minister who will exercise all*

Executive powers, subject to the confidence of the House; regardless, an election of the House shall take place at least every six years.

The Union of the West will be unicameral, at least according to my draft. My draft architecture is intended to produce strong, effective, and responsible government. There is no President—the Executive is composed of the Prime Minister and her cabinet. Approval voting for the Prime Minister is again to favor unity and consensus. And the government will really be able to govern if it has a strong enough majority. But should it lose the confidence of the House of the People, new elections would follow immediately.

Section 6. *The House shall create an independent judiciary.*

I have avoided any attempt to guess how this might be structured.

Section 7. *All powers not specifically mentioned in this article shall remain with the people, and with the United States of America, and with the European Union, and with the states constituting the United States, and with the states constituting the European Union.*

This section reinforces Section 2, and limits the reach of laws that are passed by the House. This is the most delicate of issues, exactly as it was in 1789. The House is limited to the items in Section 10, to be discussed briefly below.

Section 8. *Every person who is a citizen of the United States of America, or who is a citizen of a country of the European Union, shall be a citizen of the West, and if aged at least 18, be eligible to vote.*

This section is self-explanatory.

Section 9. *The House of the People shall have the power to admit additional states to this Union.*

This is a crucial power. The European Union at present is wrestling with the problem and opportunity of Turkey. The United States is wrestling with the problem (and, by this section, opportunity) of Mexico. The debate on this amendment would have special focus on this article. My aim, of course, is to make possible the orderly admission of Turkey and Mexico, neither of which could perhaps ever happen without the creation of the larger Union of the West.

Section 10. *Union powers shall be limited to:*

- a) *Union government and citizenship*
- b) *Union defense force*
- c) *Union customs-free economy*
- d) *Union money*
- e) *Union postal and communications system*
- f) *Union patents and protection of intellectual property*
- g) *Union protection of Habeas Corpus, freedom of speech, freedom of religion, freedom from intrusion, and other freedoms and liberties.*

My list for Section 10 was generated simply by consulting *Union Now*, in which Streit emphasized that his proposed Union would be designed “to provide effective common government in our democratic world in those fields where such common government will clearly serve man’s freedom better than separate governments.”¹ Streit specified, in particular, “a union government and citizenship, a union defense force, a union customs-free economy, a union money, and a union postal and communications system.”² My two added items I regard as part of my *sine qua non*. The final item is this draft constitution’s succinct Bill of Rights. Let us suppose that this amendment approach is impossible. What approach may be possible? Try once again on the Atlantic Union Resolution? Build Balladur’s consultative structures? Attempt a treaty linking the European Union with the United States?

Europe gives us powerful guidance based on its history since the end of World War II. While a United States of Europe has not been created, Streit, I think, would have been amazed at the degree of success that has been achieved using the incremental approach that he denigrated. At the Streit Council we think that the best approach at present is a combination of education and the building and strengthening of existing institutions and proposed new institutions such as those advocated by Prime Minister Balladur. But we agree heartily with both Balladur and Richard Rosecrance on the urgency of the need for substantive progress, especially given the new economic climate that we all face. At the Streit Council, we favor Union Now. □

NOTES

1. Clarence Streit, *Union Now* (US: Harper & Row Publishers, 1976), 4
2. *Ibid.*