

THE RELATIONS BETWEEN THE UNITED STATES AND THE  
CENTRAL POWERS

The actual status of the relations between the United States and the Central Powers, so far as we are officially informed, is as follows:

The United States has declared war upon Germany, while Germany has said and done nothing in reply.

Austria-Hungary, Turkey and Bulgaria have ceased diplomatic relations with this country, which in turn has taken similar action, but no war between them has been declared.

The three Powers just named are in offensive and defensive coöperation with Germany, with whatever consequences that may imply as regards Germany's enemies.

The problem is to determine the nature of our relations with the four states above mentioned.

And first as to Germany.

Article 1 of Hague Convention No. 3, 1907, is as follows:

The contracting Powers recognize that hostilities between them must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.

This was ratified by both Germany and the United States.

Accordingly, having exhausted all others means of protection, and authorized by Congress, war was declared against the Imperial Government of Germany in these words "a state of war exists." It was, therefore, not a conditional, but an absolute announcement. This was on the 6th of April, 1917. From that day to this, so far as appears, no counter declaration has been made by Germany, nor has any aggressive act taken place up to the time of writing other than further submarine attacks upon American ships of trade and their attempts at defense.

Nevertheless, no one can doubt that war exists, reciprocal war, no matter what formalities Germany may have dispensed with.

Next as to Austria-Hungary. There is here no doubt of an alliance with our enemy Germany, an alliance nominally defensive. Although the exact terms are not accessible, the main provision is well known, namely, that Austria is bound to coöperation in arms with Germany if the latter is attacked by two Powers, meaning France and Russia. Italy was similarly bound, but decided that the war was offensive,

not defensive, and that therefore no *casus foederis* had arisen. But Austria thought otherwise. The question for us then is, if we, being at war with Germany, are likewise automatically at war with Austria, the ally of Germany, although so far as public official statements show we have merely severed diplomatic relations.

Text-book opinion bearing on this topic is neither plentiful nor uniform.

Bynkershoek thought that "allies form one state" with a confederated belligerent; and Phillimore approves, saying:

This principle, duly considered and applied, furnishes a solution for all questions relating to the position, the duties and the rights of an ally. Thus for instance, the doctrine that all commerce and communication is interdicted with the enemy is enforced, not only against the subjects of the belligerent but also against those of the ally, upon the supposition that the rule was founded on a strong and universal principle which allied states in war had a right to notice and apply mutually to each other's subjects.

On the other hand, Halleck says plainly that "the simple fact of there being an alliance between our enemy and other nations would not justify us in treating such nations as belligerents." He declares further:

A warlike alliance made by a third party before the war with a state, then our friend but now our enemy, will not as a general rule be of itself a sufficient cause for commencing hostilities against such third party; for there may be good reason why he should not regard himself as bound by the obligations of the alliance. It would certainly be very impolitic, as well as improper, for us to treat as a belligerent one who may not be disposed to become our enemy.

To this Creasy adds:

You certainly have a right in such a case to call upon the ally of your opponent to declare whether he means to act against you or not; and if he refuses to give an express renunciation of hostile intentions toward you, you are in every way justified in forthwith treating him as your enemy, unless you consider as above explained, that it is for your interest to forbear from doing so.

Perhaps in the case of our present relations with Austria these two principles will be found reconcilable and can be combined. We should certainly forbid trading with her as akin to trading with an enemy, for to supply her with rubber, copper, flour, let alone munitions of war, is equivalent to supplying Germany with them. On the other hand, we may well await the issue of events before unnecessarily taking on another enemy. If Austrian submarines attack our ships, we shall

defend them; and if we choose to insist upon a disclaimer of the right to torpedo without warning, that is a conditional ultimatum with war declared in the background. As matters stand, we may fairly say, I think, that Austria stands to us in certain aspects as an enemy, but that this as yet does not imply active declared hostilities.

As regards Turkey, the case is yet more indistinct. Turkey was thrust into the war through the boat attack upon Odessa which was due to German intrigue. This was followed by the preaching of a Holy War, which in turn led to the British declaration of November 5, 1914, that "a state of war exists with Turkey" on account of hostile acts by Turkish forces under German officers. I find no record of an actual alliance between Turkey and Germany, though very likely there is one. But we do know that Turkish military operations for more than two years have been directed by German policy under German command to such a degree that Turkish forces have coöperated with Germany upon all her battle lines except the Western one. This is alliance whether formally agreed to or not. Turkey's case then is not essentially different from Austria's, and we may fairly be governed in our relations with her by the facts as they develop, prohibiting trade with her meanwhile.

With Bulgaria we are still less likely to come into contact and to be forced to define relations.

If and when United States troops confront the soldiers of Germany's allies on some theater of war, it will be needful to recognize a state of war between their respective governments, in order to know the conditions, laid down by treaty, Hague Convention or by the general principles of law, under which they shall engage. Until then, there are only the less pressing problems involved in a state of war, questions of trade, of partnership, of contract and so on, which need solution. These at present, owing to the stringent blockade of the coasts of our enemy's allies and to the hostile encirclement of their territories, may not become practical questions at all.

But if our State Department were asked today if war existed with Austria or with Turkey, it would probably say No, and be justified in its answer.

T. S. WOOLSEY.