5 Among Unbelievers: Antitrust in Germany and Japan

Allied victory in World War II inaugurated perhaps the most ambitious social science experiment in world history: the reconstruction of Germany and Japan. After war, the losers usually cede territory and pay reparations to the winners, which sometimes occupy the defeated powers to enforce these obligations. But after 1945, the Allies occupied Germany and Japan not only to extract land and wealth but also to reorganize their societies, eliminating the authoritarian and militaristic tendencies that had made both countries a threat to world peace. For Americans these reforms involved first and foremost promoting political democracy, but economic reorganization also received high priority. Proponents of economic deconcentration were particularly eager to play a role. No matter how effective, the American attack on international cartels did not touch other industrial countries' many domestic cartels and monopolies. The occupation, however, allowed Americans to reach into Japan and Germany, which had highly concentrated, thoroughly cartelized economies. The results, reformers hoped, would set precedents for the rest of the world.

Theories of Occupation

Although eager to reshape Germany and Japan, Americans did not agree how to go about it. Many saw these societies as inherently flawed, requiring revolutionary reorganization. Others contended that Germany and Japan contained many healthy elements that could, with encouragement, form the basis for peaceful, democratic societies. Radical change would destroy the good with the bad. Antitrust reformers generally fell in the first group, arguing in particular for a complete restructuring of the German and Japanese economies.

Many in the United States attributed World War II to the machinations of German business. Explanations usually began with Germany's rapid industrial development in the late nineteenth century. Drawing on arguments first advanced by Thorstein Veblen, an economist and a leading intellectual of the Progressive Era, they claimed that the traditional elite, the German aristocracy and military, had commandeered the economic transformation, harnessing it to authoritarian political ends. Unlike the situation in the United States and Britain, industrial growth in Germany had not proceeded alongside political liberalization but had actually strengthened dictatorship. A long memo prepared by the Cartel Committee stated, "The tardy and rapid development of large-scale industry [in Germany], together with a tradition of absolutist government, fostered the growth of monopoly unparalleled in the western industrial nations. A highly efficient monopolistic industry, in turn, has been driven to seek control over markets outside the borders of the Reich. German industrialists have therefore persistently worked to enlist the support of the public, and have used their great influence upon the Government, in the interest of foreign expansion."[1]

Although defeat in 1918 had temporarily halted Germany's drive for conquest, it had not changed the complexion of the country's industry. As a Senate report on international cartels noted, "A federated Germany emerged from war with her imperialist-minded industrial hierarchy intact." If anything, defeat had further consolidated German business. The Senate report continued, "In the period following the war, German industries were reorganized into closely knit, highly integrated combines whose productive and technological capacity constituted a menace to large producers in other countries."[2] These organizations had clear objectives. The Cartel Committee's memo asserted, "Almost from the end of World War I Germany's arms manufacturers, for the most part great combines which constituted the very heart of heavy industry, set about preparing Germany for another effort at conquest."[3]

German industry played a critical role in Adolf Hitler's rise to power. The Senate report noted, "Krupp, Thyssen, and other powerful figures on the

German industrial scene provided the Nazis with indispensable financial and political support."[4] The publication of steel magnate's Fritz Thyssen's memoirs, *I Paid Hitler*, reinforced this view.[5] The Cartel Committee argued that "the expansionist and anti-democratic yearnings of German industrialists . . . seem to have been fully satisfied—even if it turns out to be only for a brief moment—in Hitler's Third Reich."[6]

German business, operating through international cartels, participated in Nazi aggression. The Senate report claimed, "Almost immediately, as a consequence of this unholy alliance between Hitler and the cartelists, Germany's plans for economic warfare, aimed at ultimate world domination, were expanded. . . . American businessmen were induced to enter into cartel agreements by the promise of freedom from German competition. In exchange for a guaranteed domestic market, American participants accepted restrictions on their own production and sales." The results were disastrous. "Shortages and scarcities in strategic sectors of industry," the Senate report claimed, "visible even before our entry into the war, became ominous following Pearl Harbor. The evidence shows that many of these must be attributed to the operations of international cartels."[7]

Military victory would not eliminate the threat posed by German big business, which had survived defeat before. "To crush German imperialism permanently," the Senate report noted, "the structure and control of German industry must be so altered that it cannot serve again the purposes of war. . . . Punishment of 10,000 of the leading imperialist-minded German industrialists would be more effective than punishment of 1,000,000 Nazi underlings who carried out the orders of the conspirators."[8]

Taming German business required the destruction of international cartels. Whereas before the war cartels had served as avenues for economic aggression, after the peace they would allow German industry to recover by providing access to markets and capital. Recovery would then open up the prospect of new aggression. The Senate report noted, "Any efforts to retain the international cartel system will . . . help to keep in power the German militarist-industrialist clique who have already planned and launched two world wars."[9]

Lasting peace, however, required more than the elimination of international cartels, which represented only one aspect of German industry. The real problem was the concentrated power of German business, which also operated through domestic cartels and large firms like IG Farben that dominated entire sectors of the economy. A lasting peace required the termination of the former and the dissolution of the latter—a policy of "decartelization and deconcentration."

This analysis was and is controversial. Although Germany's business community certainly harbored a substantial number of Nazis, many historians have argued that industry as a whole contributed no more to Hitler's rise to power than other segments of Germany society and may have contributed less than some.[10] Businessmen like Fritz Thyssen and Halmar Schact did provide the Nazis with valuable help, but other business figures, just as prominent, supported the nationalist or liberal parties. Jewish industrialists and financiers naturally opposed the Nazis. Up until 1934, when Hitler purged the party, the Nazis included many who embraced various types of socialism.[11] Relations between large German firms and the Nazi regime were often tense, with each at times pursuing quite different objectives.[12] Few Americans in the 1940s were familiar with the extraordinary complexity of German politics between the world wars. German business was in many cases implicated in the crimes of the Nazi regime, but New Dealers' attribution of fascism to the machinations of big business was a gross oversimplification that reflected the influence of Marxist thinking and reformers' fear of American big business, not a sound understanding of German history and society.

Nevertheless, U.S. policy toward occupied Germany initially reflected these ideas. Orders governing the occupation, issued by the joint chiefs of staff to General Dwight D. Eisenhower in April 1945, stated, "You will prohibit all cartels or other private business arrangements and cartel-like organizations," continuing, "It is the policy of your government to effect a dispersion of the ownership and control of German industry."[13] The July 1945 Potsdam Conference, a meeting of the American, British, and Soviet heads of state near Berlin, endorsed this policy. The three nations agreed that "at the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts, and other monopolistic arrangements."[14]

Policy toward Japanese business occasioned more debate within the government. Some of the State Department's Far East specialists saw this community as a logical counterweight to militarism. Businessmen had been closely associated with the parliamentary regime that had governed Japan in the 1920s, and several prominent industrialists had fallen victim of ultranationalist violence in the 1930s.[15] As late as the winter of 1945, some U.S. experts argued that "if we are looking for a party which might lead the Japanese people to a more reasonable government during the transition period, the business leaders might well emerge at an early stage as a focal point for collaboration with an Allied military administration."[16]

The State Department's Cartel Committee vigorously resisted this reasoning. It claimed, "Voluntary participation by the large industrialists in Japan's program of aggression is a historical fact. . . . Participation in the national program was advantageous to the industrialists. Aggression solved the problem of export markets and likewise assured the large business organizations control over strategic raw materials." The argument continued, "Through political maneuvering and skillful tactics carried out at high levels of government, the large industrialists by 1944 achieved virtually complete control over the economic phases of the Japanese domestic economy and monopoly control over the raw materials of the Far East conquered under the program of aggression."[17]

Concern centered on the Zaibatsu, family-dominated combines active in every segment of the Japanese economy but particularly strong in finance, heavy industry, and foreign trade. By 1945, the ten largest Zaibatsu controlled approximately half of Japan's heavy industry and financial resources.[18] In no other large industrial country did so few companies wield so much power. The war had substantially strengthened the Zaibatsu because the Japanese government had relied on them to build up wartime industry and to manage the economic affairs of conquered territories. Even if they had not instigated aggression, the Zaibatsu had profited from it.

Interestingly enough, international cartels did not figure prominently into analysis of the Japanese economy. Japanese companies often organized domestic cartels, but they dealt with international ones warily. Relative latecomers in most industries, Japanese firms often had to challenge established cartels for foreign markets—they were the nemesis of the lightbulb and synthetic alkali cartels. However, when offered sufficient inducements, Japanese companies would join cartels. They were particularly open to arrangements based on patents and the exchange of scientific know-how, which they wanted to obtain from the more technically advanced economies of Europe and North America. Still, the Cartel Committee emphasized not the role of Japanese firms in international cartels but rather how these organizations had furthered the concentration of business in Japan, arguing, "These corporate devices enhanced the power of the already powerful combines, and placed them in the practical position of monopolistic importers, custodians and dispensers of industrial technology in Japan."[19]

Washington finally came down in favor of economic reform for Japan. Americans were in a vindictive mood—they were not quick to forgive the attack on Pearl Harbor—and breaking up Japan's largest firms accorded with this sentiment. Moreover, the publication in the United States of many books and articles denouncing the Zaibatsu had turned public opinion against these organizations.[20] President Harry S. Truman, who succeeded Franklin Roosevelt upon the latter's death in April 1945, charged General Douglas MacArthur, the head of the occupation in Japan, "to favor a program for the dissolution of the large industrial and banking combinations which have exercised control of a large part of Japan's trade and industry." Subsequent orders directed MacArthur to "terminate and prohibit all Japanese participation in private international cartels."[21] As in Germany, policy fell under the heading "decartelization and deconcentration," but with even heavier emphasis on the latter. In Japan economic reform began with the Zaibatsu.

Decartelization and deconcentration did not have to operate in tandem. The United States had relatively few cartels but many large companies. Defenders of cartels often argued that by putting a floor under prices they actually made it easier for small firms to survive on their own. Nevertheless, the Americans officials who led the attack on cartels were, for the most part, deeply suspicious of all types of economic concentration. Organizations that put economic power in a few hands, be they cartels or integrated combines, were inimical to political democracy as well as to technical efficiency. The evolution of some of the largest German firms such as IG Farben and the steel maker Vereinigte Stahlwerke from cartels further linked the two issues.

Legally and practically, the occupations of Germany and Japan differed in important respects. In the former, the four chief Allied powers—the United States, Britain, the Soviet Union, and France—divided responsibility. Each controlled a designated occupation zone. They were supposed to coordinate their policies, but in practice they often ignored one another, ruling their zones as they saw fit. In contrast the United States ran Japan more or less on its own with only nominal consultation with the Allies.

Despite considerable discussion of the subject during the war, American occupation authorities had little in the way of specific plans for economic reform when they took over the defeated Axis powers. Several factors accounted for the situation. Most officials in Washington had grossly under-estimated the economic problems they would face. One memo, drawn up in early 1944, suggested that immediately after the war, "It was probable that a large portion of German resources would be available," freed up by the termination of that country's war effort. "There would be surpluses of labor and some products such as steel, coal, and artificial fertilizers."[22] Such had been the case after World War I. In fact, when Germany formally surrendered in May 1945, the country was in desperate shape. Most of its cities were in ruins. The transportation system had ceased to function, and almost every factory lacked raw materials, especially fuel. Food rations were barely enough to sustain life, and without outside assistance they were likely to decline further. Moreover, the Allied invasion had destroyed government at the higher levels, eliminating the organizations that normally would have coordinated reconstruction. Economic conditions in Japan were perhaps even worse. The country had literally no petroleum, and food rations were not enough to keep the population alive for long, although because Tokyo had surrendered before invasion the government did still function. Instead of the battered but going concerns they expected to find, the Allies assumed responsibility for economic wastelands requiring heavy infusions of aid. The United States would have to subsidize both West Germany and Japan into the 1950s. In Japan's case, the timing of end of the war, September 1945, caught Allied planners by surprise. Ignorant of the existence of the atomic bomb, they had assumed that Tokyo would not capitulate until after invasion of the home islands, which they did not expect until 1946.

Bureaucratic factors added to the confusion. The military ran the occupations of Japan and Germany, whereas most postwar planning had occurred in the State Department and (to a lesser degree) the Treasury. Washington enjoyed imperfect control over the occupation regimes. In Japan, General Douglas MacArthur was virtually autonomous. In Germany, General Lucius Clay, who became the head of the occupation soon after Germany's surrender, lacked MacArthur's status as a war hero and so was slightly more malleable. Nevertheless, he was a forceful man who did not fear to act on his own authority, and he had numerous contacts in Washington on whose support he could count. A West Point–educated staff officer who had compiled an impressive record during the war, Clay carefully monitored all aspects of the occupation, keeping final authority in his own hands.

Yet intellectual shortcomings rather than economic or bureaucratic ones constituted the chief impediment. During the war, whenever people spoke of establishing a durable peace, they emphasized the need to avoid the mistakes of the Treaty of Versailles, which had ended World War I. Yet no consensus existed on the nature of these errors. Some argued that Versailles failed because it had not crushed German power once and for all. They usually considered Nazism the logical culmination of the German political, economic, and social systems and assumed that the only way to prevent another war was to keep Germany weak and to reorganize its society radically. Others considered Versailles too harsh, crippling Germany's relatively pacific Weimar Republic before it was firmly established and thereby opening the way for the Nazis. They generally attributed Nazism to the chaos spawned by the Great War and the Depression and assumed that prosperity and social order were the keys to a lasting peace. Advocates of a "hard" peace wanted to break up Germany, dismantle much of its industry, and subject it to thoroughgoing reforms that included decartelization and deconcentration. Proponents of a "soft" peace imagined that, after a suitable period of reconstruction under the watchful eyes of the Allies, a united, democratic Germany would resume its place in Europe.

The dichotomy between a "hard" and a "soft" peace obscures both gradations of opinion and areas of consensus. Officials could, and sometimes did, favor both the rapid rehabilitation of German industry and the division of the country into several states. All concurred on punishing war criminals, disarming Germany, and instituting democratic government there. Still, disagreement on the objectives of occupation could affect even such apparently uncontroversial matters. Did disarming Germany entail simply dismantling the military and banning weapons or did it also require restrictions on the production of metals and chemicals (aluminum, synthetic nitrates) that could be used to make arms? Did the term "war criminal" encompass only leading Nazis and those guilty of specific atrocities, or did it include the entire elite—professionals, businessmen, government officials, and so on? These questions went back to the central issue: Should the Allies concentrate on punishing and reorganizing Germany or on rehabilitating it? Many Americans simply ignored these questions, assuming that Germany could recover quickly even as the Allies upended its society. Yet it was not clear that Germany could survive without the heavy industries that had been the core of its economy or function without its traditional leadership.[23]

These divisions affected opinion on deconcentration and decartelization. Many of the advocates of this program contended that it would benefit the German economy, at least in the long run, by eliminating bloated industrial giants and opening up new opportunities for entrepreneurs and innovators.

At the same time, by destroying the power of big business it would make German society more democratic. Yet many doubted that it was possible to reorganize completely the German economy, gutting the institutions that had long governed industry, without substantially disrupting production and slowing recovery.

Attitudes toward the Soviet Union would further complicate the issue of German occupation. Even before the war ended, many U.S. officials were suspicious of Russian intentions in Europe, and after victory, relations deteriorated fast. How to deal with Soviet Russia soon became the chief issue of foreign policy. Americans eager to conciliate the Russians often urged a tough line toward Germany on the assumption that the chief objective of Soviet foreign policy was to prevent that country from ever again emerging as a great power. Those suspicious of Soviet intentions tended to advocate a generous settlement with Germany because a prosperous, stable Germany would form a bulwark against communist expansion.

Washington wavered on its plans for Germany throughout the war. At first, State Department supporters of a generous peace seemed to hold sway, but the revelation of Nazi atrocities and the general wartime desire to punish the enemy strengthened the hand of those pushing "hard" terms. In 1944, Treasury Secretary Henry Morgenthau persuaded President Roosevelt to endorse a plan to dismantle Germany's manufacturing industry and to refocus its economy on agriculture. By 1945, however, the administration had discarded Morgenthau's plan, largely because it realized that without industry Germany could not support anything like its current population, even at subsistence levels. A somewhat less punitive policy, in effect when Germany surrendered in 1945, envisaged a reduction of the role of heavy industry (steel, chemicals, machinery) in favor of the production of consumer goods (textiles, processed foods). Yet effecting such a shift would be difficult in the best of circumstances, which most certainly did not exist in Germany in 1945. Moreover, support persisted for policies that emphasized rapid economic recovery over reform. Many army officers managing the occupation feared that without substantial improvement in the German economy their task would be impossible. Economic specialists worried that an impoverished Germany would pull down Europe as a whole, inhibiting general recovery. General Clay's orders acknowledged the situation, noting, "This directive sets forth policies relating to Germany in the initial post-defeat period. As such it is not intended to be an ultimate statement of policies of this government concerning the treatment of Germany in the post-war world."[24] Nonetheless, the failure to decide in a sense constituted a decision. Germany was in terrible shape, and without a concerted effort by occupation authorities recovery simply would not occur.

At first glance, debate during the war over the occupation of Japan involved different issues. The key question was whether to retain the imperial system. A faction in the U.S. government, centered around Joseph Grew, ambassador to Japan before the war and then undersecretary of state, urged that the United States keep the emperor as a constitutional monarch, whereas others in Washington wanted to try him as a war criminal and turn Japan into a republic. Yet the underlying issue was the same as in Germany: Were the Japanese militarists who had waged World War II essentially historical anomalies created by the political and economic chaos that flowed from the Great War and the Depression, or were they a natural product of Japanese society? The former conclusion dictated a generous occupation policy; the latter, a rigorous one.[25]

Deconcentration and Decartelization in Germany

At the end of the war, reformers had high hopes for decartelization and deconcentration in Germany. They had support in the occupation bureaucracy as well as in Washington. Yet the requirement of coordination among the Allies made it difficult to implement a comprehensive program. During the first two years of occupation, reformers initiated much but concluded little.

Advocates of deconcentration and decartelization initially enjoyed a strong position in the American occupation regime in Germany. A team of cartel specialists had followed behind the U.S. Army as it marched into the collapsing Reich, securing corporate records and questioning captured industrialists. James Stewart Martin, a lawyer and former chief of the economic warfare unit of the Justice Department's Antitrust Division, headed the group. He left during the summer, not long after Germany's formal surrender, but once home he began to urge publicly that the occupation employ members of the Antitrust Division to reorganize the German economy. In December 1945, General Clay recalled Martin and put him in charge of the newly constituted Decartelization and Deconcentration Branch of the military government. Martin had a relatively large staff of 162, many of them drawn from the Antitrust Division of the Justice Department, and he answered to the head of the occupation's Economics Bureau, who reported directly to Clay.

Although this arrangement seemed logical—deconcentration and decartelization were economic matters—it produced friction. In the United States the Antitrust Division was part of the Justice Department, and its employees were generally lawyers who did not concern themselves much with economic policy. Their counterparts in Germany often got along poorly with the other members of the Economics Bureau, who were usually businessmen for whom the revival of the German economy took precedence over reform.[26] Even before Martin's return, American officials eager to break up cartels and large firms had clashed with those responsible for economic policy. It was this conflict that had persuaded Clay to create the Decartelization Branch and recall Martin. Unfortunately, bureaucratic reorganization had not erased the basic disagreement over policy.[27]

Despite such tension, or perhaps because of it, members of the Decartelization Branch exhibited great esprit de corps. Most of them believed that their labors were absolutely vital to creating a peaceful, democratic Germany. One insisted, "Decartelization policy if carried out, might be one step toward delaying the coming war," presumably by forcing German society into a more pacific mold and maintaining good relations with the Soviets.[28] As late as 1951, after the branch had experienced many changes in fortune, one of its members stated, "I became accustomed in finding myself . . . being called a fanatic. I think the characterization is very apt and correct. . . . In the States, antitrust is almost a religion. It is similar to a religious doctrine and expresses the belief of people to freely compete to the best of their abilities."[29]

Others did not consider fanaticism so endearing. The British, lacking the Americans' aversion to cartels, complained of the application of U.S. standards to Germany and grumbled that because antitrust laws "had not been able to produce contemplated results in America, the 'trust-busters' were all the more anxious to experiment in new fields."[30] This gripe had much truth in it. The American antitrust tradition had no counterpart in Germany or Europe, and U.S. authorities in Germany drew precedents almost solely from American law, largely because no others existed.[31] Perhaps more important, members of the Decartelization and Deconcentration Branch often sought to impose in Germany more rigorous standards than applied in the United States itself, apparently in the hope of setting precedents that would have impact at home as well as in Europe.

The enthusiasm of the Decartelization Branch could not easily overcome the limits inherent in the American position in Germany. Theoretically, policy had to reflect the wishes of all four occupying powers. Even had the United States acted alone on decartelization and deconcentration, it could accomplish only so much. Its occupation zone covered southern Germany—the states of Bavaria, Hesse, and Baden-Württemburg—which were not the country's most heavily industrialized. The largest and most capital-intensive firms generally operated out of Berlin or the Ruhr Valley, beyond the direct reach of the Americans. Without an agreement with the other three powers, the Decartelization Branch "could do little but make studies, and their whole large force did little else before [a limited agreement was reached in 1947]," the historian of the branch noted.[32] These investigations were extensive and aggressive. One memo from late 1945 proudly reported, "Twenty-one leading bankers are under arrest pending interrogation which will reveal the role played by German finance in the preparation and waging of aggressive war."[33] The Decartelization Branch ultimately conducted enough studies to fill a bookshelf. At best, however, such activity merely constituted a prelude to action.

The Allies had great difficulty agreeing on decartelization and deconcentration. Interestingly, the former was not particularly controversial. Cartels were alien to most Americans, including businessmen, and enjoyed almost no support among U.S. officials in Germany. Even the British and French, who had more experience with these organizations, considered their future a secondary matter and were willing to accommodate American preferences. Deconcentration, the dissolution of large companies, constituted the chief point of contention. Most people considered "the breakup of large industrial combinations . . . largely punitive and political," as the historian of the American deconcentration effort noted.[34] Certainly officials of the British, French, and Soviet governments took this view, as did most Germans. They all assumed that in economics, bigger was better. The Americans, however, had a more ambiguous attitude. Some regarded deconcentration a way to punish Germany or at least to limit its war-making capability. Members of the Decartelization Branch tended to consider radical deconcentration vital both to eliminating Germany's aggressive, militaristic tendencies and to maintaining good relations with the Soviets. Yet most of the Branch's members also sincerely believed that deconcentration would help the Germans, at least in the long run, by shutting down bloated, inefficient economic behemoths and opening their economy to competition. As a 1949 report insisted, "Rather than interfere with German production or the recovery of Germany, . . . deconcentration has increased production and strengthened the German economy."[35] The willingness of the Decartelization Branch to target the German subsidiaries of American and British companies like International Telephone & Telegraph and Unilever suggests that they did not envisage deconcentration chiefly as a way to punish the Germans.[36]

The different attitudes of the Allies toward the occupation further complicated the matter. The question of how generously to treat the defeated enemy, an issue that had split the U.S. government, also divided the Allies as a whole. The British were the most conciliatory toward Germany. They believed that the tough terms of the Treaty of Versailles had set the stage for World War II, and they thought that Europe as a whole could not recover economically unless Germany did so as well. In contrast, France, which had faced three devastating German invasions in the previous seventy-five years, took a hard line. Its leaders were particularly eager to partition Germany into two or more states. The Soviets, who had suffered perhaps even more terribly at German hands, adopted a tough stance as well, particularly on the issues of rebuilding German industry and extracting reparations. Yet at first they, unlike the French, seemed open to the eventual reemergence of a united Germany.

These attitudes made concerted action of any sort difficult. The Allies did reach tentative agreements on reparations and the "level of industry"—that is, the manufacturing capacity they would permit Germany to retain. The issues were linked because the Allies intended to take reparations in the form of capital equipment rendered surplus under the level of industry plan, which envisaged a sharp reduction in German manufacturing and the complete elimination of industries with important military applications like ball bearings and aluminum. Yet even these accords were vague on key points such as the exact value of reparations and the duration of restrictions on German industry. In other areas, cooperation did not exist. The French vetoed plans to create nationwide agencies in such basic areas as transportation, blocking the development of mechanisms through which the Allies could set common policies for all of Germany. In the end, each occupier made policy for its own zone in such key fields as labor law, the purging of Nazis, and the organization of local and provincial governments.

In these circumstances, talks on a general deconcentration statute for all of Germany yielded little. The initial American proposal, which would have banned "cartels and cartel-like arrangements" and would have created a commission to study large companies, satisfied no one because it contained few specifics on deconcentration.[37] In December 1945, the Soviets took the initiative, suggesting that the Allies dissolve any German company either employing more than 3,000 people, controlling more than a quarter of its market, or enjoying an annual turnover of 25 million or more (prewar) Reichmarks, although they did reserve to the Allies the right to exempt specific firms from sanctions. They also attached to their proposal a list of over a hundred companies that would automatically face dissolution. The Americans soon proposed their own version of this measure, raising the standard for deconcentration to 10,000 employees, 30 percent of the market, or capital of 50 million (prewar) Reichmarks and shortening the list of firms for automatic deconcentration to sixty-one. Only the unanimous consent of the Allies could exempt a firm from action. The U.S. suggestion also largely banned domestic cartels.[38]

The French and Soviets endorsed this proposal, but the British balked, encouraged, it seems, by some members of the U.S. Economics Division who feared that such a massive reorganization would cripple the German economy and forestall recovery.[39] Instead, London recommended a measure that set similar standards for economic deconcentration but subjected only nineteen firms to automatic dissolution. More important, it gave the commander of each zone the responsibility for enforcing deconcentration rather than creating a central body, as did the American plan. Although on its face innocuous, this provision would effectively allow one power to block action against a firm simply by refusing to cooperate. Finally, the British proposal contained no restrictions on domestic cartels, although it did ban German participation in international ones.[40] The United States rejected the British alternative, complaining of its tolerant attitude toward domestic cartels and arguing that the de facto requirement for unanimity among the occupiers to break up large firms constituted a recipe for deadlock, a fear borne out by the difficult history of four-power cooperation in Germany.[41] The Allies spent much of the next eighteen months maneuvering around the subject, generating a lot of paperwork but no decision.

In a few instances where the case for deconcentration seemed irrefutable, the Allies did act quickly. In July 1945, the U.S. military seized all the property of the giant IG Farben chemical combine in the American zone; by the end of the year, the other Allies had followed suit in their territories. All four agreed to work together to dispose of the company's assets.[42] In the interim, the Allies banned trading of Farben stock, severed the company's international cartel arrangements, and sold off the IG's securities holdings in other firms in cases where it owned less than 25 percent of the total equity.[43]

The Americans treated the IG firmly. The Decartelization Branch considered it a particularly egregious example of economic overconcentration. James Martin described the firm as "the greatest limitation on free enterprise in Europe and the single greatest economic threat to the peace of the world."[44] The Americans dismissed over 2,000 Farben executives working at facilities in their zone (which included the firm's headquarters in Frankfort), and U.S. Army officers assumed management positions at IG installations. By 1946, however, General Clay had realized that such control could not last indefinitely and had turned over Farben's facilities to German executives, who acted as trustees. Nevertheless, he required them to operate each plant separately, effectively dividing Farben's properties in the American zone into about thirty companies.[45]

The policies of the other Allies toward Farben did not always please the Americans. The French had only one (very) large installation in their zone that they managed as a unit, an uncontroversial policy. The British also continued to manage Farben's extensive properties in their zone as one company, even though they included several large installations that the Americans believed ought to stand separately. The continued unity of the plants around the town of Leverhusen was a particular point of conflict. One American official complained, "The failure on the part of the British to divide the Farben property in their zone into independent economic units has caused great inconvenience and disruption in our zone because the huge Leverkusen complex in the British zone which has always been a supplier of many of the intermediates used by the Farben units in our zone has been able to dominate the former Farben units in our zone. . . . There is no satisfactory explanation of the British failure in this field except for their general dislike of deconcentration and the incredible incompetence of their Farben Control Officer."[46] The Soviets eventually took permanent title to much of Farben's property in their zone for themselves, ignoring promises to negotiate its fate with the other Allies.[47]

The Allies also acted against the German coal and steel industry, although in this case the British took the lead. All four occupying powers were particularly concerned about the future of this industry because they considered steel central to the economics of both war and peace. Moreover, production concentrated in a handful of companies, the largest of which, Vereinigte

Stahlwerke (United Steelworks), had before the war accounted for about 40 percent of Germany's steel, more than the entire output of France. The large steel companies also controlled the coal mines of the Ruhr Valley, which were the chief source of coke for steel makers throughout continental Europe. This control allowed the Germans, in theory at least, to ration a vital raw material to their competitors. The British, whose occupation zone included the Ruhr (the center of Germany's steel industry as well as its coal-mining business), seized the region's steel and coal facilities. They placed these properties under the supervision of military officers, although in most cases the existing management remained in place. As with IG Farben, subsequent negotiations among the Allies would determine the final status of these assets.

Although pleased by this development, the Americans saw risks. In London, a Labour Party government was in the process of nationalizing the British coal and steel industries, an approach it might well encourage for Germany. Few Americans, even in the Decartelization Branch, endorsed this solution, which not only challenged the institution of private property but actually concentrated industrial control more tightly than private monopoly. As a U.S. government report noted, "Rather than bringing about competition and avoidance of the use of such properties for future war purposes, government ownership[,] for instance through socialization, may concentrate the properties in the hands of the government."[48] The issue of nationalization became a constant irritant to Anglo-American cooperation in the coal and steel industries.[49]

The fate of Reich-owned companies occasioned less division. The Allies, who now were the German government, seized these firms. The most important of them were the Reichwerke Herman Goering, an organization created to facilitation mobilization that was, among other things, Germany's second largest steel producer, and the Universum-Film Aktiengesellschaft (UFA), a de facto arm of Joseph Goebbels's Propaganda Ministry that had controlled the production and distribution of films. The Allies grouped the former with other steel companies, whereas they broke up the latter, severing the business of making movies from that of managing theaters. Although implementing these decisions was complex and time-consuming, the policies were not particularly controversial.

The Americans led the way in striking against concentration in German finance. Until 1945, a handful of "universal" banks, most notably the Deutsch Bank, had dominated the German financial system. They not only took deposits and made commercial loans but also underwrote securities and even held large blocks of stock in many of the country's leading companies, and they had branches throughout Germany. The situation horrified most Americans. The power of large financial institutions had been a contentious issue in the United States since the early days of the republic, when Alexander Hamilton and Thomas Jefferson had clashed over the creation of the First Bank of the United States. By 1945, U.S. law had separated commercial and investment banking and had placed strict limits on branch banking, effectively fragmenting the financial system. In line with this experience, as General Clay described it, "six of the largest banks in Germany were dissolved and their branches authorized to operate only as separate institutions limited in operation to the state in which located."[50] In this, British authorities agreed with their U.S. counterparts, applying similar restrictions in their own zone. Though less dogmatic than the Americans, they disapproved of the German practice of combining commercial and investment banking, which were usually separate in Britain. Although the situation remained unsettled, these measures constituted an important step toward financial reorganization.

A major breakthrough on decartelization and deconcentration occurred in early 1947. The British and Americans agreed on a statute for their zones, bypassing the French and Soviets in the process. Throughout 1946, as the Allies found themselves at odds on most major issues, economic conditions in Germany had deteriorated. Each power increasingly ran its occupation zone as a separate entity, imposing restrictions on trade with the outside. Yet the zones were artificial creations, unable to stand on their own economically without substantial aid and extensive restructuring. The United States was particularly concerned because its zone depended heavily on food imported from eastern Germany, which was under Soviet control, and relations with the Russians were getting worse. In the first half of 1946, a Soviet crackdown had strengthened the control of the Communist Party over their zone, while General Clay had terminated reparations shipments from the American zone to the Soviet Union.[51] In late 1946, despairing of a broader solution, London and Washington merged their two occupation zones in the hope that together they might contain the critical mass necessary for recovery and provide a foundation for the eventual reunification of Germany.

The merger led to joint action on deconcentration. The British were reluctant, but after General Clay made it clear that he was ready to issue a unilateral decree on the subject, they compromised.[52] In February 1947, the two powers issued identical laws on decartelization and deconcentration. These statutes eliminated cartels, banning practices used to regulate competition, including restrictive patent agreements. The Anglo-American laws also provided for deconcentration, declaring that any firm with more than 10,000 employees presented a "prima facie" case for dissolution. The decrees excepted the iron and steel industry as well as IG Farben, which were already under the control of the occupiers.[53] American officials estimated that, under the new laws, about sixty firms faced deconcentration.[54]

The provisions on cartels operated fairly smoothly. Although the Allies had ceased to enforce German cartel agreements (which before 1945 had possessed the force of contracts), neither had they formally terminated these accords. With the enactment of the British and American decrees, the situation changed. As the historian of the American decartelization effort noted, "Every person who was a party to a cartel agreement which had not expired by February 12, 1947 [when the Anglo-American orders went into effect] was required to serve a notice of termination on the other parties and to file a report of termination with the German Decartelization Agency in the Land [state] in which it maintained its headquarters. By the end of 1948 over 1,100 cartel agreements were formally terminated."[55] Some firms did continue to cooperate informally, much to the chagrin of General Clay.[56] Nevertheless, the Anglo-American decree wrecked the legal foundation on which cartels rested.

Deconcentration proved more difficult. Whereas the joint statutes unconditionally banned cartels, occupation authorities were supposed to investigate large firms to "determine . . . that these enterprises do in fact constitute excessive concentrations of economic power."[57] Size automatically invited investigation, but not action. Philip Hawkins, who became the interim head of the Decartelization Branch in 1947, noted, "The only way to proceed in the enforcement of [the] anti-monopoly program is the case by case method. No reasonable man desired to break up efficient mass production, nor yet to justify concentration beyond the point of efficiency."[58] Moreover, once the Allies did decide to act, breaking up a large firm required careful planning.

Despite the obstacles, the Decartelization Branch needed to move quickly. As Hawkins wrote, "The Decartelization Branch has now reached the point where it must show some dissolved combine in the next six months or else face defeat. We cannot close two years of operations on the continued promise that at some uncertain date in the future we will break up a German cartel."[59] The German state governments did have considerable authority under the American and British decrees, but few expected rapid action from them. They lacked both staff and enthusiasm for the job, which they believed would weaken the German economy. Whereas the American Decartelization Branch had plenty of enthusiasm, it too lacked numbers. One hundred sixty people could conduct a lot of studies, but they would have trouble reorganizing Germany's sixty largest companies. In recognition of this fact, Hawkins decided to concentrate on four firms: Henschel & Sohn, Germany's largest producer of locomotives; Robert Bosch, the world's leading maker of fuel injection systems; Siemens & Halske, Europe's chief producer of electrical machinery; and Metalgesellschaft, Germany's foremost processor of nonferrous metals.[60] At first, the Decartelization Branch had included a coal and steel company in its plans, but it dropped the firm because the occupiers were devising special legislation for that sector. Subsequently, the Decartelization Branch added the ball bearing industry to the list, in part at the urging of the Justice Department's Antitrust Division, which was conducting an investigation in the area.[61] Deconcentration would stand or fall on these five cases, setting precedents for the rest of German industry.

Challenges to Deconcentration

Changing international conditions led the United States to alter its occupation policies in Germany in the late 1940s. Right after the war, the occupation had emphasized the reform of German society, implicitly assuming that such efforts would not obstruct recovery and that, even if they did, the delay would create no problems for the United States. By late 1948, deteriorating economic conditions in Germany and Europe in general, coupled with worsening relations with the Soviets, encouraged the U.S. government to rethink its assumptions. The result was new policies that emphasized recovery and backed away from some, though hardly all, reforms. Among the casualties was deconcentration.

Even as the occupiers promulgated deconcentration statutes in 1947, changing international conditions strengthened foes of the program. Until that time, reformers had enjoyed considerable freedom in Germany, largely because few Americans cared about deconcentration there. The result was a policy more radical than ever implemented in the United States that targeted companies simply because they were larger than some arbitrarily determined size. The deterioration of relations with the Soviet Union, however, led Washington increasingly to look at Germany not as a defeated enemy but as a potential ally. Perhaps more important, after 1947, American policy in Europe centered on the Marshall Plan. The continent's economic recovery had stalled, and Washington feared that hard times could open the way for Communists to take power in western Europe, particularly in France and Italy. The U.S. government hoped that by providing aid through the Marshall plan it could restore prosperity to the continent, stabilizing the democratic regimes of western Europe and giving them the confidence and resources necessary to resist Communist pressure, both domestic and foreign. Yet as Secretary of State George C. Marshall said in late 1947, "Without a revival of German production there can be no revival of Europe's economy."[62] In August 1947, British and American authorities significantly relaxed restrictions on German economic output, the "level of industry" program, allowing both higher production and the continued operation of some industries, like aluminum, that they had planned to dismantle entirely.[63] New orders to General Clay stated, "Although the economic rehabilitation of Germany . . . is the task and responsibility of the German people, you should provide them general policy guidance."[64]

The new attitude affected all aspects of policy toward Germany. The western Allies ceased to concern themselves with reuniting the country or compromising with the Soviets on the occupation and instead devoted their efforts toward rebuilding the country's western zones. The program had several aspects, the most notable of which was the 1948 currency reform, which replaced the practically worthless Reichmark with the new Deutschmark. This measure, along with the termination of price controls and rationing, sparked economic recovery. At the same time, the Soviets, who had opposed currency reform and refused to allow the Deutschmark to circulate in their zone, ended all meaningful discussions with the western Allies on occupation policy.

The emphasis on economic recovery had grave implications for deconcentration. Although most members of the occupation's Decartelization Branch firmly believed that their program would strengthen the German economy, at least in the long run, many on the outside thought otherwise. In 1946, Philip Reed, an officer of General Electric dispatched to Germany by the Commerce Department, reported back to Washington that deconcentration was hindering German recovery; former president Herbert Hoover said the same after a tour the next year.[65] True, little deconcentration had actually occurred, but critics claimed that just the prospect made it difficult for large German firms to borrow, invest, or generally plan for the future.

Serious doubts also existed within the occupation's Economics Division, which the staff of the Decartelization Branch believed (probably with reason) had encouraged London's delay of a general statute. Foremost among the skeptics was the division's chief, General William H. Draper, an alumnus of the investment banking house of Dillon, Reed, which in the 1920s had done a lot of business in Germany. Draper was perhaps Clay's closest adviser, but his ties to German businessmen through Dillon, Reed had raised concerns in some quarters. Senator Harvey Kilgore, an opponent of cartels and a critic of big business in general, claimed as early as 1945 that American executives like Draper "are still sympathetic to their old cartel partners and they look forward to resuming commercial relationships with a rehabilitated German industry."[66] Members of the Decartelization Branch did not hide their contempt for Draper and his lieutenants, who unfortunately were also their superiors. James Martin charged in late 1946 that "serious damage has already been done to the decartelization program by a year's delay during which parts of the Economics Division have held to the attitude that their only function was to revive industry and trade by whatever means they choose."[67] In the summer of 1947, Martin had resigned from his job in Germany, complaining, "Through their activities in Germany [to rehabilitate industry], 'monopolistic' American corporations have strained the critical relations between the United States and Russia."[68]

The British remained as skeptical as ever despite having issued the decartelization statute. London considered the Anglo-American decrees an "uneasy compromise. They were looked upon as representing a minimum requirement by the Americans and a maximum by the British."[69] A few in the British government went so far as to assert that the decartelization statutes applied only to concentrations of economic power in Germany that threatened the security of other nations, and they contended that only IG Farben and the coal and steel industries fell into this category.[70] The proposition was dubious. Because the Anglo-American decrees explicitly exempted the IG and coal and steel firms, it was improbable that they were its sole object.[71] Nevertheless, dissension created problems, particularly in mobilizing German agencies behind deconcentration. Although the German state governments were supposed to do most of the work implementing the decrees, as a British memo noted, "This scheme went off at half-cock since we never succeeded in reaching . . . a firm Bipartite . . . policy as regards implementation upon which we could brief the German agencies."[72] Because most Germans were unenthusiastic about deconcentration, the lack of clear directives guaranteed inaction.

The 1948 merger of the French zone into the Anglo-American "Bizonia" added yet another layer of confusion. Paris was unenthusiastic about the prospect of German recovery, joining the effort mainly because its dependence on U.S. aid forced acquiescence to American desires. Yet at the same time, the important role of cartels in the French economy made Paris reluctant to endorse an aggressive campaign against these organizations. The French followed an inconsistent line, sometimes pushing for tough policies and sometimes opposing them.

The future of deconcentration hinged on the five cases initiated by the Decartelization Branch in the summer of 1947: Siemens, Bosch, Henschel, Metalgesellschaft, and ball bearings. Success would provide critical precedents, whereas failure would lead observers to conclude that the experiment was a sham. Much depended on the attitude of General Clay. If he backed deconcentration, there was a good chance for success, whereas opposition would almost guarantee failure. Heretofore he had supported the program, energetically pushing the Allies for a general statute. Yet he also sought economic recovery, and the Economics Division was warning him that deconcentration would retard the process.

As the investigations in these five cases moved toward conclusion in the winter of 1947/1948, Clay acted. Siemens did manage to sidestep the threat of reorganization by dexterous stalling, made possible in part because its headquarters was in Berlin, which raised complex questions of jurisdiction.[73] Two other firms were not so lucky. The Decartelization Branch recommended, and Clay approved, orders directed at Bosch and Metalgesellschaft. Before 1939, Bosch had dominated production of electric ignition and fuel injection systems for internal-combustion engines throughout the world, and even after 1945 it still possessed many foreign subsidiaries. Clay ordered the firm to sell off several of its foreign holdings and to license its technology on a "reasonable" basis to all applicants. Metalgesellschaft's situation was somewhat different. The Decartelization Branch determined that, in and of itself, the company did not constitute an "excessive" concentration of economic power. However, the firm was part of a larger "concert of interests" in the light metal and chemical industries involving two other large companies, the Deutsch Gold- und Silber-Scheide-Anstalt (DEGUSSA), which produced chemicals and metals using electrolytic processes, and Henkel, which made soap. Each of these firms held large blocks of stock in the other. Clay ordered the three to terminate their alliance and dispose of these holdings.

Clay, however, blocked action against Henschel and the leading producer of ball bearings, Vereinigte Kugellager-Fabriken (VKF), which was the subsidiary of a Swedish firm. In both cases he ignored the advice of the Decartelization Branch, which wanted to break the companies up into several smaller firms. Clay grounded his decision on Henschel on economics, stating, "I do not believe the breaking up of Henschel, the principle locomotive works in Germany, was a wise undertaking in a period in which transportation was almost at a standstill." He added that because the firm sold most of its output to Germany's government-owned railways, the authorities could easily control it. With respect to VKF, Clay asserted, "Since it was understood . . . that the production of bearings in Germany would in the future be prohibited [by the Allies to prevent German rearmament], nothing would be gained by breaking up this enterprise."[74] VKF itself had recently taken a step that probably made Clay's decision easier. In late 1947, VKF, at that time the only producer of bearings in Germany, had sought to deflect criticism of its monopoly by selling 2,600 machines to the firm that had before 1945 been its chief competitor, Kugelfischer, but whose facilities the Allies had confiscated and shipped abroad as reparations. This decision effectively ceded between 25 and 30 percent of the German bearing market to Kugelfischer.[75] When the Allies subsequently decided to permit the continued production of bearings in Germany, the two firms continued to compete.

Clay's decisions in these two cases represented the start of a general retreat from deconcentration, although not necessarily from decartelization. In the general's mind, the program had reached the point of diminishing returns. He later wrote, "Personally, I think that the process has been carried to about the right point, and that to carry it any further would result in inability [by the Germans] to compete in world markets."[76] American politics may have influenced Clay's timing. Most people assumed that the Republicans would win the 1948 presidential election, and as a personal letter from an American lawyer to one member of the occupation regime noted, there was "a very reasonable expectation that policy and procedure in this matter [deconcentration] is headed for a thorough review under the next administration."[77] In May 1948, Clay announced that henceforth the occupation authorities would apply the "rule of reason" in deconcentration cases, advancing on a case-by-case basis rather than just attacking big firms wholesale. Although not really a major change in policy—investigations under the Anglo-American decrees had in fact proceeded on a case-by-case basis—the order gave the impression that Clay had raised the requirements for deconcentration and disheartened advocates of the program. Meanwhile, Clay announced that in the future the Decartelization Branch would concentrate on consumer goods industries, where monopolies presumably affected German citizens most directly. In Germany, however, companies manufacturing consumer products were generally much smaller than those making capital goods and so in all likelihood less of a threat to free markets. Perhaps most important, Clay sharply reduced the staff of the Decartelization Branch, which by the end of 1948 numbered only thirty-seven.[78] He also ordered future actions to "emphasize the trade practices and decartelization [side] of the program" rather than deconcentration.[79] The general had always been more enthusiastic about the former than the latter. As he wrote, "It is perhaps unfortunate that these really separate measures were associated."[80] In January 1949, Clay remarked, "Basically our deconcentration of property has been completed."[81]

Clay acted on his own authority. To critics he responded slyly, "If I have interpreted my instructions wrongly either in the United States zone or in my negotiations with my colleagues [with the other Allied powers], I assume that the government will advise me and instruct me further in the premises."[82] Clay realized that such instructions were unlikely. Though a State Department memo noted that "a good case can probably be made out . . . that General Clay, without authorization, has altered the Government's occupation policy," it also observed, "Our present policy of giving Germany back to the Germans appears inconsistent with . . . active re-entry on a large scale into the field of deconcentrating German industry."[83] The State and Defense Departments seemed satisfied with the general's actions and perhaps even relieved that he had taken the onus for changing policy from them.

Clay's decision did spark a revolt in the occupation's Decartelization Branch. The branch was divided. After Martin's departure in 1947, Philip Hawkins, a lawyer attached to the Economics Division, had assumed temporary leadership, giving way in early 1948 to a permanent chief, Richardson Bronson. Neither Hawkins nor Bronson was a veteran of the Antitrust Division of the Justice Department, and the decartelization staff regarded them as agents of their superiors in the occupation's Economics Division, a view reinforced by Hawkins's marriage to General Draper's daughter. Hawkins and Bronson supported Clay's new policy, but most of the staff did not. The result was that, as Bronson put it, "all Hell broke loose."[84] Nineteen members, led by Johnston Avery, a former assistant to Thurman Arnold at the Justice Department, signed a memo (subsequently leaked to the press) asserting that Clay's new policy "excludes from decartelization action the principal group of monopolistic enterprises which the law says must be eliminated." It continued, "The law does not draw any distinction between capital goods industries and consumer goods industries. . . . It is our view that monopolies in the capital goods industries are far more frequent and more repugnant than are concentrations in consumer goods industries." The result of Clay's decision to concentrate on consumer goods industries "would be to leave the fundamental concentrations of economic power intact."[85] One of the nineteen subsequently went further, telling a committee investigating the subject, "It is no secret that the operations of the decartelization program have been hampered by Major General Draper and his associates in military government. . . . They have done whatever they could, by innuendo and misstatement, to discredit a program they either did not understand, or did not like."[86]

Clay initially tried to reason with the Decartelization Branch's disgruntled personnel. He met with them to reaffirm his decision, informing the group that German firms had to be large enough to compete in world markets and earn "a reasonable rate of return on investment." The branch's staff remained unmollified. One member asked the general why the military government ought to guarantee the profits of German firms. Clay, irritated by the hostility he encountered, walked out of the meeting.[87]

Clay subsequently came down hard on the dissidents. A military man, he was not sympathetic to those who publicly challenged the orders of their superiors. "The decartelization group," he wrote in 1950, "was composed of extremists, sincere but determined to break up German industry into small units regardless of their economic efficiency."[88] Their plans went beyond any antitrust program ever implemented in the United States, and the general said, "I held very much to the principle that we had no right to make Germans accept reforms that we had not been willing to get authorities in the United States to accept."[89] He placed in the files of the nineteen protestors formal letters of reprimand prohibiting their promotion without his approval, and he dismissed the one who had publicly denounced Draper, asserting, "The right to accuse his superior of dishonesty can be exercised only if the employee has resigned."[90] Wendell Berge, by this time retired from government and in private practice, defended the man and eventually secured his reinstatement.

People in the United States noticed the commotion. Articles in the *New York Times* chronicled the blow-up and cast the dissidents in a sympathetic light.[91] James Martin, back at home in Maryland, denounced Clay's policy as "a complete sell-out to the German heavy industrialists."[92] In his address accepting the third-party presidential nomination of the Progressive Party, Henry Wallace complained, "We have been maneuvered into a policy whose specific purpose has been this, and only this: namely to revive the power of the industrialists and cartelists who heiled Hitler and financed his fascism, and who were the wellspring of his war chest."[93]

It seems unlikely, however, that these events particularly excited the public at large. In the spring of 1948, a Communist coup extinguished democracy in Czechoslovakia. Meanwhile, the Soviets terminated all conversations with their former Allies regarding Germany. In the summer of 1948, Russian forces initiated the Berlin blockade, which continued well into 1949. Alongside these matters, the future of German producers of locomotives and ball bearings did not seem particularly important.

President Truman did pay attention, however. During World War II he had led the first congressional investigations of international cartels, and he remained hostile to anything associated with them. Within a month of his unexpected reelection victory in November 1948, the *New York Times* reported, "President Truman declared . . . that while he was President there would be no revival of the world-wide German cartels, which, he added, had tried to help us lose the war."[94] In December, the secretary of the army appointed a committee, headed by Garland Ferguson, a member of the Federal Trade Commission, "to sift accusations that the United States government's program for dissolution of the combines and monopolies that so materially furthered the Nazi war effort has been scuttled through the activities of top officials entrusted with its execution."[95]

The committee's staff drew largely from the Federal Trade Commission and the Justice Department's Antitrust Division, which almost guaranteed an outcome favorable to the advocates of further deconcentration. The committee's final report concluded, "The deconcentration of Germany industry under Law 56 [the Anglo-American decree] has not been effectively carried out."[96] It recommended transferring the Decartelization Branch from the Economics Division, which was hostile to deconcentration, to the Legal

Division, which would presumably be more supportive. More important, it urged the reopening of all major deconcentration cases, including those that General Clay had declared closed.

The Ferguson Committee's report, issued in April 1949, came at a propitious moment. Clay was a formidable individual, and as long as he was in charge in Germany, policy there would follow his wishes. In late 1948, however, the western Allies oversaw elections that set into motion the formation of the West German government the next year. These changes required a reorganization of the occupation. The Allies turned over many functions—although not decartelization and deconcentration—to the new German government in Bonn; oversight of American operations in Germany shifted from the Defense to the State Department.[97] Clay, who was exhausted after four years as military governor, retired, and John McCloy became the American high commissioner for Germany. After two years of frustration, the deconcentration program apparently had another chance.

Antitrust in West Germany

Under the new regime in Germany, decartelization and deconcentration assumed consistent form. Radical deconcentration failed, but German industry did not return to its old patterns. West Germany, prodded by the United States, adopted policies that resembled the American antitrust laws.

In 1949, the new regime in Germany raised both hopes for and fears about deconcentration. The new American high commissioner was John McCloy, a noted corporate lawyer who had served with distinction as an undersecretary in the War Department during the war. In Germany, he served not the Pentagon but the State Department, which apparently hoped that his military contacts would ease the transfer of authority. McCloy moved the Decartelization and Deconcentration Branch from the Economics Division to the office of the General Counsel, where it reported to Robert Bowie, a lawyer who had taught antitrust at the Harvard Law School before joining the government. Bowie, whose talents commanded almost universal respect, soon became McCloy's closest adviser. At the same time, McCloy expanded the much-shrunken staff of the Decartelization Branch, drawing many of the new additions from the Justice Department's Antitrust Division.

These steps generated much speculation, as conversations with British officials indicated. The notes of one meeting observed, "The Foreign Office viewed with some concern the reports that a new staff of some thirty officers was being sent to Germany to work on decartelizations and feared that this was an indication that the United States was preparing a great offensive."[98] London also worried: "By making decartelization primarily a legal question [by putting it under the General Counsel], . . . [the Americans] intend to launch a program without regard to its disturbing effects on German production."[99]

These concerns were grossly exaggerated. McCloy was no friend of radical economic reform—he was a Republican who had displayed little enthusiasm for the New Deal—and he firmly supported efforts to revive the German economy. The Decartelization Branch's staff may have had ambitious plans, but McCloy and Bowie pursued a more limited agenda. The *New York Times* reported that on going to Germany in 1949, McCloy had "deprecated domestic criticism of delay in the decartelization of Germany. . . . Mr. McCloy indicated his belief that in Germany the progress had been reasonably satisfactory. He declared that it was not enough merely to tear down a monopoly, but that something must be created in its place to prevent a collapse of the national economy."[100] According to the official history of the decartelization effort, McCloy wanted "to introduce an element of competition into a German economic structure freed from the restraints of monopoly [and] restrictive agreements," not to disassemble large German firms en masse.[101] He agreed with Clay that American policy in Germany should not impose more exacting standards than those applied in the United States itself. Bowie concurred with this prescription. He supported antitrust as it actually operated in the United States, where the law tolerated big business as long as it was efficient and faced competition.

McCloy and Bowie also realized that any successful program required German cooperation. As an October 1950 memo stated, "Germany, rather than being regarded as the sole object of Western precautions, is now called upon to cooperate with the West as a partner in a common program of defense against a new danger. Western treatment of that partner must be reasonably commensurate with these changed circumstances."[102]

In truth, the Ferguson Committee's recommendations for more thoroughgoing deconcentration lacked support. President Truman as a rule strongly backed antitrust enforcement, and it was during his administration that the government scored its great court victories against international cartels,[103] but in matters touching national security, Truman relied chiefly on the State and Defense Departments, whose leaders he greatly respected. These people were concerned first and foremost with the emerging Cold War and eager to secure a friendly West Germany; most of them thought that in the case of deconcentration Clay had done the right thing. Although the retreat from deconcentration momentarily exercised Truman, who had a temper and sometimes made snap judgments, the president showed little interest in the conclusions of the Ferguson Committee. Its report represented not a new beginning for deconcentration but the last manifestation of a policy that the government had abandoned.

Even before McCloy actually went to Germany, Ferguson himself had backed away from his report. Clay and his lieutenants had vigorously rebutted its charges. Clay characterized the report as "poor" and took personal responsibility for the decisions it criticized.[104] By this time, the successful resolution of the Berlin blockade had raised Clay's prestige to immense heights, and his uncompromising reply had forced Ferguson to declare, "Nowhere in the report is there criticism of General Clay," adding, "I know of no one who could have so ably and wisely made these decisions [on deconcentration]."[105]

In 1951, as part of a larger package involving the end of reparations, the western Allies agreed to shift responsibility for decartelization to the Germans. The government in Bonn promised to enact a decartelization statute on its own, while the Allies would finish the reorganization of the banking, chemical, and coal and steel industries.[106] McCloy realized that securing adequate legislation from the Germans would require tact because support for cartels still existed. In 1949, a respected German economist had warned that cartels were "becoming more indispensable from day to day as obstacles to trade are pulled aside. . . . Market and production regulations are needed as the basis for an organically growing national and international European economic organization."[107] In 1953, Fritz Berg, president of the Federal Association of German Industries, denounced the opponents of cartels as impractical theorists and warned that, without some sort of brake, price competition could drive small- and medium-size producers into bankruptcy and encourage further industrial consolidation.[108] "There can be no doubt," one High Commission memo stated, "as to the necessity for the U.S. to continue to bend every effort to bring about the passage of the German draft antitrust legislation. Our influence, however, in order to be more effective, should be brought to bear only behind the scenes. . . . This doctrine of competition cannot be imposed . . . from without nor from above. It must be accepted as the result of voluntary action."[109]

Fortunately for Washington, decartelization enjoyed the genuine support of Ludwig Erhard, the economics minister and arguably the second most important figure in Chancellor Konrad Adenauer's government. Erhard, an economist, favored free markets and had made his reputation in the late 1940s by abolishing price controls and rationing in Germany—measures that, in concert with currency reform, had contributed substantially to the country's economic recovery. As one historian wrote, Erhard "saw himself as the champion of American[-style] capitalism in West Germany," and antitrust was a component of American-style capitalism.[110] Erhard even dispatched experts to the United States to meet with Edward Mason, Thurman Arnold, and Corwin Edwards and elicit their thoughts on the subject.[111]

Although it took several years, by 1957, Erhard had secured from the German parliament legislation strictly limiting, although not entirely abolishing, cartels. It required positive government approval for any cartel to go into effect, something that rarely proved forthcoming. The new measure was not as strong as the 1947 Anglo-American decrees—it did not unconditionally ban cartels and entailed few limits on the size of industrial firms. Nonetheless, it was strict enough, as one historian put it, "to shunt West German industry away from cartels and towards a system of oligopolistic competition on the American pattern."[112]

After 1950, the staff of the Decartelization Branch, as well as many other members of the occupation, concerned themselves chiefly with the reorganization of the banking, chemical, and coal and steel industries. The Allies had made clear their intention to restructure these industries and had in many cases actually seized control of them. Yet as of 1950, the future of these businesses remained undecided, and if the Allies intended to leave Germany and encouraged economic recovery there, they had to act. No industrial nation could afford to leave such key sectors in limbo indefinitely.

Deconcentration eventually failed in banking. Right after the war, the United States, Britain, and France had split the six largest full-service German banks along state lines, turning their operations in each state into a separate bank. By 1950, this arrangement had proved unsatisfactory. German critics of the system argued, "The new bank units are far too small to satisfy the financial requirements of German business and that, owing to the split-up of the larger branch banks, banking costs have increased substantially, with the result that the new banks cannot achieve satisfactory profits . . . that the new banks, being confined to operating within the Laender [state] boundaries, are in no position to distribute risks properly and that funds no longer flow smoothly from areas with excess liquidity to areas where credit needs are of the greatest urgency."[113] The French and British accepted these arguments wholeheartedly, and even the Americans conceded, "There remain weighty arguments to re-centralization that merit support."[114]

In 1951, the Allies loosened restrictions on German finance. A new statute allowed banks to operate in up to six of the nine West German states, except Rhineland-Westphalia, which, as the home of the Ruhr Valley, carried such weight in the West German economy that the Allies decided not to let its banks expand outside the state. This measure also settled the vexing question of who owned the banks, a serious problem since 1945, by distributing stock in the new institutions to the shareholders of the old, "universal" banks from which they had been formed. The statute contained provisions to prevent large shareholders in the old institutions from securing a controlling stake in more than one of the new banks.[115]

The retreat did not end there. Most Germans considered large banks a vital support to business, particularly to firms having substantial capital requirements or competing in international markets. Although technically separate institutions, the components of the old universal banks cooperated very closely throughout the occupation and the first years of the existence of West Germany. After 1957, when further changes in German law allowed reemergence of universal banks on a national scale, the various component banks merged into something approximating their prewar form. A handful of very large institutions continued to dominate both commercial and investment banking in West Germany.

The disposition of IG Farben accorded more closely with American desires, although even here the United States had to compromise. Conflict among the Allies had prevented progress on the reorganization of Farben before 1950. The Soviets had, of course, gone their own way, but the western nations had disagreements among themselves as well. Whereas the British had operated most of Farben's properties in their zone as a unit, the Americans had required Farben's facilities under their control to act independently. Neither side hid its disapproval of the other's policies. American officials complained about the managers of the giant Leverhusen complex in the British zone, who they claimed wanted to re-create IG Farben. "We have examples," the Americans complained, "of their using pressure on the independent units [in the U.S. zone] to observe policies laid down by Leverhusen."[116] The British were unimpressed. "As a result of the divergent action taken by the U.S. and U.K. elements," they contended, "there is today a general picture in the British zone of success and progress, compared with a much less satisfactory picture in the U.S. zone. . . . The principal difference between the German management of the Leverhusen complex in the British zone and that of the Hoechst/Main plants in the U.S. zone is one of competence."[117] Occasionally the exchanges became uglier. At one point, a British memo complained of an American official who was "an emigrant German Jew who had anglicized his German name."[118] Yet the Allies had to do something. They could not leave the remains of Germany's largest company in "trusteeship" indefinitely. Moreover, if they did not act, Bonn eventually would, in which case the Allies would lose control of the process entirely.

Two factors made the reorganization somewhat easier. First, over half of IG Farben's assets had been in East Germany, the parts of Germany ceded to Poland, or abroad, and the firm had lost control of them.[119] The remainder was still very large but nevertheless more manageable than the gargantuan IG of 1945. Second, by 1950, most students of the matter had concluded that Farben's management had never been able to control properly the firm's countless subsidiaries, which had often operated autonomously. For this reason, even the more enthusiastic proponents of business concentration had little desire to re-create the IG.[120]

To avoid disagreements among their regular staffs, the three western Allies dispatched a joint, three-power commission to Germany to draft a plan for the final distribution of Farben's assets.[121] The group reported in November 1950. First, it recommended that Farben spin off seven firms that, even though legally part of the IG, had largely operated independently.[122] This was not particularly controversial, but such was not the case with its other suggestion. It recommended that the greatest part of the IG's property go into six new companies, one each in the French and American zones and four in the British zone. The companies in the French and American sectors would roughly correspond to Badische Anilin- & Soda-Fabrik AG (BASF) and Hoechst, respectively, which had been two of the three leading firms involved in the 1925 merger that had created Farben. The new firms would even assume the old names. This represented a major change of policy in the U.S. zone, where the IG's installations had operated independently since 1946. The plan also called for big changes in the British sector. It proposed to divide the Leverhusen complex, which had been the core of Bayer, the third leading firm in the Farben merger, into four parts: AGFA (film), Dormagen (rayon), Titangesellschaft (titanium dioxide), and Bayer (dyestuffs, pharmaceuticals, and heavy chemicals).[123]

The West German government, which had had no representatives on the reorganization commission, resisted this plan, as did the British. They objected chiefly to the recommendations for Leverhusen. "The Federal Government," Bonn argued, "cannot see any valid reasons in favor of abandoning the existing technical, organizational, regional, and historic integration of the present Farbefabriken Bayer, by their proposed split-up into four parts."[124] The British agreed, arguing that the plan largely reflected the American grudge against Leverhusen, which U.S. officials had somehow communicated to the Allied commission.[125] The division soon hardened, with the British and Germans urging the creation of a united company, Bayer, at Leverhusen, the Americans recommending the breakup of the complex, and the French vacillating.

Mutual concessions resolved two of the outstanding issues relatively quickly. The Americans agreed to include AGFA in Bayer; the Germans agreed to sever Titangesellschaft from it.[126] The latter was a joint venture between National Lead and Farben created to produce titanium dioxide for the German market. As such it not only had operated with a fair degree of independence but also had become entangled in American law. Part of the antitrust judgment against National Lead required that the company either sell its stake in Titangesellschaft or expand it to 100 percent, turning the joint venture into a wholly owned subsidiary.[127] The German concession on this point allowed the American firm to purchase the facility.

The Dormagen plant, however, remained a point of dissension for almost two years. The Americans stubbornly contended that with this facility Bayer would be so much larger than any other German chemical firm that it could dominate the West German industry and perhaps even reassemble IG Farben. The Germans (and the British) responded that the plant simply could not stand on its own. Dormagen relied on raw materials from other Leverhusen facilities and on Bayer to sell its product. Dormagen produced rayon, and the development in the 1940s of improved synthetic fibers like nylon meant that it needed extensive investment to remain competitive, investment that alone Dormagen could not command.[128] Almost everyone associated with the plant, from shop stewards to the management, opposed severing it from Bayer.[129] The Germans also produced statistics demonstrating that the leading American chemical firms differed substantially in size and that, by world standards, none of the three central German firms (BASF, Hoechst, and Bayer) would be toweringly large.[130] But the Americans did not back down until 1952, when confronted with irrefutable proof from experience that Dormagen could not stand alone.[131]

The plan for IG Farben finally went into effect in the spring of 1953. Shareholders in the old IG received stock in each of the three main successor firms. Because the IG's securities had been widely dispersed, no one stockholder would be able to control any of the new firms. All the successor firms (not just the three largest) received royalty-free licenses to all Farben technology, an arrangement that made participation of these firms in patent-based cartels very difficult.[132] The reorganized firms did well. Although the "big three" subsequently absorbed some of the smaller companies spun off from the IG, BASF, Bayer, and Hoechst remained independent, and each became a leader in the world chemical industry.

Had United States policy succeeded? The answer depends on the American goal. After 1953, the German chemical industry remained in the hands of large companies. If the United States wanted to change this, it failed. Nevertheless, the industry was far more open after 1953 than before 1945. Instead of one company that dominated most sectors of the business, Germany now had three very large firms and several medium-size ones that competed with one another, albeit cautiously. As such, the German chemical industry resembled that of the United States, becoming an oligopoly—that is, dominated by several large firms—rather than a monopoly.

The reorganization of the coal and steel industries presented even greater challenges than banking and chemicals. Coal and steel were Germany's largest industries and had been the economic basis of its military strength. Moreover, Germany was western Europe's chief coal producer, and throughout the late 1940s, a chronic fuel shortage had impeded the continent's economic recovery. The future of these businesses occupied the highest officials in the Allied governments. More was at stake than deconcentration.

The western Allies had a simple plan for these industries: break up the large coal and steel enterprises into smaller concerns and, perhaps more important, sever ties between the two types of business. German mines, which the steel companies controlled, supplied coking coal to steel makers throughout Europe, and many experts believed that the German steel makers used their control of this vital raw material to limit competition. Although probably exaggerated, this concern did have foundation. In the late 1940s, Germany was charging domestic consumers of coal lower prices than foreign ones, a practice common among European exporters, including Britain.[133] Tentative plans called for the occupiers to vest coal and steel assets in new companies, each of which would operate a single complex of mines or mills. The British, who had closely overseen the industry since 1945, had already laid plans to divide the steel industry into twenty-eight firms and to completely separate them from the business of mining coal.[134] American authorities wanted to be involved in this important process, and they were concerned that the British, if left to their own devices, might leave the new companies under government ownership, effectively nationalizing these industries. In 1948, they persuaded London to acquiesce to a joint program to seize and reorganize the assets of the leading coal and steel producers.[135] The French participated as well, although their chief goal seems to have been ensuring that their steel industry received equal access to Ruhr coal. At the same time, the occupiers realized that they had at least to consult with the new government in Bonn as well as with the managers of these properties, whose expertise was necessary if the coal and steel industries were going to recover. Both were skeptical of reorganization. In particular, many Germans insisted that the ties between coal mines and steel mills had allowed substantial efficiencies and opposed separating the two types of business.[136]

The structure of the coal industry raised serious questions about the effectiveness of reforms. Since the 1890s, all the Ruhr coal mines had marketed their product through a cartel agency. German steel firms had often bought coal mines just to gain a place in this organization. After 1945, the British had allowed the cartel to continue to operate as the Deutsche Kohlenbergbau-Leitung (DKLB). Coal was in desperately short supply, and the DKLB was a convenient agency through which to ration it. Moreover, mine operators had no experience managing sales. After the creation of Bizonia in 1946, the United States acquiesced to the DKLB's continued existence.[137] German mining executives, none of whom had experienced life without a cartel, were happy with the situation. By 1950, operators in the Ruhr were talking about the benefits of a "self-governing body of the mining industry" to handle "coordination between the various interests" in the business.[138] To present abuses, the Allies created the International Authority for the Ruhr (IAR) to oversee the coal and steel industries. Unfortunately, this organization had few resources and commanded little respect from the Germans. In 1951, a U.S. official complained, "With the passage of time our ability to exercise the proper supervision over DKLB's activities . . . has diminished. DKLB has paid less and less attention to instructions from this group [IAR] and to the Allied policies."[139]

Nevertheless, Allied plans for reorganizing the Ruhr mines proceeded. By 1952, they had broken up the seven largest mining combines, all of which had been under the control of steel firms and that together accounted for 49.5 percent of output, into twenty-one companies. After tough negotiations with German mine and mill operators, the Allies conceded that steel companies could own coal mines capable of supplying up to 75 percent of their own needs, but no more. Nine coal firms, accounting for 13.5 percent of total production, went to steel companies. The other twelve companies would operate independently.[140] The continued existence of the DKLB, however, rendered problematic the creation of a free market in coal.

The story of the steel industry resembled that of coal. Despite Allied seizure, after 1945, management of the mills had remained largely in the hands of German executives who had grown up professionally in a world dominated by cartels. No other group capable of running the factories existed. Reorganization did proceed fairly smoothly, with the steel industry divided into twenty-four firms whose securities the Allies distributed to stockholders in the old, more concentrated steel firms. As with coal, however, reorganization did not necessarily preclude the reemergence of a Germany steel cartel. Indeed, informal cooperation between the steel companies seems to have continued throughout the occupation period and into the early history of West Germany.

Even worse from the American point of view, by the end of the 1940s, the international steel cartel seemed about to reemerge. National cartels had survived the war in many western European countries (Britain, France, Belgium), and German steel makers still cooperated extensively among themselves, albeit less formally. In a series of meetings in late 1949 and early 1950, representatives of German, French, Belgian, Dutch, Luxembourger, Swedish, Swiss, and possibly British steel producers tried to forge arrangements for the sale of many goods.[141] The talks were inconclusive, but Washington was concerned.

The drive for European integration offered a way around these problems. From a political point of view, the reorganization of Germany's coal and steel industries had not resolved the basic question—whatever their structure, German producers had the power to dominate European steel production. The Allies did impose a ceiling on total German steel output through the IAR, but this was only a temporary solution. The moment of reckoning came in 1950, as German economic recovery pushed steel production up against the ceiling. The Allies would have to either lift restrictions and allow the German industry to reassert itself or clamp down and cripple German recovery, and quite possibly hopes for a democratic, pro-western Germany.

Jean Monnet and Robert Schumann devised a way out of this dilemma. Monnet was the *eminence grise* behind French economic planning and a convinced internationalist who would play a key role orchestrating European integration. Schumann was the French foreign minister. In 1950, they negotiated the European Coal and Steel Community (ECSC), which eliminated barriers to trade in coal, iron, and steel among Germany, France, Italy, and the Benelux countries (Belgium, the Netherlands, and Luxembourg). It also created a central agency, the High Authority, to coordinate modernization of the industry. The ECSC would integrate German steel makers into a European framework, reducing—ideally erasing—their national character. At the same time, it lifted restrictions on German output and treated the West German government as an equal partner with its neighbors, the first time Germans had enjoyed such parity since the war.

Monnet hoped that the ECSC would prevent the reemergence of steel cartels. Although restrained in his enthusiasm for the free market—Monnet was a pioneer in economic planning—the Frenchman believed that to develop efficiently, Europe's steel makers needed access to a large continental market such as that enjoyed by American firms. By dividing up territories and channeling sales, cartels had precluded the emergence of such a market in Europe. Cartels also encouraged participants to think largely in national terms, because countries were the basis of organization and cartels generally guaranteed producers' home markets. Monnet also knew that restrictions on cartels would reassure the United States, which favored European cooperation but feared that the ECSC might resurrect the international steel cartel. Monnet, who had spent much of the war in Washington and whose contacts in the United States were legion, was familiar with American antitrust law. Thanks to his insistence, the ECSC accord contained what his biographer described as "Europe's first strong anti-cartel law."[142] He had Raymond Vernon, an American economist who had helped plan Japan's deconcentration program and, in 1950, worked for the State Department, go over the ECSC agreement and draft language that sharply restricted cartels. Corwin Edwards later reported that the Coal and Steel Community's anticartel provisions "were written in Washington and adopted as written."[143] Monnet subsequently became the first chief of the High Authority, with responsibility for enforcing these rules.

The creation of the ECSC did not suddenly banish cartels from the coal and steel industries, but it greatly facilitated the effort against them. Simply by expanding the market, it made the formation of cartels more difficult. The greater the number of producers and consumers, the harder devising effective restrictions. More important, it changed the context of the issue, particularly for Germans. Before 1950, decartelization was part of an alien (if on balance benign) occupation. After 1950, it was part of an idealistic and generally popular program to build a united Europe and overcome the continent's sad history of war.

The long and sometimes ugly debate over deconcentration obscured the substantial successes of American decartelization policy in Germany. General Clay had a point when he argued, "There has never before been a like effort to reduce concentration of economic power."[144] Before 1945, the German economy was probably the world's most cartelized. Largely at the insistence of U.S. officials, the occupiers of western Germany terminated almost all cartels and persuaded the government in Bonn to enact laws that, in most cases, prevented their reemergence. Cartels had deep roots in Germany, and without strong action they no doubt would have continued to play an important role in the German economy. Although deconcentration was not nearly so thoroughgoing, the reorganization of IG Farben and the coal and steel industries did transform two of Germany's most important industries, effectively replacing monopoly with oligopoly. The United States had succeeded in imposing on West Germany an antitrust policy roughly comparable to that it followed at home. Some reformers had wanted to go further, perhaps even setting precedents for the United States. Yet Clay was right when he declared that Americans could not in good conscience force on the Germans a policy they were unwilling to adopt for themselves.

The Anti-Zaibatsu Program

Although economic reform in Japan initially took an even more radical course than in Germany, it ultimately accomplished less. Reformers had fewer brakes on their activities than in Germany both because the other Allies had far less influence on occupation policy in Japan and because the American public and business community were not as interested in policy toward Japan as toward Germany. Yet economic conditions in Japan were less hospitable to deconcentration and decartelization than in Germany. In the end, these factors were decisive.

At first glance, reformers seemed to have a free hand in Japan. The United States effectively ran the Japanese occupation by itself, consulting with the Allies but giving them little real authority. The reorganization of Japanese business did not involve the endless inter-Allied talks that characterized the same process in Germany. Yet the structure of occupation gave the Japanese themselves the capacity to stymie reform. Their government continued to operate throughout this period, and the American authorities invariably worked through it. This was in sharp contrast to Germany, where the central government had ceased to exist and the Allies exercised sole political authority. The Japanese government was supposed to follow directives laid down by the Americans, but there were many ways in which it could sabotage decisions it opposed, particularly because the United States did not have enough personnel on hand to closely monitor its activities.[145]

During its first two years, the occupation imposed a variety of sweeping reforms on Japan. It dissolved the military, punished war criminals, and purged from positions of authority those deemed too close to the old regime. It imposed a new constitution that redefined the emperor as a purely symbolic leader, reinforced the authority of elected officials, guaranteed civil liberties, expanded the franchise, and banned the country from going to war for any reason. The occupiers decentralized education and law enforcement, strengthening local governments at Tokyo's expense. The Americans redistributed land, transforming Japanese farmers from a class of tenants into one of independent freeholders. Finally, the occupiers encouraged the formation of labor unions, which grew very fast in the immediate postwar period. For the most part, reforms proceeded from the assumption that Japanese society was basically unhealthy and that only dramatic changes could eliminate its authoritarian and militaristic tendencies. Although most of these reforms were not in a strict sense punitive—the occupation officials who imposed them sought to make Japan a better place in which to live—they did entail severe economic, social, and political disruption.

Economic hardship cast a pall over reforms. Industrial production was terribly depressed. Foreign trade had practically ceased except for American charity. Inflation ranged as high as 10 percent a month, and food rations remained barely adequate to keep people alive. This situation reflected not only the physical destruction of the war, which was immense, but also the collapse of Japan's colonial empire and trade relations. A densely populated island nation with few natural resources, Japan had to import large quantities of food and raw materials to survive, paying for these goods by exporting manufactured products. With the end of the war, the other countries of Asia, Japan's chief trading partners, had largely severed commercial ties. The result was a situation so desperate that, for much of the next decade, American authorities despaired of ever again making Japan economically viable.

Deconcentration and decartelization played out against this background. The program had little support in Japan. As an official historian of the occupation pointed out, the Japanese considered legislation against monopolies "a luxury which only the rich nations could afford, and that competition was wasteful to a country with limited resources. Some were positive that a nation as poor as Japan in natural resources needed to pool its available stockpiles, capital and talents in order to survive in a competitive world. There were also the predictions that the Japanese economy would be made ineffectual and weak by breaking up the trusts, cartels, and private monopolies, and be reduced to an economy of small-sized industries only."[146] This attitude affected leftists as well as conservatives. The former thought not in terms of deconcentrating industry but of achieving nationalization and worker control. Japan's Communist Party denounced deconcentration as "a scheme of the traitorous, monopolistic capitalists."[147]

The Americans in charge of decartelization and deconcentration nevertheless plunged ahead. Responsibility for this program rested with the occupation's Antitrust and Cartels Division, which reported to the Economics and Science Section, which was in turn directly under General Douglas MacArthur, the military governor. Edward Welsh, who headed the division for most of its history, was an economist who had worked for the Temporary National Economic Commission in 1940 and had held important posts in the Office of Price Administration (OPA) during the war.[148] As in Germany, much of the deconcentration staff came from the Antitrust Division, although the OPA, the only major wartime agency dominated by New Dealers, also provided a substantial number. There was no doubt about their enthusiasm. Welsh insisted, "People can talk and write about democracy, but they cannot really live democracy without deconcentration of economic power." "Those opposed to democracy are opposed to the deconcentration plan."[149] He also contended that decartelization and deconcentration would help the Japanese economy. "Deconcentration or the breaking up of large spider-like combinations should decrease the non-productive labor currently hoarded in overstaffed head offices, as well as in non-operating or non-essential plants, and should increase the employment, through increased efficiency and better allocation of materials, in the actual enterprises producing essential goods."[150]

Realizing that change was inevitable, the Japanese government and business community sought to contain and control it. In October 1945, they proposed to break up the four largest Zaibatsu: Mitsui, Mitsubishi, Sumitomo, and Yasuda. These combines, each dominated by a single extended family, centered on holding companies that controlled dozens of operating firms, many themselves huge. The Japanese planned to create the Holding

Companies Liquidation Commission (HCLC) to take over these organizations, compensating their owners with ten-year, non-negotiable government bonds and selling off their many subsidiaries as separate firms. Because compensation was in non-negotiable securities (holders could not sell them before maturity), the former owners could not convert it into money and buy back their property.[151] Members of the leading Zaibatsu families would also resign all their offices in the companies they had controlled. The HCLC would report directly to the occupation authorities even while technically remaining part of the Japanese government, an arrangement that would give the Antitrust and Cartels Division an unusually large voice in its operations. The occupiers approved this plan with the provision that, in doing so, they did not preclude further reform.[152]

If the Japanese expected their plan to forestall more radical changes, they were mistaken. Soon after the initial Zaibatsu proposal, the State and Justice Departments dispatched an eight-man commission to Japan led by Corwin Edwards—who through the Cartel Committee had ties to both agencies—to study economic deconcentration and recommend further reforms. All members were experts on antitrust, with four (including Edwards) hailing from the Justice Department. After an extensive tour of the country, the commission issued a report in the spring of 1946 that urged measures well beyond those already taken. Action was slow, however. General MacArthur and his staff resented outside meddling in the occupation, and they may have considered Edwards's report an implicit rebuke of their willingness to accept the Japanese deconcentration program. MacArthur declared that the report was "too liberal" and "unworkable" and did nothing for a year.[153] Nevertheless, in the spring of 1947, the general reversed himself and embraced Edwards's suggestions. The reasons are not entirely clear. He did not closely monitor the details of the occupation, and it is possible that in this matter the Antitrust and Cartels Division acted on its own, pulling him along. MacArthur also wanted the Republican presidential nomination in 1948, and he may have believed that a more aggressive deconcentration program would help his prospects, perhaps softening his ultraconservative image. Whatever the cause, the Edwards report became the basis of decartelization and deconcentration.[154]

The Edwards commission urged not simply the dissolution of a few of the largest firms but a thoroughgoing reform of Japan's business structure. First, it recommended the dissolution of all Zaibatsu, which it defined as any organization "which, by reason of its relative size in any line or the cumulative power of its position in many lines [of business], restricts competition or impairs the opportunity for others to engage in business independently, in any important segment of business; and any individual, family, allied group, or juridical person owning or controlling such an enterprise or combination." In practice, this meant holding companies that were very large, that were active in several different lines of business, or that joined substantial financial interests with manufacturing or commercial ones, as well as the people involved in these enterprises.[155]

The occupiers deployed the HCLC against all suspect firms. By 1948, the HCLC had taken over not only the 4 leading Zaibatsu, its initial targets, but also several smaller ones as well, eventually seizing 83 holding companies with a staggering 1,151 subsidiaries. It targeted fifty-six members of the Zaibatsu families, seizing their assets and taking control of their personal finances. The HCLC also "purged" several hundred non-family Zaibatsu executives considered too loyal to the old organizations, not only dismissing them but banning them from working for any former Zaibatsu firm for ten years.[156]

The Zaibatsu program imposed immense administrative burdens on the HCLC. Zaibatsu had extremely complex structures that often involved several layers of subsidiaries. The distinction between operating and holding companies, so neat in theory, broke down in practice. Many firms that managed physical assets (factories, land, ships) also held stock in other firms, and because the HCLC did not want to shut down going concerns, it had to reorganize these companies by separating operations from stockholding. Nor did the HCLC rapidly dispose of the vast reserve of securities it accumulated. In part, the expansion of its authority in 1947 forced it to concentrate on seizing assets rather than selling them, but other factors also hindered progress. Even before the war, Japan had had few people with the capital to invest in securities; defeat had impoverished many of them. At the same time, war-related losses had rendered many—if not most—Japanese companies insolvent, making them unattractive investment prospects. Finally, high inflation made large-scale financial operations impractical.

The HCLC exercised strict oversight of the firms it controlled. They had to get its approval before paying dividends or bonuses, borrowing money, disposing of assets, or expanding or rehabilitating facilities. The HCLC even set allowances for the members of the Zaibatsu families.[157] Although on the whole the HCLC seems to have acted fairly, the need to get its approval for every major decision must have been a burden for its charges.

According to the Edwards report, the Zaibatsu constituted only part of the problem, however. Collusion of various types permeated the Japanese economy, and the report suggested a variety of remedies. First, it urged the dissolution of control organizations, technically private companies established during the war by the Japanese government to regulate various industries by setting prices, allocating scarce raw materials, and so on. To the extent that they performed vital functions, political authorities should take over their responsibilities. At American urging, the Japanese parliament (Diet) banned these bodies, although endemic shortages forced the government to continue their work rationing critical materials.[158] At the same time, the Japanese government, at the occupier's behest, promulgated legislation regulating trade associations, preventing them from fixing prices, allocating markets, or otherwise acting as cartels.[159] Most important, the Edwards commission recommended a strict antimonopoly law. In April 1947, the Diet implemented this suggestion, prohibiting Japanese firms from entering price-fixing or market-sharing agreements or international cartels or from owning stock in competing enterprises. The law also banned holding companies (firms that invested most of their capital in the stock of other firms) and interlocking directorates (the same individuals sitting on the boards of competing firms), and it limited mergers. To interpret and enforce these restrictions, the bill created the Fair Trade Commission (FTC), modeled on the American Federal Trade Commission.[160]

The Edwards commission contended that reform of the Japanese economy required one more step. By breaking up the Zaibatsu and banning various anticompetitive practices, the occupation had sharply restricted collusion among companies, but it had done nothing about the existence of very large firms. For instance, Mitsubishi Heavy Industries, a part of the Mitsubishi combine, had in 1945 employed approximately 400,000 people making ships, airplanes, trucks, and more. The Edwards report argued that the very existence of such economic behemoths impaired competition. To remedy this problem, the report recommended a deconcentration law to break up excessively large companies. This one-time measure would open up the economy, creating an atmosphere in which the antimonopoly law and the FTC could function effectively.

In December 1947, at the bidding of the occupation authorities, the Japanese government issued a measure authorizing the HCLC to dissolve "any private enterprise conducted for profit, or combination of such enterprises, which, by reason of its relative size in any line or the cumulative power of its position in many lines restricts competition or impairs the opportunity of others to engage in business independently."[161] Armed with this sweeping mandate and urged on by the members of the Antitrust and Cartels Division, the HCLC announced in early 1948 that it had targeted 257 industrial firms and 68 service companies for possible reorganization.[162]

Reverse Course: The Fate of Deconcentration in Japan

As with Germany, the changing international situation led Washington to reorient policy toward Japan in the late 1940s. The intensification of the Cold War and, particularly, the increasing likelihood that the Communists would win the Chinese civil war led the United States government to view Japan not simply as a beaten foe but as a potential ally. Yet shortages of food, economic stagnation, and high inflation were imposing terrible hardships on the Japanese population, rendering the country politically volatile. Conditions were so bad that many Americans feared that Japan would remain a ward of the United States indefinitely. Economic recovery constituted the first step toward stabilizing the country and making it a reliable partner. William Draper played a key role in the change. Promoted in August 1947 from his job in Germany to undersecretary of the army, where he had responsibility for the occupation regimes, Draper quickly concluded that change was in order. In early 1948, he led a mission to Japan that announced that henceforth the occupation would emphasize economic recovery over reform.

Deconcentration, breaking up Japanese firms, was among the chief casualties of this new policy. The Japanese had never been enthusiastic about it, believing that the program would damage their economic performance, and they enacted measures only because the occupation authorities insisted. Yet the program was controversial on the other side of the Pacific, too. George Kennan, who as head of planning at the State Department played a key role in shaping policy during the early years of the Cold War, was one of deconcentration's leading critics. Kennan believed that Japan's industrial potential made it the most important country in the Far East and that, if prosperous and stable, it could contribute substantially to American security. By early 1947, he had concluded that deconcentration was hindering economic recovery there.[163] His departmental colleagues agreed. One of State's experts on Japan complained in 1948 that deconcentration "rest[s], as far as

I can see, on the strong views and convictions of a relatively small group of people who view the respective problems exclusively from the standpoint of economic theory. . . . Our preoccupation with matters of this sort reflects a serious lack of sense of proportion with regard to the problems of occupation in Japan."[164]

Some within the occupation itself had doubts. General F. W. Marquat, who as head of the Economics and Science Section of the occupation had ultimate responsibility for deconcentration, complained to Edward Welsh that "he had to be convinced that it was possible to separate a large number of the major Japanese companies into groups of new corporations; staff them with directors, managers, technicians and workmen who were willing to take over the responsibilities involved; obtain the . . . credit necessary to finance a new enterprise; manufacture an end product at a cost competitive with old established companies which remain as active but small[er] organizations, all *without* decreasing production output."[165] Most important, William Draper had doubts. He had opposed deconcentration in Germany and so was naturally inclined against the more radical program under way in Japan. Nor was the information he was getting encouraging. A friend in Tokyo warned him, "The sword-of-Damocles-like effect of the present program [on firms designated for possible deconcentration] is absolutely killing initiative and planning for the future."[166] By the fall of 1947, even before the enactment of the deconcentration statute, Draper had concluded that the program had gone far enough.

Those behind deconcentration defended it. Edward Welsh insisted that the question was "whether the United States decides to make a healthy, democratic Japan or whether the pressure of events and influential people is such as to cause a decision to forget such an objective and to take only such measures as will develop quickly a Japan which would be most readily transferable into an ally in case of war."[167] To those concerned with Japan's economic recovery, he replied, "Deconcentration should reduce substantially the cost of producing Japan's basic commodities" by pruning overstaffed bureaucracies and eliminating monopolistic practices.[168] Welsh hinted darkly at the role of American businessmen in opposition to deconcentration. "One would be naive," he wrote, "to overlook the personal advantages which sometimes come to 'foreign' investors from the reestablishment of previous reactionary groups with whom such investors have had such close relationships in the past."[169] It was vital to continue the "anti-monopoly progress which certain American businessmen fear both at home and abroad."[170]

More important, MacArthur stood firm. A man of immense vanity, he interpreted attacks on the deconcentration program as assaults on his own record, and he feared that they would injure his presidential hopes. He may also have found it embarrassing to abandon a program that he had taken up in earnest less than a year earlier. MacArthur argued, "If this concentration of economic power is not torn down and redistributed peacefully and in due order under the Occupation, there is not the slightest doubt that its cleansing will eventually occur through a blood bath of revolutionary violence."[171] When, in October 1947, Draper urged MacArthur to delay passage of the deconcentration law, the general ignored his recommendation and secured enactment by the Japanese Diet. The HCLC's subsequent decision to reorganize 325 firms indicated that the occupation's commitment to deconcentration had not wavered.

The issue soon became public. In an article published in the December 1, 1947, issue of *Newsweek*, James Kauffman, a New York lawyer returned from a tour of Japan, asserted that the deconcentration law reflected "an economic theory which has, I think, no counterpart anywhere else in the world. It is not communistic but it is far to the left of anything tolerated in this country." It "not only provided for the abolition of the Zaibatsu but also for a virtual destruction of Japanese business and the sale of its assets at nominal prices to select purchasers, including Japanese labor unions, of which about one-half are communist-dominated."[172] Soon Senator William Knowland of California, a Republican stalwart, took up the issue. The senator denounced deconcentration policy in Japan, which he attributed to "doctrinaire New Dealers who found their activities limited in Washington and signed up for overseas occupation service." He particularly objected to the purging of Zaibatsu officials "without any provision for a prelude of accusation, trial, or conviction for war crimes or other offences."[173] Draper apparently encouraged these statements in the hope of forcing a change in occupation policy. He had been in contact with Kauffman for months, and he was cooperating with *Newsweek*'s editor, who had an abiding interest in Japan and opposed many of the occupation reforms. Draper also seems to have provided Knowland with information on which to base his speeches.[174]

To clear up the furor that he had helped engineer, Draper dispatched the five-man Deconcentration Review Board to Japan in the spring of 1948 to go over the HCLC's decisions. It consisted of three businessmen with experience in government (one of whom MacArthur knew fairly well), a member of the Securities and Exchange Commission, and a lawyer recommended by Attorney General Tom Clark. The last, Walter Hutchinson, had worked on antitrust investigations both as a U.S. district attorney in Iowa and with the Justice Department in Washington.[175] Though not formally in charge of the committee, Hutchinson seems to have had more influence over it than anyone else.

The commission demonstrated little enthusiasm for deconcentration. One of the business members stated, "Fundamentally I am not predisposed to breaking up 'concentrated' industry or 'big business' in Japan—especially at this time when the need to speed economic recovery in Japan is so acute."[176] Hutchinson, despite his experience with antitrust, shared this sentiment, complaining that deconcentration had "permitted those individuals who believed in the ideology of atomization or fragmentation to implement their ideologies by encouraging the enforcement of the law along those lines without any basic requisite of evidence of restriction of competition."[177] The Review Board reduced the list of firms to be reorganized from 325 to 19. The occupiers broke up eleven of them into two or three companies; they reorganized the other seven in a less radical fashion, terminating objectionable practices.[178] The Review Board also blocked deconcentration action against Japanese banks, which had been under way.[179]

These reversals infuriated the occupation's Antitrust and Cartels Division. One memo implied that American businessmen eager to move into Japan had forced the change. William Draper was the villain—he had used the Review Board "to change policy, while apparently not changing policy."[180] In truth, the division had only itself to blame. It is hard to believe that 325 Japanese firms each significantly restricted competition or that reorganizing a large number of them would not have disrupted the Japanese economy in a major way. Some of the targets were extremely questionable—small shipbuilders that operated only one yard, or companies that managed a single department store. Even some advocates of the program subsequently conceded that it had gone too far.[181] The HCLC would not have acted against every one of these companies and indeed had already released some from consideration before the Review Board arrived in Japan. Yet considering both the wretched state of the Japanese economy and the way designation under the deconcentration law placed the targets in a legal limbo that made it difficult to carry on business, critics of the program had solid ground for complaint.

The retreat from deconcentration constituted part of a program known as the "reverse course," designed to revive the Japanese economy. The Americans forced the Diet to impose strict monetary and fiscal austerity, subduing inflation and stabilizing the yen at the cost of sharply higher unemployment. The occupation, enthusiastically supported by Japanese conservatives, purged leftists from positions of responsibility and restricted the right of workers to strike. Reparations, which had never been extensive, ceased. Together these measures restored financial stability and labor discipline, putting Japan in a position to profit from the boom associated with the Korean War. By the early 1950s, the island nation once again enjoyed a measure of prosperity.

The "reverse course" did not, however, entail reconstitution of the Zaibatsu or emasculation of the antimonopoly law. The deconcentration statute encountered opposition in Washington because it was far more radical than anything ever attempted in the United States and because it threatened to paralyze much of Japanese industry. By the time of the reverse course in 1948, the Zaibatsu were already gone, and the antimonopoly law banned practices that not only were illegal in the United States but were believed by most Americans to be inimical to commercial efficiency. As in Germany, the issue was not whether to abandon decartelization and deconcentration but whether to adopt standards roughly comparable to those in the United States or to impose stricter ones.

The HCLC completed its work by 1951. In 1948, in the wake of the activities of the Review Board, it reduced restrictions on the many companies it controlled, allowing them to operate more freely, and it began to concentrate on selling their securities.[182] The HCLC completed this gigantic task by 1951, assisted by the return of prosperity and financial stability. Among the largest purchasers were employees of the firms being sold, although many subsequently disposed of their holdings.[183] Once it had marketed all its securities, the HCLC ceased to exist. Its demise completed a program that, despite the setback with respect to deconcentration, had been quite successful. The occupation had effected a major change in the Japanese economy, breaking up the Zaibatsu and some of the largest companies and prohibiting both domestic and international cartels.

Up to this point, developments in Germany and Japan resembled each other. In both countries the occupation had imposed reforms roughly comparable to American antitrust law but had abandoned more radical measures. The end of occupation in Japan, however, had different results than in Germany. Whereas McCloy and Bowie were confident of securing German backing for decartelization, in Japan, the Antitrust and Cartels Division feared that, left to themselves, the Japanese would dismantle reforms. One of its reports noted "a distinct and increasing effort on the part of major Japanese political and business figures to undo the accomplishments" of the program. "It is recognized fully," the report continued, "that implementation of this policy [decartelization and deconcentration] will be effected by the Japanese only if the most careful supervision over their performance is maintained."[184] Within the American government, however, enthusiasm for such oversight was fading. As a State Department expert on Japan stated in 1948, "Our main problem today is to get them [the Japanese] to accept the responsibility implicit in democratic institutions and to strike out on their own in a really democratic way. If their decartelization laws are still not perfect, Japanese society will now have to find within itself the impulse and inspiration to correct the remaining deficiencies."[185]

The durability of the occupation's accomplishments in this area depended on the Fair Trade Commission. It had the authority to prevent the reemergence of the Zaibatsu or of cartels, but as a new agency grafted onto a bureaucracy not particularly sympathetic to its goals, success was not guaranteed. Certainly the initial record was not encouraging. The FTC held only eight hearings during 1947 and 1948 and found itself overwhelmed by the massive number of requests that flooded into its offices for the approval of mergers, of agreements between Japanese and foreign firms, and of the purchase of the securities of one company by another. By late 1950, the situation had improved somewhat. The FTC had its paperwork under better control and hearings were more common. Nevertheless, the agency continued to work slowly, to conduct superficial investigations, and to impose light penalties on those violating its rules.[186]

The FTC failed to prevent a substantial reconcentration of Japanese industry after the occupation ended in 1952. It approved mergers of several of the firms broken up under the deconcentration law. More important, it allowed the Zaibatsu to reemerge in the form of Keritsu. The member companies of the old Zaibatsu exploited a loophole in the antimonopoly law that permitted firms that did not compete directly to own stock in one another. Firms from the old Zaibatsu corporate "families" exchanged large blocks of securities, creating a web of mutual interests that allowed a high degree of coordination.[187] Although lacking the central management through holding companies that had characterized their predecessors, the Keritsu still represented immense concentrations of economic power. Finally, the FTC showed a willingness to approve cartels to oversee the orderly retrenchment of overbuilt industries, programs often devised by other government bureaus. Such "rationalization" cartels became a regular feature of economic life in Japan.

The reorganization of Japanese business during the occupation did change things. The Antimonopoly Law established at least the principle of competition. Cartels remained the exception rather than the rule—left to their own devices, private companies in Japan often fought fiercely over markets. Few Japanese firms participated in international cartels, and the Keritsu were less monolithic than the Zaibatsu. Nevertheless, the accomplishments fell well short of the goals of the Edwards report. If deconcentration and decartelization in West Germany rated as a qualified success, then in Japan the program was a qualified failure.

Differences between Germany and Japan account for these outcomes. Japan had no equivalent to Ludwig Erhard and Jean Monnet, powerful politicians and officials who genuinely believed that antitrust, at least in its more moderate forms, was a good idea. This was in part because, economically, Germany and Japan existed in very different worlds. After the war, the nations of western Europe pursued a series of initiatives that reduced trade barriers among themselves, giving German firms access to a very large market. In this atmosphere, restrictions on trade through cartels seemed counterproductive. In contrast, after 1945 most Asian nations sharply limited trade with Japan, and because of the Cold War Japan had no ties at all with China, which before 1940 had been its chief commercial partner. Japan joined the General Agreement on Trade and Tariffs, the international forum for liberalizing trade, only in 1955, and even then some important members used "escape clauses" in the accord to deny Japanese goods the lowest tariffs.[188] The island nation had to regulate imports and coordinate exports to survive economically—it could not risk unrestrained competition.