That law, modified many times, survived until the 1970s. The enormous Penn Central bankruptcy—which involved liabilities of $3.3 billion and took a decade to sort out—brought home the fact that the bankruptcy law was not designed for an age of big business. The case saw, among other things, "the absurd spectacle of a single [court-appointed] lawyer attempting to run a huge company."

In 1978, Congress adopted a new Bankruptcy Code. Instead of just turning bankrupt operations over to outside trustees, it gives managers who want to remain in charge the benefit of the doubt. It has critics on both Left and Right. The former argue, ironically, that the law is too permissive, allowing executives to remain in control of companies they have run into the ground. Some conservatives would like to see bankrupt firms quickly liquidated so that their assets can be efficiently redistributed by the market. Foreman thinks the new law has got it about right. Why lose "the synergy of a working business" in a liquidation? Abuses, he insists, are rare. Thanks to the code, he notes, the Federated chain of department stores, Continental Airlines, and Macy's are all still in business, with employees still on the job.

## *How CEOs Got Theirs*

"CEO Pay: Why Such a Contentious Issue?" by Margaret M. Blair, in *Brookings Review* (Winter 1994), 1775 Mass. Ave. N.W., Washington, D.C. 20036.

Since 1987, according to annual *Business Week* surveys of about 250 companies, there have been 277 cases in which a corporate executive made more than $5 million in a given year, and 77 in which an executive made more than $10 million. For 13 lucky executives, total compensation in 1992 topped $20 million. Three took home more than $60 million. Popular resentment is such that last year Congress provided tax penalties under certain circumstances for firms that pay executives more than $1 million. The multimillion-dollar salaries of ballplayers, entertainers, and TV anchorpeople do not seem to diminish their popularity much. Why, then, do many Americans get upset about CEOs' high pay?

The answer, says Blair, a researcher at the Brookings Institution, lies in the fact that the same economic forces that pushed executive pay to astronomical heights during the 1980s often were simultaneously making the jobs of many ordinary Americans less secure. Indeed, many executives earned their big rewards by closing down factories and offices and slicing payrolls.

Before the mid-'80s, Blair notes, extremely high pay for executives was rare. During the 30 fat years after World War II, U.S. corporations, especially in manufacturing, generated enormous surpluses, allowing most large firms to satisfy investors, workers, and managers. Salaries of executives generally varied with the size of the company, while bonuses depended on how fast it was growing.

By the early 1980s, returns to capital, already on a downward trend, reached a postwar low, while real interest rates soared. Stock prices languished, encouraging corporate raiders and hostile takeovers. They also encouraged a movement to tie executive compensation more closely to the returns achieved for stockholders. Stock options, which could yield enormous payoffs if stock prices rose, soon became a big part of executive pay packages.

Improved stock performance was often achieved, Blair writes, through "corporate restructuring that resulted in layoffs, cutbacks, and tremendous pressures on rank-and-file workers and mid-level managers." This began in smaller firms during the early 1980s, and is still working its way through the economy, with major layoffs and cutbacks having taken place even at such giants as IBM, General Motors, and Sears.

Of course, many of the highest-paid executives in the past few years have been at growing firms such as Hospital Corporation of America, Toys 'R Us, and Walt Disney. Nevertheless, says Blair, "there are plenty of companies like Martin Marietta, General Dynamics, General Electric, RJR Nabisco, Time Warner, ITT, and Unisys, all of whose CEOs made the list of the 15 highest paid executives in years when their companies were undergoing significant downsizing." And that has made the CEOs' jackpot hard for many to stomach.