

shortrun economies from competition proved to be illusory and contributed to the corruption of union and health fund officials.¹⁹¹ The consensus of practical opinion is that as important as competitive bidding is, the reputation of the insurance company for efficient and fair administration is more important. In any case, in respect to pension administration, the insurance companies are on the rise and exerting a competitive influence.

One needs to turn again to the health insurance experience for evidence on another aspect of competition: In this instance the suggestion is for suppliers of annuities to compete for the business of pension plan members. Alternate choice plans as between group practice and indemnity have had a decade or so of experience in health insurance and Munts concludes that the effectiveness of multiple choices varies with the "health intelligence" of plan participants. "There is too much evidence that employees and their families often do not understand good medical care and may prefer unscientific medicine because they are accustomed to it."¹⁹² Would the purchase of annuities on some competitive basis involve an analogous "pension intelligence?" Answers must be mostly speculative at this time.

There is finally the public interest question in adequate safeguards for negotiated pensions through public regulation. This is not the place for an extended discussion of the effectiveness of regulation except simply to catalog the elements of the regulatory scheme which negotiated pensions are exposed to. The tax laws accord preferential treatment to pension funds if segregated in irrevocable trusts and "used for the exclusive benefit of employees" without "discrimination as to coverage and benefits."¹⁹³ The National Labor Relations Act as it relates to pensions is interpreted to require bargaining if requested and to protect employees from discrimination by unions and employers on account of union activity. Another title of this law requires employer representation on a union pension fund to which an employer contributes. The Welfare and Pension Plans Disclosure Act deals only with disclosure of financial operations and is precluded from regulating the internal management of pension plans. Five States have also passed disclosure laws. Disclosure of the terms of corporate retirement plans for the protection of investors is provided for in the Securities Exchange Act. Fiduciary responsibility of pension plan trustees and administrators is covered as already noted in the Internal Revenue Code and in the common law of trusts.

The President's Committee on Corporate Pension Funds has recommended vesting and funding requirements as conditions for preferential tax treatment. Senator Javits has introduced legislation to require minimum standards of vesting, funding and portability. Senator Hartke has introduced a bill which would establish a Federal program of pension plan reinsurance.

Major stress on defects in protection of employee rights in pension

¹⁹¹ Jack Barbash, "Negotiated Health and Welfare Plans," *New Dimensions in Collective Bargaining*, Harold Davey, ed. (New York: Harper & Bros., 1958), pp. 108-110.

¹⁹² Raymond Munts, *Bargaining for Health* (Madison: University of Wisconsin Press, 1967), p. 215.

¹⁹³ Testimony of Stanley S. Surrey in Joint Economic Committee, *Private Pension Plans*, pt. 2, *op. cit.*, pp. 412-413.