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In a Feature Article on "Regulation by Government--A Case Study

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In a feature article on "Regulation by Government--A Case Study of Monopoly, State Nonfeasance and Promised Corruption" in the Winter issue of the California Regulatory Law Reporter, Robert C. Fellmeth, Director for the Center for Study of Public Interest Law at the University of San Diego Law School, has attacked a law recently passed at the behest of the Trash Hauler's Associations of California. According to the study of Professor Fellmeth, the law allows immunity from antitrust franchise (a monopoly) to pick up trash in a city, county, or area, without any rate regulation and without any competitive bidding. "What this law has done," remarks Fellmeth, "is to tell any one of several hundred local officials you have the right to grant an unfettered monopoly to a trash hauler to pick up residential trash, or commercial trash, or industrial trash, and I can prevent anyone from competing with you for that business by granting you an exclusive franchise under the law, and I don't have to watch your rates, and I don't have to subject it to any competitive bidding at all." "This is exactly what the statute does," continued Fellmeth, "and it opens the door for corruptive influence on the local governments of California."

Fellmeth, who was a Deputy Attorney enforcing white collar crime statutes in San Diego Office of the District Attorney for eight years, and who drafted the County ordinance governing trash hauling, contends that there is no rational justification for the current law. It is a scandal, pure and simple." Fellmeth's article traces the history of the attempts by the trash haul lobby to pass the statute, at first unsuccessful, and describes how a series of lobbying tricks were used to win passage through the legislature, and to avoid the veto of Governor Brown.

Fellmeth, who was present during the Conference Committee hearings in Sacramento, proposed a single revealing amendment to the trash haulers. That amendment would allow local governments to regulate trash hauling for health and safety, to do the trash hauling themselves, to give the trash hauling to a monopolist for a limited term of years after competitive bidding. The only alternative Fellmeth's amendment would have eliminated would be the granting of a monopoly without rate regulation and without competitive bidding. The trash haulers declined Fellmeth's amendment. Fellmeth charges that, as a result of this statute, cities and other jurisdictions throughout the state of California, have granted trash haul monopolies to carriers without rate regulation and without competitive bidding, and that high rates and corruptive influence have been and will be the inevitable result.

Fellmeth is an Associate Professor of Law at the USD School of Law.

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