

Essay

Security can be defined as an assurance, a guarantee, freedom from danger, risk or harm, protection. These days it seems as though many local governments are highly concerned with the security of non-smokers who may be affected by secondhand smoke in public. While their concern is fair, I maintain that their attempts to protect non-smokers have led them to completely disregard the security of citizenship granted to smoking members of society. Nowhere in the Constitution have I read that public health concerns supersede personal freedoms. However, I have read many things that indicate the opposite. While there might be certain reasonable restrictions that could be implemented to establish an environment for non-smokers, the recent comprehensive public smoking ban in California has gone much too far.

The Fifth and Fourteenth Amendments to the Constitution protect the life, liberty and property of all citizens from the national and state governments, respectively. When businesses were still allowed to choose whether or not to accommodate smoking patrons, everyone maintained the freedom of property. People could choose which establishments they visited, whether smoking or non-smoking, and in a free-market economy, their demand for either smoking or non-smoking facilities caused those places to be supplied. In sweeping smoking bans in privately-owned operations the hand of the government is forcefully entering each business and controlling the owner's choice towards his property. John Adams once said, "Property must be secured or liberty cannot exist." The first of the ten planks of Marx's Communist Manifesto is the abolition of private property. It is a sure sign of an undemocratic and despotic government. While this law might not be abolishing anything it is certainly swimming in forbidden waters.

Along those same lines, government has no place regulating a person's actions in the privacy of their own vehicle, as it does in the Calabasas smoking ban. That certainly falls under the realm of property protected by the Constitution. Further, the Ninth Amendment states, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." There are definitely rights of citizens not listed in the Constitution that are being abused by this disregard for freedom. The Supreme Court has

maintained that there is an implied right to privacy in the Bill of Rights. Unquestionably the inside of one's own vehicle constitutes a private space where government is not invited to regulate.

When it comes to outdoor public areas, there is a restriction of personal liberty in designating all of them non-smoking. The implication of the word 'public' is that it pertains to all people in a population or community, not just a majority. The lack of public smoking areas means that the smoking community of Calabasas is essentially not being included in the population. Some of those public areas—not all, but some—should cater to their needs as part of the public. Without any public areas to smoke, their constitutionally-protected liberty is definitely affected.

Abraham Lincoln once said, "If by the mere force of numbers a majority should deprive a minority of any clearly written constitutional right, it might, in a moral point of view, justify revolution." I am certainly not suggesting we take up arms to protect public smoking, but this is a situation in which there are constitutional rights being deprived from the smoking community. This latest ban imposed in California has crossed the line and is infringing on liberty and property of citizens. I propose that secondhand smoke is not nearly as menacing as a government without respect for its people.