

Dealing with Bike Haters

by Bob Higdon, Washington, D.C.

It isn't the First Amendment by chance. It's the first because it's important. This is what it says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

What it means is that if you want to tie one on with your friends — whether you're about to advocate the dismemberment of the United States as we know it or to join in common prayer for the Fifteenth Coming of the Great Snail — the state has to leave you alone, as long as you're peaceably assembled. It isn't that complex, is it? You learned that in the sixth grade. Unfortunately, police in North and South Carolina haven't learned it yet.

In September 1994 the Greenville SC chapter of the American Red Cross wanted to raise some money for its beneficent work. A poker run was planned, featuring a tour of the newly opened BMW motor works plant where the ultra-Yuppie Z3 is made and culminating with a concert by the Marshall Tucker Band at a fair ground in Spartanburg.

So far, so good. But when riders arrived at the fairground, all hell broke loose. Supposedly acting on a tip from an unnamed informant that a biker gang war was going to erupt, South Carolina police, aided and abetted by members of the SC Law Enforcement Division and the National Guard, who overflowed the scene in a helicopter, showed up and began a systematic shake-down and saddlebag search of everyone who rode up to the gate. The officers said the searches were consensual. The truth was that if you didn't consent, you were turned away.

The cops had to say the searches were consensual, otherwise they'd have been butting heads with another Amendment to the Constitution, the Fourth. That one says in pertinent part

that the state can't search you against your will unless it has a warrant to do so, and no one is empowered to issue such a warrant except upon probable cause that a crime has been or is about to be committed. Whether the police could have obtained a warrant to search 400 bikers that day is conjectural; the fact is that they didn't bother even to try to get one. Once inside the gate the riders' troubles weren't over. Cops with videocameras were everywhere, documenting the atrocities that were sure to happen at any moment. Matronly women were photographed as they went into a bathroom. One of them was the wife of a local judge who broke down in tears when she realized how she was being immortalized.

And who won the gang war? Well, it seems that it never actually transpired. The police would take credit that their overwhelming presence on the scene had undoubtedly nipped that little problem in the bud. This is the same theory of negative inference that disposes riders to put deer whistles on their bikes. If you don't hit a deer, the whistle worked; if you do hit one, it's not your fault the animal was deaf.

The American Civil Liberties Union, backed by the American Motorcyclist Association, filed a federal lawsuit against the cops in the aftermath, the chief of police resigned in disgrace, and everyone thought that would be the last we'd hear of police overreaction to motorcyclists from now until the end of time.

The end of time wasn't long in coming.

Three years almost to the day after the Spartanburg fiasco, about 2,000 members of the BMW Riders Association showed up for the club's annual national rally at the Fontana Village resort in the hills of western North Carolina. It didn't take long for those in attendance to realize that they had inadvertently wandered into another cop riot.

The rally hadn't even begun when a beer license that had been negotiated with the resort and

Graham county authorities was suddenly yanked. On the morning of the first day of the scheduled four-day event, a helicopter began buzzing the resort grounds. Screaming out of its loudspeaker was the *Bad Boys* theme from the TV show *Cops*. Checkpoints appeared on highways all over the region. Bikers were stopped, identified, and searched. Other riders were dangerously tailgated as they rode through the tight, treacherous mountains. Still others found themselves stuck behind police cars travelling at 20-25 mph under the posted limit, inviting the riders to pass on a double-yellow line and risking the certain ticket that would follow.

It got worse. Not content with stopping bikers on public roads, the police set up barricades at the entrance to the resort, hassling everyone who tried to enter or to leave. Patrol cars roamed the resort area day and night. Campers on federal land near a dam were roused by TVA police. A few paltry arrests were made on grounds so patently absurd that they couldn't even pass the laugh test. If any convictions ever resulted from the charges, I never heard about them.

You might legitimately wonder at this point what prompted half a dozen police agencies — local, state, and federal — to combine their resources in such an extravagant waste of time and money. Well, stop me if you've heard this before, but they claimed they'd received a tip from an unnamed but reliable informant that a biker gang war was about to erupt. They were there, as usual, to protect, serve, and stop the carnage before the Smokey Mountains ran red with blood.

So who won this latest gang war? Actually, the thousands of Harley riders who had been predicted to descend upon the BMW gathering to rape, pillage, and despoil never materialized. Now be honest here: are you surprised about that?

Apparently the cops were. In the predictable outrage that spilled into the press following the rally, one police spokesman after another began to blame, excuse, and otherwise point a finger at some other agency in a dizzying display of lies and countercharges. No one in any official capacity could get the story straight, right on up to the governor's office. What was said one day was overtaken by inoperative backfilling the next. Had

it not been so ineptly stupid, it might have been funny.

It wasn't funny. I hadn't been at Spartanburg, but I was at Fontana, and I can tell you that the scene was a Fascist nightmare. For a biker at what should have been a peaceful social gathering, it was as bad as it can get. Every legal presumption that should have declared those BMW riders model citizens in good standing until proven otherwise beyond a reasonable doubt had been trashed. The lawmen had become the lawless.

There are two things that you can do at this point that may effectively petition your government for a redress of grievances: 1) You can sue the bastards; or 2) You can surgically remove the immediate problem.

The victims of Spartanburg tried to sue the bastards for a violation of § 1984 of the Civil Rights Act and, though the bikers claimed a moral victory, the suit really hadn't worked. It didn't work principally because such cases are awfully hard to prove. Even if you can come up with crystal clear evidence, local juries and judges, even those in federal courts, are notoriously sympathetic to the thin blue line that is patrolling their hometown streets and keeping a bunch of marauding, riff-raff bikers out of their daughters' bedrooms.

The Spartanburg suit came down with a federal judge's finding that the cops had been wrong, but that the biker-plaintiffs hadn't been damaged to any monetary extent, a decision that was upheld in large part by the U.S. Court of Appeals for that circuit. Maybe someone else was surprised by the result, but I wasn't. The best lawyers in the south — and the ACLU lawyers in such civil rights cases really are the very best — couldn't crack the nut. And if they can't, nobody can. My advice in those types of cases then is to forget suing renegade cops, unless you've got more time and money than even God herself.

That relegates you to Option #2, surgically removing the problem. It's the political, not judicial, move, and while it doesn't often yield the near-orgasmic joy of having a bailiff say, "Judgment for plaintiff in the amount of twenty million big ones," it is the more Buddhist-like approach, and therefore more likely to bring last-

ing happiness. What you do, basically, is vote the moron who originally caused all your problems out of office. There is always somebody at the bottom of the food chain who is your natural political target. The odds are that if he's run roughshod over you, he's done it to his own constituents.

And that was exactly what transpired in Graham county when the dust had settled on the Fontana-BMW showdown. The local sheriff there, the root of a poisonous vine, had been terrorizing his own people for a long, long time. The attack on the BMW rally was only the latest in a string of depredations. An election loomed; another candidate for the job emerged, a guy who was quick to appreciate the positive value of out-of-state campaign contributions and eager to mend a few fences. He advertised in BMW magazines that he would clean up the local dump and make Graham county a tourist-friendly place again. When the spring primaries were over, the sheriff found himself running a distant third in a field of three. His miserable career was through, and we helped. There was even icing on this cake: a few weeks after the primary, the sheriff himself was arrested for two counts of sexual assault.

The results of that election are reminiscent of the defeat of Dick Floyd in California a few years ago and the re-election of Toddy Puller in Virginia shortly thereafter. Floyd hated motorcyclists and he paid for his arrogance by being voted out of office. Puller was a wonderful friend of commuting riders whose help was critical in having motorcyclists allowed on the Commonwealth's HOV lanes. Bikers stood in line to make sure that she was returned to her job. Fight the ones who screw with you; support the ones who help. It isn't that hard.

Sooner or later, the word will get around: If you hassle the motorcyclists, they'll take your job away. They've done it before; they can do it again.

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