

BROKEN SILENCE

The Story of Today's Struggle
for Religious Freedom

by

MIRZA AHMAD SOHRAB

Published by
Universal Publishing Co.
New York

for

THE NEW HISTORY FOUNDATION
132 EAST 65TH STREET
NEW YORK, N. Y.

1942

BY THE SAME AUTHOR

Heart Phantasies
The New Humanity
Abdul Baha in Egypt
Renaissance
The Song of the Caravan
Living Pictures (Co-author, Julie Chanler)
I Heard Him Say
Silver Sun (Co-author, Julie Chanler)
The Bible of Mankind

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First Edition, January, 1942

PRINTED IN THE UNITED STATES OF AMERICA

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Bahais in this country, who had been called *Berthalin* by Abdul Baha and who has used this name ever since. The idea was that it would be a valuable service to the Cause if, after the closing of the Fair, our exhibit could be transported to the city. After some consultation, it was decided to take this step as a purely temporary activity, and on November 7th, 1939, *Bahai Bookshop* was opened at 828 Lexington Avenue, a lease having been signed for the duration of six months. I admit that we were fully conscious that, in all probability, the National Spiritual Assembly of the Bahais of the United States and Canada would resent this further heralding of the Bahai name and teachings. However, we were prepared, as in the past, to meet opposition in silence.

Then—

On December 5, 1939, the postman delivered the following letter to Bahai Bookshop:

(Letterhead of)

WATSON, BRISTOL, JOHNSON & LEAVENWORTH
6 East 45th Street
New York

December 5, 1939.

By registered mail to
Mrs. Julie Chanler,
Bahai Bookshop,
828 Lexington Avenue,
New York, N. Y.

Dear Madam:

We are instructed by our client, National Spiritual Assembly of the Bahais of the United States and Can-

ada, to communicate with you with reference to your unauthorized use of the trademark BAHAI in the trade name BAHAI BOOKSHOP, and on books, leaflets and advertisements which are not published by our client.

The word BAHAI has been used for about forty years by our client and its predecessors as a trademark for magazines, printed books, and other publications, and is registered in the United States Patent Office in the name of our client, registration No. 245,271. The word BAHAI is substantially the same as the registered trademark BAHAI, and your use of the former in the ways we have mentioned constitutes trademark infringement and unfair competition.

Probably you were not informed as to the trademark situation and it will not be necessary for our client to do more than bring the facts to your attention. In order to comply with the formalities, however, we must and do demand on behalf of National Spiritual Assembly of the Baha'is of the United States and Canada that you discontinue immediately the use of the word BAHAI in the name under which you are conducting a book shop, and upon books and other publications not published by our client, and we hereby notify you that upon your failure to do so our client will hold you responsible for profits, damages and costs of litigation.

Will you please give the matter immediate consideration and advise us of your decision.

Yours truly,

(Sgd.) Watson, Bristol, Johnson
& Leavenworth.

A few days after the receipt of this letter, Mrs. Chanler placed the matter in the hands of Mr. Fred J. Bechert,

U-Llah in precisely the same way as "Christian" would describe a follower of Christ.

It is our opinion, therefore, and we have so advised Mrs. Chanler, that Bahai, long prior to the year 1900, became and now is a word of common speech necessary for use in aptly describing a follower of Baha-U-Llah. In our opinion, therefore, the word "Bahai" cannot legally be exclusively appropriated by your client.

Mrs. Chanler advises us that she is a Bahai, and that her Bahai Book Shop specializes in Bahai books, pamphlets, and literature in general for the dissemination of the Bahai teachings.

It is our understanding that Mrs. Chanler, far from competing unfairly with your client, is engaged in the work of furthering and spreading the Bahai cause, which, we take it, is also the purpose and effort of your client.

Yours very truly,

B/S

Mitchell & Bechert.

(Letterhead of)

WATSON, BRISTOL, JOHNSON &
LEAVENWORTH
6 East 45th Street
New York

December 22, 1939.

Re: Bahai Bookshop

Messrs. Mitchell & Bechert,
420 Lexington Avenue, New York, N. Y.

Dear Sirs:

We are in receipt of your letter of December 21 in answer to ours of December 5.

You state that in your opinion the word Bahai "is a

of the firm Mitchell & Bechert, and the following correspondence ensued.

(Letterhead of)
MITCHELL & BECHERT
420 Lexington Avenue
New York, N. Y.

December 21, 1939.

Messrs. Watson, Bristol, Johnson
& Leavenworth,
6 East 45th Street,
New York, N. Y.

Re: Bahai Book Shop

Gentlemen:

This is in reply to your letter of December 5th, receipt of which we acknowledged under date of December 12th.

We have conferred with Mrs. Chanler and examined a great deal of literature relating to the Bahai Cause. Through our investigation, we have learned that in about the year 1863 Mirza Hossain Ali, a Persian nobleman, felt that he was inspired by God and that it was his duty to bring a message of light and glory to a harassed world. He adopted as a spiritual name "Baha-U-Llah". This name was to signify the "light" or "glory" of God. Prior to 1863, there were followers of the Bab and the individual followers were known as Babis. The Babis later became followers of Baha-U-Llah, who carried on the cause, and the followers of Baha-U-Llah became known as Bahais. Long prior to the year 1900, the word "Bahai" had become a well known descriptive word to identify a follower of Baha-

word of common speech necessary for use in aptly describing a follower of Baha-U-Llah." You do not state, however, that the word is descriptive of the goods on which our client uses it as a trademark, namely, magazines, printed books, and other publications, and it is obvious that such is not the case. The use of this word by your client on publications not published by our client and in the trade name Bahai Bookshop constitutes trademark infringement and unfair competition.

Moreover, the use by your client of the trade name Bahai Bookshop is a misrepresentation and a deceptive use because it gives the erroneous impression that the book shop is operated or sponsored by our client, the official Bahai religious organization, and the use of the name Bahai Bookshop without our client's authority and consent also infringes our client's property right in the name Bahai.

We believe you may want to reconsider your opinion in this matter, and request that you do so.

Yours truly,

(Sgd.) Watson, Bristol, Johnson
& Leavenworth.

(Letterhead of)

MITCHELL & BECHERT

420 Lexington Avenue New York, N. Y.

January 2, 1940.

Messrs. Watson, Bristol, Johnson
& Leavenworth,

6 East 45th Street, New York, N. Y.

Re: Bahai Book Shop

Gentlemen:

This is in reply to your letter of December 22, 1939.

We regret that our letter of December 21st did not make our client's position entirely clear.

It is our opinion that "Bahai" is a descriptive word for aptly describing a follower of the Bahai teachings and, furthermore, that the word "Bahai", whether or not used as a trade-mark, if it is applied on Bahai literature is descriptive of that literature. If your client is in the general publishing business and applies the word "Bahai" to books and periodicals having nothing to do with Bahai teachings, then the mark would not be descriptive of such books and periodicals.

Our client uses the word "Bahai" in the title of its Bahai Bookshop in a descriptive sense to identify it as a book shop specializing in Bahai literature.

Our client denies that the use of the trade name "Bahai Bookshop" is either a misrepresentation or a deceptive use. As stated, the Bahai Bookshop represents that it specializes in Bahai literature and, as a matter of fact, Mrs. Chanler is herself a Bahai.

Our client further denies that the use of the trade name "Bahai Bookshop" gives any erroneous impression that the shop is operated or sponsored by your client, since your client, in our judgment, has no exclusive right to the name "Bahai" to describe a follower of the Bahai teachings or to identify those teachings in book form or otherwise.

We must therefore repeat that, in our opinion, our client is not infringing any rights of your client and is not unfairly competing with your client.

Yours very truly,

Mitchell & Bechert.

Points Involved and My Reactions to Them

A partial study of the contents of the above correspondence between the two attorneys-at-law will reveal several interesting facts:

1. The National Spiritual Assembly of the Bahais of the United States and Canada have made a trademark of the name *Bahai*.
2. According to the text of application filed March 10, 1928, Serial No. 262,923 the Bahai Organization is a corporation.
3. The word *Bahai* is a *trademark* as actually used by applicant upon *goods*, and requests that the same be registered in the United States Patent Office. . . . *The trade-mark has been continuously used and applied to said goods in applicant's business since 1900.*
4. The goods or merchandise that the applicant sells and which are protected by a trade-mark are the words of Baha-O-Llah and Abdul Baha.
5. Baha-O-Llah and Abdul Baha lived in prison, suffered and gave their teachings *free* for the religious unification of mankind in order that, in 1928, these spiritual heavenly teachings be monopolized, and sold under trade-mark to an unsuspecting public as so much *goods*, similar to *Blue Sunoco*, *G. Washington coffee*, *Twenty Mule Team Boraxo* or the new, *blended with Havana*, *White Owl Cigar* (it's milder)!
6. The members of the National Spiritual Assembly of the Bahais of the United States and Canada, like their expanding sister monopolists, are reaching out to stifle all *unfair competition*, holding Bahai Bookshop re-

sponsible for profits to which, incidentally, they are welcome if they are willing to meet the losses as well.

7. The Bahai organization is not a religion, nor a spiritual renaissance, nor the spirit of the age, but is a full-fledged corporation which, while it engages itself in marketing the principles of Baha-O-Llah for the establishment of Universal Peace, through its various branches in the United States, Canada and in other parts of the world, has protected these goods by taking out a trade-mark on the very name which more than twenty thousand Persian men and women claimed at the price of their lives. This is the first instance in the history of religion where the privilege of calling oneself a follower of a certain Prophet, were he Buddha or Christ, or Mohamad or any other, has been involved with the interests of a trust or corporation.

What, for instance would have happened to Christianity if, added to the difficulties of establishing a new religion, the early Christians had had to contend with property rights on the name and teachings that they were ready to die for? It is certain that such a liability would have stifled the movement in its infancy and that, before the passing of a hundred years, the words of Jesus would have been heard of no more. The Cause of Baha-O-Llah is no different. Strong as it is, commercial interests and the lust for power are stronger yet if allowed to operate unopposed; and this new-born child, the hope of the ages, will unquestionably cease to breathe if its neck continues to be weighted with the steel links of an international chain store.

suffered by Baha-O-Llah and Abdul Baha, with seventy faithful followers; witnessing then the renaissance of the Holy Land as the "Mount of Revelation," and arriving at the present hour with Abdul Baha's unique mission made fruitful by the commencement of work on the Bahai Temple at Chicago, by the deeper comprehension of the meaning of this Cause awakened by the nationwide journey of the "Great Teacher," Jenabe Fazel Mazandarani, and the rapid spread of the Bahai Message throughout the East—the historic importance of these events can only be judged at some later date, when from this seed the fruitful tree shall have grown to its maturity.

This was in 1921.

Seven years have rolled into the lap of eternity.

The curtain is lifted on 1928.

The stage is set!

There is our old friend Mr. Horace Holley, urbane, subtle, conscious of his powers—the arbiter and controller of the destiny of the Bahai Organization and Bahai Communities throughout the world. Yes, yes, he has done a good job! With evident satisfaction he displays some papers. What are they? Let us approach and examine them. Our attention is caught by one paper—is riveted on it. We read:

Registered Aug. 7, 1928

Trade-Mark 254,271

United States Patent Office

National Spiritual Assembly of the Baha'is of the United States and Canada of New York, N. Y.

Application filed March 10, 1928. Serial No. 262,923.

**B A H A ' I
STATEMENT**

To the Commissioner of Patents:

National Spiritual Assembly of the Baha'is of the United States and Canada, a common-law corporation, organized and operated under declaration of trust and doing business at . . .

As we read and re-read the statement, we are lost in a sea of amazement. We rub our eyes, we fidget, we feel restless; we wonder whether all this is not a nightmare—impossible, incredible. We stagger, and search in our consciousness for an explanation; then, completely baffled, we look up into the face of Mr. Horace Holley. Maybe he will tell us what this means! He smiles, triumphantly pointing to the signature, and we read:

National Spiritual Assembly of the Baha'is of the United States and Canada

by **HORACE HOLLEY,**
Secretary.

And as we turn our eyes from this document, we glimpse Mr. Horace Holley's fingers still tenderly patting his own signature!

Well, friends! It is accomplished!

There is a stake on the *source* of the Bahai Cause and its owner-proprietor is the National Spiritual Assembly of the Bahais of the United States and Canada.

The *password* given to mankind by Baha-O-Llah, to be used for the regeneration of nations, is in the possession of the Bahai administrators.

The matter is therefore being taken to the courts, and as soon as possible their excuses will be made a matter of public record. It will be seen whether the present enemies of the Faith can succeed any better than those enemies who have preceded them. (Signed) National Spiritual Assembly. *Bahai News*, Feb. 1940, No. 133

The decision to take legal action for the protection of the Sacred right of the Baha'i community represents a culmination of one aspect of the evolution of the Faith in recent years which the newer *believers* have had little occasion to consider or understand. To the older Baha'is, however, the preservation of the basis of the unity and integrity of the community is a matter vital to faith and inseparable from the experience of loyalty and service to the Cause. For they have witnessed actual efforts to deny the validity of Abdu'l-Baha's mission and question the authority of His station. They have realized vividly and poignantly how the very existence of the Faith depends on loyalty to whosoever has received appointment from the Manifestation. They have experienced the *necessity of gathering their forces* in order to assert the truth and preserve the community from destruction. Such an experience is forever unforgettable, for it means that conscious choice has been made between light and darkness in the spiritual world. . . .

The occasion for the legal action is definite and clear: the claim on the part of non-Baha'is that there are no qualifications of faith in this Cause, but any one is a Baha'i who asserts that he is; and that there is no criterion by which to distinguish between authentic Baha'i literature and literature which some one assumes is

galvanized the swelling army of its defenders to arise and arraign the usurpers of their sacred rights and to defend the long-standing strongholds of the institutions of their Faith in their home country.

I don't feel that I can make comment on the above paragraph other than to address myself to the adjective *puny*, which is a quaint word of early English flavor. In looking it up, I find that it signifies *imperfectly developed, pigny, shrimp, small fry*. Now, I know that Mrs. Chalker, in her modesty, would accept all these terms as descriptive of her, in her service to the Cause, but neither she nor I agree to them in regard to our worth as opponents to the system which thinks to be the *unique repository* of the Word of God in this day. Probably, the attorneys of the National Spiritual Assembly of the Bahais of the United States and Canada give us credit for being adversaries (in a purely legal way), at least, worthy of their steel.

Reasons for Bringing Suit

Shortly after the institution of legal proceedings, the National Spiritual Assembly explains its reasons for bringing action against us, stating that this step represents *a culmination of one aspect of the evolution of the Faith*. I do think that they were right in this respect.

Under the authority of the Guardian, the time has now come to act against these "insidious adversaries" who have even gone so far as to flout the Beloved's Will and Testament, the very pillar of our unity, by claiming the right to use the term Baha'i to designate their personal activities.

Baha'i; and that there is no basis nor foundation in the Revelation of Baha'u'llah for the Baha'i community, with its institutions, its functions and its collective powers and responsibilities grounded in authentic Books and Tablets. In brief, the situation which has arisen is that persons who formerly were believers but who withdrew from the Cause have denied the authority of the Master's Will and Testament. On no other grounds than denial of that mighty Testament can their actions be understood. No compromise is possible. The Baha'i community will assert the truth, and the issue can be left to God. The Will and Testament itself is a victory over those who violated the Covenant in the Master's lifetime, and the Will and Testament invokes divine wrath upon all who seek to destroy what He sacrificed His entire life and being to build.

(Signed) National Spiritual Assembly.

From *Annual Reports*—National Spiritual Assembly of the Baha'is of the United States and Canada, 1939-1940.

Actions taken at the meeting of the National Assembly held immediately prior to the Convention include authorizations for continuance of Temple work . . . and approval of the brief prepared by the attorney in connection with the legal suit against the parties misusing the name Baha'i.

The friends are urged to give their careful attention to the passages in which the Guardian refers to the nature of attacks against the Master and His Will and Testament appearing on pages 89 and 90 of the World Order of Baha'u'llah. Here we find the clearest statement in the writings for discussion of the New History publication dated April, 1940, with new believers and

with those attracted to the Faith who have not yet gained the background of understanding and experience to discern the hollowness of any argument and claim based upon the failure to accept the Will and Testament of Abdu'l-Baha. The matter will soon come to trial, and the friends can rest assured that the true nature of the Baha'i Faith and of its Administrative Order will be established in accordance with the power and scope of the written and authentic Teachings.

(Signed) National Spiritual Assembly.

—Bahai News, June 1940, No. 136

Significance of Justice Valente's Decision

The decision handed down in the Supreme Court of New York by Justice Louis A. Valente on April 1, 1941, is an epoch-making document for, although it refers specifically to the Bahai Administration and The New History Society, its contents have universal application. Eloquent-ly and definitely, Judge Valente has reaffirmed the validity of the Bill of Rights. In the case under review, he denies to the National Spiritual Assembly of the Bahais of the United States and Canada and the Spiritual Assembly of the Bahais of the City of New York a monopoly on the word Bahai, thus constituting, in the name of the latest revealed religion, a charter of freedom which shall stand as long as this nation retains the character conferred upon it by its founders. I think that will be *always*—in spite of the perils that menace liberty in these sad times.

Thus, from now on, any sincere seeker after truth, who has realized his highest aspirations in the Bahai Cause, can term himself a follower of Baha-O-Llah and use his

name without let or hindrance. No one can molest him or try to undermine his service in the movement.

With this decision, the Cause of the Most Great Prisoner of Acca, which, even as he, was always free in spite of appearances, has broken through the walls of material confinement, and emerged as a spirit, a leaven, a consciousness—a gift, free and untrammelled, offered by God to every man on earth. *Affairs are dependent upon means*, said Baha-O-Llah. Through this decision of Judge Valente, the Bahai Cause has been reconferred upon mankind.

Not of Our Own Choosing

Now that the case has been argued before the Supreme Court of New York and a decision arrived at, let it be remembered, as this incident takes its place in the annals of Bahai history, that Mrs. Chanler and I did not seek this lawsuit nor was it instituted by us. The differences of opinion between the National Spiritual Assembly of the Bahais of the United States and Canada together with the Spiritual Assembly of the Bahais of the City of New York and ourselves, were brought before the public and inserted in legal records through no desire on our part. It was a test placed in our path. We faced it with some diffidence, albeit, light-heartedly; and surmounted it with a sigh of relief and a deep sense of gratitude.

A Victory for All

The minister of a New York church strikes a universal note in a letter to us:—

I feel that this is a victory for us all, since it involves



(By courtesy of Wide World Photos)

SUPREME COURT JUSTICE LOUIS A. VAENTE

Decision Rendered by Justice Valente

THE AMENDED COMPLAINTS, SUPPLEMENTED BY BILLS OF PARTICULARS, ARE DISMISSED AS INSUFFICIENT IN LAW.

Statements made by plaintiffs

1. The individual plaintiffs sue, as members of the National Spiritual Assembly and Trustees of the Bahais of the United States and Canada. The Spiritual Assembly of Bahais of the City of New York, a religious corporation, is a co-plaintiff.

The complaint alleges that the name Baha'i denotes a religion identified with the name of the founder *Baha*.

2. The plaintiffs claim to be the authorized representatives of all of the Bahais of the United States and Canada.

3. They allege that they are publishing books and other publications which teach *Bahai religion*.

4. They charge that the defendants, who were members prior to April 5, 1929, of the Bahai Congregation of the City of New York, have been conducting, without the authority of plaintiffs, meetings, lectures, classes, social gatherings and other activities, and announcing and advertising the same as Bahai meetings, lectures, classes, etc.

5. They complain that the defendants have been giving these meetings, lectures, etc., a Bahai appearance and atmosphere by teaching, in connection therewith, a religion described as the Bahai religion and that they have created an erroneous impression that they are connected with and authorized to represent the Bahai religion and to solicit contributions therefor.

6. In addition, plaintiffs complain of the opening of a book shop by the defendants under the name of "Bahai Book Shop" and of the listing of the shop in the telephone directory under the name, immediately over the name of "Baha'i Center" which represents the listing of plaintiffs' New York office and book shop.

The Court's Opinion:

1. In the Court's opinion, the complaint fails to state a good cause of action. The plaintiffs have no right to a monopoly of the name of a religion.

2. The defendants, who purport to be members of the same religion, have an equal right to use the name of the religion in connection with their own meetings, lectures, classes and other activities.

3. No facts are alleged in the complaint to indicate that the defendants have been guilty of any act intended or calculated to deceive the public into believing that their meetings, lectures or book shop are identified with or affiliated with the meetings, lectures, etc., and book shop of the plaintiffs.

The Five Freedoms

4. (a) Defendants have the absolute right to practice Bahaism,
 (b) to conduct meetings,
 (c) to collect funds,
 (d) to sell literature in connection therewith,
 and
 (e) to conduct a book shop under the title of "Bahai Book Shop."

5. The bills of particulars furnished by the plaintiffs, stating that the defendants created the erroneous impression that they were connected with the plaintiffs and led the public to believe that their book shop was connected with the plaintiffs, were not based upon any acts of the defendants other than their conducting meetings, lectures, classes and other activities under the name of Bahai and their operation of a book shop under that name listed in the telephone directory immediately above the name of the plaintiff's book shop.

6. The position of the listing is, of course, due to the fact that the telephone directory is arranged alphabetically, so that the name "Bahai Book Shop" naturally precedes the name "Baha'i Center."

7. The motion to dismiss the amended complaint is granted, with leave to serve a further amended complaint within ten days from the service of a copy of this order, with notice of entry.

Order Signed.

The Most Important Point

Although, in its original Complaint, the National Spiritual Assembly asserted that it was the authorized representative of *all* the Bahais in the United States and Canada, this claim was denied by our attorneys in their first Memorandum, and their denial was sustained by the Court. Justice Valente ruled that *the plaintiffs have no right to a monopoly of the name of a religion. The defendants, who purport to be members of the same religion, have an equal right to use the name of the religion in connection with their own meetings, lectures, classes and other activities.*

This is the most important point in question; for, henceforth the National Spiritual Assembly cannot claim, as it has up to this time, that it is the sole representative of all the Bahais in the land. There are now, and will be in increasing numbers, Bahais who would not think it appropriate to be represented by the National Spiritual Assembly, and whom the National Spiritual Assembly would not think it appropriate to represent. The laws of this nation will be the practical guarantee of such Bahais, who will turn their hearts to God in the service of Baha-O-Llah and Abdul Baha, without benefit of clergy.

A Matter of A. B. C.

A subject, which for a whole year has puzzled those interested in the case from this end, has been the strange claim by the plaintiffs, that we *caused* the name *Bahai Book Shop* to be listed in the telephone directory of the Borough of Manhattan, New York City, directly *over* the name *Bahai Center*. This assertion seemed to imply that we had used undue influence with the compilers of this volume, or else that we had selected the appellation Book Shop quite arbitrarily, and for the simple purpose of listing ourselves according to the dictation of our fancy. They apparently overlooked the fact that we actually *were* selling books, and that it would have been unfitting to name our shop, let us say: Bahai Delicatessen or Bahai Dental Supplies, which naming would have placed us under the letter D, and below Bahai Center, but would not have described the contents of the shop.

At the same time, the queerest part of this charge is that, study the telephone book as you will, you can find no