

BOOK REVIEW

PATHWAYS IN INTERNATIONAL LAW. By ARTHUR K. KUHN.
MacMillan Publishing Company, New York, 1953. Pp. xi, 240, Illustrations,
Index. P8.00

A work of scholarship meriting for itself a just place under the sun is Kuhn's autobiographic presentation of international law jurisprudence. This book would likely be accorded a warm reception by the Bench, Bar and law schools for its brief and concise but tense personal narrative of his "activities along the way."¹

That it lacks a compendium of cases, annotations and restatements of the law (as is noted in present-day text-writers) does not speak any less of the author's legal erudition. In lieu of these, he goes on to an intelligent appraisal of pertinent jurisprudence in which he, himself, has had opportunity to directly participate,² hence, the element of authenticity. Would not this feat be worthy of a currency legal tender in juristic thought?

Sadly enough, the author *attempts* to discuss the pathways of the far and wide realm of international law in barely 240 pages. This is aggravated by the pre-announced intention to discourse on his activities "both as a practitioner and as a participant in (man's) efforts to *substitute law for war.*"³ Premises considered, how can *full justice* be meted out this enormous task when the time-tested struggle for world domination and/or quest for universal peace has been and is still the world's number 1 problem—voluminous books and literature, notwithstanding! And yet, Kuhn's 240 idealistic pages venture to focus this very picture. But of course, since the work is primarily designed to pass upon only such phases of international law in which the author's contribution have been welcomed, then it may safely be assumed that the message sought to be conveyed is at least approximated by the sincere, scholarly and nearly-impassionate assessment of world events as they occurred.

In almost every chapter⁴ the author inserts relevant quotations from his published works—legal writings, text of speeches, lectures and debates—both in the United States and abroad.⁵ Would that these quotations sufficed, but he had to go on stressing that his views on matters put forward have either been sustained and/or followed in certain jurisdictions.

¹ The author's "activities along the way" cover a wide field:
In the United States: Faculty member, Columbia Law School, 1909-11; 1915-17; Auxiliary lecturer, Univ. of Philadelphia Law School, 1926-32; Delegate to the 2d and 8th Pan. Am. Scientific Cong., Washington D.C., 1915, 1940; President, American Bar Ass'n, 1939-40; Member, Exec. Council, Am. Soc. of Int'l Law; President, Amer. Foreign Law Ass'n, 1941-43; author of law books, etc.

Abroad: Special lecturer, Univ. of Zurich, 1914; Counsel, American Del. at Paris Peace Conf., 1919; Professor, Acad. of Int'l Law, The Hague; Member, *Institut de Droit International*; guest speaker in European universities and other public gatherings. (26 WHO'S WHO IN AMERICA 1534 (1950)).

² As counsel in the League of Nations, he voiced opinions in the drafting of the League; as member of the government research staff, he assisted in the revision of statutes on the basis of the Titanic Disaster case (Maritime and Admiralty Laws); he appeared as expert witness and/or counsel in celebrated cases involving conflict of laws; spoke extensively on the subject in America and in Europe; as analyst and commentator he caused to be published in reputable law journals his views on vital issues. (See also Note 5 *infra*.)

³ Underlining supplied.

⁴ His 13 chapters mark the pathways in practice, public interest, war memoirs, war to peace-making, international conferences, international law associations, world court, legislation, U.S. foreign relations and post-war problems.

⁵ Among others, Kuhn authored: *International Civil and Commercial Law* (1905); *Comparative Study of Law of Corporations* (1912); *Comparative Commentaries on Private International Law* (1937). He won prizes in essay writing on *The Economic Waste of War and Diplomatic Relations with the Far East*. Commented on *The Extra-territorial Enforcement of Statutes Imposing Double Liability Upon Stockholders*, *YALE LAW JOURN.*, April 1908; *The Treaty-making Power and the Reserved Sovereignty of States*, *COL. LAW REV.* 1908; Lectures in the University of Zurich were published in French, German and Chinese.

Kuhn's European itinerary as a graduate student in law, professorial lecturer, government delegate to international conferences and the like, has contributed a great deal to the profundity of his legal thinking. The personal contacts he had with Europe's legal luminaries kindled his enthusiasm to delve deeper into the intricacies of conflict of laws.⁶ Indeed, this experience gave him wider opportunities in his private law practice.⁷

An interesting feature of the book is his League of Nations recount. Called upon to propagate the necessity of such League, Kuhn staked his reputation in the series of public discussions, symposia, debates and lectures which followed. Among others, Walter Lippman, famed commentator on foreign affairs⁸ and former vice-presidential candidate George R. Kirkpatrick were among his adversaries and critics. Arguing in defense of the League, Kuhn won acclaim for this line of reasoning:

"First, do you believe that the prospect of more war is in the interest of labor? Secondly, if not, do you favor the system of diplomacy? Thirdly, if you do not favor these two systems, how do you expect to maintain peace and favor Labor without the League of Nations?"

The obsession to substitute law for war may be gleaned from his militant stand in global issues where he always took pains to participate in any of the capacities heretofore mentioned. On one occasion he complemented Lord Phillimore's book (*Three Centuries of Treaties of Peace* [1917]) where Phillimore propounded two reasons to justify the proposed amendment of the laws of war: (1) to prevent war by taking away from some nations the temptation to rely on their superior capacity of committing atrocious acts as an element of success in war; and (2) to make war less inhuman.

Kuhn proposed five more reasons, to wit: (1) to uphold the respect for law in international relations both in war and peace, because those who violate their obligations in wartime and who are guilty of barbarous practices cannot be trusted to fulfill their treaty obligations in time of peace;⁹ (2) to protect our present civilization from a relapse into barbarism; (3) to permit the localizing of the conflict, or conversely, to prevent the spread of the conflict to other countries so that each war shall not tend to become a world war; (4) to prevent the extension of damage to non-combatants and neutrals; and (5) to make possible the resumption of peaceful relations again after the war, which is for a long period rendered practically impossible by a war carried on a *outrance*.

Withal, reading Kuhn's is likened to a law freshman listening with rapt attention to a lecture in Legal Medicine. This is so, because, in Kuhn's, not only is interest aroused but almost satisfied as well.

Roman D. Tanjuakio

⁶ In 1937, he compiled notes, lectures and other materials into a book: *Comparative Commentaries on Private Law*.

⁷ Even Clarence Darrow, famous trial lawyer, made use of Kuhn's proficiency in European law by making the latter an expert witness in celebrated cases. See *Barnheimer v. Converse*, 208 U.S. 518 (1907).

⁸ Lippman also writes a weekly commentary entitled *Today and Tomorrow* for the *Manila Daily Bulletin*.

⁹ Kirkpatrick-Kuhn debate on the League of Nations held at Arcadia Hall, Brooklyn, Jan. 30, 1920.

¹⁰ Again the supremacy-of-law proposal is noticed in his epilogue: ". . . The success of our own Federal Union is to be sought in its reliance upon law through a Constitution which regulates both interstate and international relations through a Supreme Tribunal which early recognized that the law of nations is part of the law of the land. It is toward this goal of the supremacy of law that my pathways were directed. Some day the pathways of international law will emerge from this mid-century Inferno of world relations, and, like Dante, we shall then be able to say: 'Thence issuing, we again beheld the stars.'"