



Dear Colleagues:

The Executive of the IATJ wishes to extend special holiday greetings to all its members. 2012 has been a particularly successful year for the IATJ and its operations, with successful completion of the 3rd Assembly recently in Munich, Germany. Plans are now underway for the 4th Assembly to take place in Amsterdam, The Netherlands, on August 30 and 31, 2013.

Also, I attach hereto the speech given by Prof. Dr. Heinz-Juergen Pezzer of the Supreme Tax Court in Germany at the closing dinner in Munich. I am sure you will find this article both interesting and entertaining!

I thank you for your continued participation and support of the IATJ and extend my very best wishes to you and yours for the coming year.

Kindest personal regards,
E.P. Rossiter, President

The 2012-2013 executive for the IATJ is:

Associate Chief Justice Eugene Rossiter (Canada), President
Judge Philippe Martin (France), 1st Vice-President;
Judge Bernard Peeters (Belgium), 2nd Vice-President;
Judge Friederike Grube (Germany), Secretary-General
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**Dinner speech held at the 3rd Assembly of the IATJ
in Munich the 19th October 2012
by Prof. Dr. Heinz-Juergen Pezzer
(Presiding Judge at the Supreme Tax Court in Germany)**

Ladies and gentlemen,

You have all had a long day and probably an arduous one to boot. Despite that, you will not be getting anything to eat just yet. If that is what you had been hoping for, you were getting ahead of yourselves. You see, we tax lawyers like to do things the long way round. That is why we are testing your hearing first while your plates remain empty for the time being.

Anyway, I would like to wish you all a very warm welcome to this dinner. I will refrain from greeting individual prominent guests. Once you have got to know one another, you will find that, in point of fact, you are all prominent. And we, the judges of the German Supreme Tax Court, are very proud to welcome you here today. We have gathered here in Munich to debate issues which are of concern to us as judges involved with tax law. There is no better location in Germany for this than Munich. Because the founding of the city of Munich is also connected with tax law, more accurately with customs law, which is also part and parcel of the law on duties and falls within the remit of German financial jurisdiction.

Munich was founded in 1157 by Henry the Lion, Duke of Saxony. It was here that he built a bridge over the Isar in order to collect the duties from the salt trade. Admittedly, this bridge did not become important until Henry the Lion destroyed the already existing bridge over the Isar, belonging to the Bishop of Freising and which was situated a few kilometres upstream. Thereafter, the salt merchants had to use the Munich bridge to cross the Isar. The Duke resorted to sabotage to frustrate the Bishop's repeated attempts to rebuild his bridge. As a result, no further bridge was built for around 700 years. So Munich owes its existence and its importance to the wrangle over customs duties and is therefore the perfect venue for this conference.

Incidentally, the German Supreme Tax Court's predecessor, the "Reichsfinanzhof" (Reich Fiscal Court), was headquartered in Munich from its inception, namely 1918 and since 1923 in the building that you have come to know yesterday, which houses the German Supreme Tax Court to this very day. The building was originally planned as a "Künstlerschloss", as a grandiose building for accommodating works of art. Unfortunately, the artist ran out of money so that the building lay unfinished for a number of years until the German Reich acquired it in 1919 and completed the building work.

Because of its originally intended purpose as an art castle, the building features enormous corridors, enabling it to be used as a gallery. Legend said that the building was only planned on such a grand scale that it could be entered in a coach and the staircase be ascended on horseback. We were unable to witness any such thing, however.

Munich's inhabitants are, however, largely oblivious of the fact that the German Supreme Tax Court is headquartered in Munich. The following exchange between two Munich women comes to us from a tram running past the court building. "What's that beautiful old building we're always driving past?" "Don't know either. Seems to be an upmarket retirement home. You always see such smartly turned out elderly gentlemen leaving it." And there's yet another connection between the City of Munich and tax law: Munich has produced a playwright, author and satirist, who is little known outside Munich. His name is Karl Valentin. He was a resident of Munich from 1882 to 1948. Until today, the legal significance of his comedic work had remained concealed from expert eyes. This evening, ladies and gentlemen, you will all be privy to an historic scientific moment because this evening marks the very first attempt to make some inroads into the jurisprudential treasure-trove that lies within the works of Karl Valentin.

Here are **two examples** of typical errors in thinking that can also befall us as judges.

First example: The absurd ("cockeyed") comparison, whereby things that are not comparable are equated with one another. That happens all the time when discussing tax law matters. And Karl Valentin shows us something of the sort in the form of a study of water buoyancy in Lake Starnberg. (Lake Starnberg by the way is a very beautiful lake not far from Munich, which you should not fail to visit if you have the time.) Karl Valentin relates how engineers studied water buoyancy in this lake. In the process, practical experiments provided proof positive that water buoyancy decreases as a function of increasing water depth. Because a fist-sized rock immediately sinks in the middle of the lake where the water is deepest. By contrast, a rubber ball of the same size remains on the water surface at the shallowest point.

Second example: In our work as judges, we have all experienced how the slavish, literal application of regulations in situations for which the regulation was not intended can result in complete nonsense. Here as well, Karl Valentin recounts a nice story from the Middle Ages: the story of the assault on Munich by the robber knights. As the robber knights are advancing on Munich, a terrified townsman who has already witnessed the robber knights murdering and plundering on the outskirts of the city warns the guard on the city gate:

"Sound the alarm and close the city gate!" To which the guard responds:

“I am not allowed to do anything without an order from the captain. Only the captain can sound the alarm; the captain isn’t here and I am only allowed to shut the city gate at 9 o’clock in the evening.

At which the townsman says: “Then fetch the captain!” The guard responds: “No, I am not permitted to leave my post under any circumstances!” Shortly thereafter the robber knights overrun the city.

As was this guard, so too are we judges: conscientious and bound by his regulations. He would not be deflected from observing his regulations to the letter, as we judges are obliged to do - and yet he failed in his task.

As judges involved in tax law, we too are exposed to this risk. One of the judge’s most important tasks is to exercise sound judgement in applying the law so as to avoid any nonsense. Perhaps Karl Valentin’s work can hone our faculties for this task. And we can learn from him, because we as judges – depending on how we decide – run the risk of becoming unwitting comedians or tragic figures. This insight, if it were to gain currency, might perhaps become the most important scientific outcome of this congress.

The work of the tax law judge at any event is invariably involved with people. And that is also why once in a while you have to give tax law practitioners something to eat. The time for that is now at hand.

I wish you all a hearty appetite and stimulating conversation in convivial company!