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appeal, the guardian appointed was automatically precluded from exercising her functions. As correctly noted in the brief for petitioner the holding of each of the above cases to that effect is predicated on relevant statutory provisions of the State of California. As a matter of fact, such a doctrine goes back to an 1892 pronouncement of the California Supreme Court.[8] Respondent Court should have displayed less receptivity to the persuasive force of the above doctrine. It might have been otherwise if there were no Mercader ruling. As it is, respondent Court was not justified in setting aside the order sought to be assailed in a certiorari proceeding made in reliance on a decision of this Court.

WHEREFORE, the decision of respondent Court of Appeals of October 21, 1964 is reversed with costs against private respondents.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Ruiz Castro, Teehankee, Barredo, and *Villamor, JJ.*, concur.

Makalintal, J., took no part.

Decision reversed.

[G.R. No. L-26862. March 30, 1970]

REPUBLIC OF THE PHILIPPINES, plaintiff-appellant, *vs.* PHILIPPINE RABBIT BUS LINES, INC., defendant-appellee.

SYLLABUS

1. CONSTITUTIONAL LAW; TAXATION; BACKPAY CERTIFICATE; TAX, DEFINED.— A tax refers to a financial obligation imposed by a state on persons, whether natural or juridical, within its jurisdiction, for property owned, income earned, business or profession engaged in, or any such activity analogous in character for raising the necessary revenues to take care of the responsibilities of government. According

[8] In re Woods 29 Pac. 1108.

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to Cooley: "taxes are the enforced proportional contributions from persons and property levied by the state by virtue of its sovereignty for the support of government and for all public needs."

2. ID.; ID.; POLICE POWER; TAX DISTINGUISHED FROM OTHER PECUNIARY BURDENS IMPOSED UNDER POLICE POWER; BROAD CONCEPT OF TAX.— The differentiating factor between a tax and other pecuniary burdens is the purpose to be subserved. Taxes are for the purpose of raising of revenue. Unlike a tax, other pecuniary burdens like regulatory fees have not for its object the raising of revenue but looks rather to the enactment of specific measures that govern the relations not only as between individuals but also as between private parties and the political society. A tax is neither a penalty that must be satisfied nor a liability arising from contract. Much less can it be confused or identified with a license or a fee as a manifestation of an exercise of the police power.

3. ID.; ID.; ID.; BACKPAY CERTIFICATE INAPPLICABLE TO PAYMENT OF MOTOR VEHICLE REGISTRATION FEE UNDER THE POLICE POWER.— Clearly the Motor Vehicle Act requires the payment not of a tax but of a registration fee under the police power. Hence, the inapplicability of the section relied upon by defendant-appellee under the Back Pay Law for the payment of a liability of a registration fee with Backpay Certificates.

4. ID.; POLICE POWER; STATUTORY CONSTRUCTION OF REGULATORY MEASURE; MEANING NOT ONLY REVEALED BY WHAT THE LAW INCLUDES, BUT LIKEWISE WHAT IT OMITS.— A statute is meaningful not only by what it includes but also by what it omits. What is left out is not devoid of significance. As observed by Frankfurter: "An omission at the time of enactment, whether careless or calculated, cannot be judicially supplied however much later wisdom may recommend the inclusion."

5. ID.; ESTOPPEL; GOVERNMENT NOT ESTOPPED BY ERRONEOUS INTERPRETATION OF ITS AGENTS.— The written approval of the National Treasurer, concurred in by the Auditor General, of the procedure to accept in payment of registration fees Backpay Certificates of Indebtedness do not constitute estoppel on the part of the government. For, the government is not estopped by error or mistake committed by its agents.

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APPEARANCES OF COUNSEL

Solicitor General Antonio P. Barredo, Assistant Solicitor General Pacifico P. de Castro and *Solicitor Enrique M. Reyes* for plaintiff-appellant.

Angel A. Sison for defendant-appellee.

DECISION

FERNANDO, *J.*:

The right of a holder of a backpay certificate to use the same in the payment of his taxes has been recognized by law.[1] Necessarily, this Court, in Tirona *v.* Cudiamat,[2] yielding obedience to such statutory prescription, saw nothing objectionable in a taxpayer taking advantage of such a provision. That much is clear; it is settled beyond doubt. What is involved in this appeal from a lower court decision of November 24, 1965, dismissing a complaint by plaintiff-appellant Republic of the Philippines, seeking the invalidation of the payment by defendant-appellee Philippine Rabbit Bus Lines, Inc. for the registration fees[3] of its motor vehicles in the sum of ₱78,636.17, in the form of such negotiable backpay certificates of indebtedness, is the applicability of such a provision to such a situation. The lower court held that it did. The Republic of the Philippines appealed. While originally the matter was elevated to the Court of Appeals, it was certified to us, the decisive issue being one of law. The statute having restricted the privilege to the satisfaction of a tax, a liability for fees under the police power being thus excluded from its benefits, we cannot uphold the decision appealed from. We reverse.

The complaint of plaintiff-appellant Republic of the Philippines was filed on January 17, 1963 alleging that defendant-appellee,

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[1] Sec. 2 of Republic Act No. 304 (1948) as amended by Republic Act Nos. 800 (1952 and 897 [1953]).

[2] L-21235, May 31, 1965, 14 SCRA 264.

[3] Sec. 8, Republic Act No. 587 (1950) amending Act No. 3992 provides for the schedule of such fees.

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as the registered owner of two hundred thirty eight (238) motor vehicles, paid to the Motor Vehicles Office in Baguio the amount of ₱78,636.17, corresponding to the second installment of registration fees for 1959, not in cash but in the form of negotiable certificate of indebtedness, the defendant being merely an assignee and not the backpay holder itself. The complaint sought the payment of such amount with surcharges plus the legal rate of interest from the filing thereof and a declaration of the nullity of the use of such negotiable certificate of indebtedness to satisfy its obligation. The answer by defendant-appellee, filed on February 18, 1963, alleged that what it did was in accordance with law, both the Treasurer of the Philippines and the General Auditing Office having signified their conformity to such a mode of payment. It sought the dismissal of the complaint.

After noting the respective theories of both parties in its pleadings, the lower court, in its decision, stated that the issue before it "is whether or not the acceptance of the negotiable certificates of indebtedness tendered by defendant bus firm to and accepted by the Motor Vehicles Office of Baguio City and the corresponding issuance of official receipts therefor acknowledging such payment by said office is valid and binding on plaintiff Republic."[4]

In the decision now on appeal, the lower court, after referring to a documentary evidence introduced by plaintiff-appellant continued: "From the evidence adduced by defendant bus firm, it appears that as early as August 28, 1958, the National Treasurer upon whom devolves the function of administering the Back Pay Law (Republic Act 304 as amended by Republic Act Nos. 800 and 897), in his letter to the Chief of the Motor Vehicles Office who in turn quoted and circularized same in his Circular No. 5 dated September 1, 1958, to draw the attention thereto of all Motor Vehicle Supervisors, Registrars and employees . . ., had approved the acceptance of negotiable certificates of indebtedness in payment of registration fees of motor vehicles with the view

[4] Amended Record on Appeal pp. 85-86.

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that such certificates 'should be accorded with the same confidence by other governmental instrumentalities as other evidences of public debt, such as bonds and treasury certificates.' Significantly, the Auditor General concurred in the said view of the National Treasurer."[5]

The argument of plaintiff-appellant that only the holders of the backpay certificates themselves could apply the same to the payment of motor vehicle registration fees did not find favor with the lower court. Thus: "[Plaintiff] Republic urges that defendant bus firm being merely an assignee of the negotiable certificates of indebtedness in question, it could not use the same in payment of taxes. Such contention, this Court believes, runs counter to the recitals appearing on the said certificates which states that 'the Republic of the Philippines hereby acknowledges to (name) or assigns . . .,' legally allowing the assignment of backpay rights."[6]

It therefore, as above noted, rendered judgment in favor of defendant-appellee "upholding the validity and efficacy" of such payment made and dismissing the complaint. Hence, this appeal which, on the decisive legal issue already set forth at the outset, we find meritorious.

1. If a registration fee were a tax, then what was done by defendant-appellee was strictly in accordance with law and its nullity, as sought by plaintiff-appellant Republic of the Philippines, cannot be decreed. But is it? The answer to that question is decisive of this controversy. A tax refers to a financial obligation imposed by a state on persons, whether natural or juridical, within its jurisdiction, for property owned, income earned, business or profession engaged in, or any such activity analogous in character for raising the necessary revenues to take

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[5] *Ibid.*, p. 86.

[6] *Ibid.*, p. 89.

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care of the responsibilities of government.[7] An often-quoted definition is that of Cooley: "Taxes are the enforced proportional contributions from persons and property levied by the state by virtue of its sovereignty for the support of government and for all public needs."[8]

As distinguished from other pecuniary burdens, the differentiating factor is that the purpose to be subserved is the raising of revenue. A tax then is neither a penalty that must be satisfied or a liability arising from contract.[9] Much less can it be confused or identified with a license or a fee as a manifestation of an exercise of the police power. It has been settled law in this jurisdiction as far back as Cuunjieng *v.* Patstone, decided in 1922,[10] that this broad and all-encompassing governmental competence to restrict rights of liberty and property carries with it the undeniable power to collect a regulatory fee. Unlike a tax, it has not for its object the raising of revenue but looks rather to the enactment of specific measures that govern the relations not only as between individuals but also as between private parties and the political society. To quote from Cooley anew: "Legislation for these purposes it would seem proper to look upon as being made in the exercise of that authority . . . spoken of as the police power."[11]

The registration fee which defendant-appellee had to pay was imposed by Section 8 of the Revised Motor Vehicle Law.[12] Its heading speaks of "registration fees." The term is repeated four times in the body thereof. Equally so, mention is made of the "fee for registration."[13] A subsection starts with a categorical

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[7] Cf. Manila Electric Co. *v.* Auditor General, 73 Phil. 128 (1941). Also: United States *v.* Baltimore and O: R. Co., 17 Wall 322 (1873); Florida C.P.R. Co. *v.* Reynolds, 183 US 471 (1902); New Jersey *v.* Anderson, 203 US 483 (1906); Houck *v.* Little River Drainage District, 239 US 254 (1915); United States *v.* La Franca, 282 US 568 (1931).

[8] 1 Cooley, Taxation, 4th ed., p. 61 (1924).

[9] Cf. Welch *v.* Henry, 305 US 134 (1938).

[10] 42 Phil. 818. Cf. Ermita-Malate Hotel and Motel Operators Asso. *v.* City Mayor, L-24693, July 31, 1967, 20 SCRA 849.

[11] Cooley, *op. cit.*, p. 94.

[12] Republic Act No. 587 (1950).

[13] *Ibid.*, Subsection G.

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statement "No fees shall be charged."[14] The conclusion is difficult to resist therefore that the Motor Vehicle Act requires the payment not of a tax but of a registration fee under the police power. Hence the inapplicability of the section relied upon by defendant-appellee under the Back Pay Law. It is not held liable for a tax but for a registration fee. It therefore cannot make use of a backpay certificate to meet such an obligation.

Any vestige of any doubt as to the correctness of the above conclusion should be dissipated by Republic Act No. 5448.[15] A special science fund was thereby created and its title expressly sets forth that a tax on privately-owned passenger automobiles, motorcycles and scooters was imposed. The rates thereof were provided for in its Section 3 which clearly specifies that "additional tax" was to be paid as distinguished from the registration fee under the Motor Vehicle Act. There cannot be any clearer expression therefore of the legislative will, even on the assumption that the earlier legislation could by stretching the point be susceptible of the interpretation that a tax rather than a fee was levied. What is thus most apparent is that where the legislative body relies on its authority to tax it expressly so states, and where it is enacting a regulatory measure, it is equally explicit.

It may further be stated that a statute is meaningful not only by what it includes but also by what it omits. What is left out is not devoid of significance. As observed by Frankfurter: "An omission, at the time of enactment, whether careless or calculated, cannot be judicially supplied however much later wisdom may recommend the inclusion.[16] In the light of this consideration, the reversal of the appealed judgment is unavoidable.

2. In the brief for plaintiff-appellant Republic of the Philippines, filed by the then Solicitor General, now Justice,

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[14] *Ibid.*, Subsection H.

[15] (1968). Section 3 thereof as to the imposition of additional tax on privately-owned passenger automobiles, motorcycles and scooters was amended by Republic Act No. 5470 which is approved on May 30, 1969.

[16] Frankfurter, Of Law and Men, p. 54 (1956).

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Antonio P. Barredo, the principal error imputed to the trial court is its failure to hold that the Back Pay Law prohibits an assignee, as is defendant-appellee, from using certificates of indebtedness to pay their taxes. In view of the conclusion reached by us that the liabiliy of defendant-appellee under the Motor Vehicle Act does not arise under the taxing power of the state, there is no need to pass upon this particular question.

3. The Republic of the Philippines, in its brief, likewise assigned as error the failure of the lower court to hold that estoppel does not lie against the government for mistakes committed by its agents. As could be discerned from an excerpt of the decision earlier referred to, the lower court was impressed by the fact that the national treasurer to whom it correctly referred as being vested with the function of administering the backpay law did in a communication to the Motor Vehicles Office approve the acceptance of negotiable certificates of indebtedness in payment of registration fees, a view with which the Auditor General was in concurrence. The appealed decision likewise noted: "By the testimonies of Pedro Flores, the then Registrar of the Motor Vehicles Office of Baguio City and Casiano Catbagan, the Cashier of the Bureau of Public Highways in the same city, defendant bus firm has undisputedly shown that, after the said certificates of indebtedness were properly indorsed in favor of the Motor Vehicles Office of Baguio City and accepted by the Bureau of Public Highways on May 29, 1959, it was duly and properly issued official receipts . . . acknowledging full payment of its registration fees for the second installment of 1959 of its 238 vehicles, and that the Bureau of Public Highways, thru its collecting and disbursing officer, was validly and regularly authorized to receive such payment."[17]

Thus did the lower court, as pointed out by the then Solicitor General, conclude that the government was bound by the mistaken interpretation arrived at by the national treasurer and the auditor general. It would consider estoppel as applicable. That is not the

[17] Amended Record on Appeal, pp. 88-89.

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law. Estoppel does not lie. Such a principle dates back to Aguinaldo de Romero *v.* Director of Lands,[18] a 1919 decision. Insofar as the taxing power is concerned, Pineda *v.* Court of First Instance, a 1929 decision, speaks categorically: "The Government is never estopped by mistake or error on the part of its agents. It follows that, in so far as this record shows, the petitioners have not made it appear that the additional tax claimed by the Collector is not in fact due and collectible. The assessment of the tax by the Collector creates, it must be remembered, a charge that is at least *prima facie* valid."[19] That principle has since been subsequently followed.[20] While the question here is one of the collection of a regulatory fee under the police power, reliance on the above course of decisions is not inappropriate. There is nothing to stand in the way, therefore, of the collection of the registration fees from defendant-appellee.

WHEREFORE, the decision of November 24, 1965 is reversed and defendant-appellee ordered to pay the sum of ₱78,636.17. With costs against defendant-appellee.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar and *Teehankee, JJ.*, concur.

Ruiz Castro and *Villamor, JJ.*, concur in the result.

Barredo, J., did not take part.

Decision affirmed.

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[18] 39 Phil. 814. See also Bachrach Motor Co. *v.* Unson, 50 Phil. 981 (1926).

[19] 52 Phil. 803, 807 (1929).

[20] Visayan Cebu Terminal Company, Inc. *v.* Commissioner of Internal Revenue, L-19530 & L-19444, February 27, 1965, 13 SCRA 357; Pacific Oxygen & Acetylene Company, Inc. *v.* Commissioner of Internal Revenue, L-17708, April 30, 1965, 13 SCRA 622; British Traders' Insurance Company, Ltd. *v.* Commissioner of Internal Revenue, L-20501, April 30, 1965, 13 SCRA 719; Luzon Stevedoring Corp. *v.* Court of Tax Appeals, L-21005, October 22, 1966, 18 SCRA 436. Cf. Republic *v.* Go Ben Lee, L-11499, April 29, 1961, 1 SCRA 1167; People *v.* Ventura, L-15079, Jan. 31 1962, 4 SCRA 208; Go Tian An *v.* Republic, L-19833, Aug. 31, 1966, 17 SCRA 1053; Republic *v.* Philippine Long Distance Tel. Co., L-18841, Jan. 27, 1969, 26 SCRA 620.