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COMINCO LTD.

v.

ASSESSOR OF AREA 21 - NELSON-TRAIL

British Columbia Court of Appeal (CA008950) Vancouver Registry

Before: MR. JUSTICE LAMBERT, MR. JUSTICE HUTCHEON and MR. JUSTICE ESSON

Vancouver, April 27, 1989

John E. D. Savage for the appellant Assessor
D. C. Vaughan, Q.C. for the respondent, Cominco Ltd.

Reasons for Judgment of Mr. Justice Lambert (dissenting) July 6, 1989

This is an appeal from the decision of Mr. Justice Shaw on a question of law in a stated case under Part 8 of the *Assessment Act*. The reasons of Mr. Justice Shaw are reported at (1988), 23 B.C.L.R. (2d) 44 and at (1988), 48 D.L.R. (4th) 517.

1. *The Issue*

This appeal is confined to the issue of whether a revised assessment roll for 1985, an odd-numbered year, should have recorded that Cominco's Tadanac Smelter was exempt from taxation for that year. The exemption, as an improvement used for pollution control, is no longer in issue in this appeal. The exemption must be taken to have been established. But because a separate point was raised as an objection to the assessment of the Tadanac Smelter for the previous year, an even-numbered year, the Assessor says the pollution control exemption cannot be shown on the assessment roll for the following year because a revision to record this exemption is not the kind of revision that is permitted in odd-numbered years.

2. *The Statutory Provisions*

I will now set out the relevant part of s. 2 of the *Assessment Act*. I have underlined the bits which most directly affect this appeal:

> **Completion of roll**
>
> 2. (1) The assessor shall, not later than September 30, 1984 and September 30 in each even numbered year after that, complete a new assessment roll in which he shall set down each property liable to assessment within the municipality or rural area and give to every person named in the assessment roll a notice of assessment, and in each case the roll so completed shall, subject to this Act, be the assessment roll for the purpose of taxation during the 2 following calendar years.
>
> (1.1) The assessor shall, not later than September 30, 1985 and September 30 in each odd numbered year after that, complete a revised assessment roll containing revisions to the assessment roll for the purpose of taxation during the following calendar year.

(1.2) Subsection (1.1) applies only to cases where

(a) land or improvements that are liable to assessment by the operation of section 34, 35 or 36 are not entered in the assessment roll or where land or improvements that have ceased to be liable under those sections are shown on the roll,

(a.1) a restriction, not previously taken into account pursuant to section 26 (3.2) and (3.3), affects the value of land and improvements that are liable to assessment under section 34, 35 or 36,

(b) the actual value, determined under this Act in relation to a revised assessment roll, is not the same as the actual value entered in the assessment roll by reason of

(i) an error or omission,

(ii) new found inventory,

(iii) the permanent closure of a commercial or industrial undertaking, business or going concern operation,

(iv) new construction or new development to, on or in the land or improvements or both, or

(v) a change in any of the following:

(A) physical characteristics;

(B) zoning;

(C) the classification referred to in section 28 or 29;

(D) entitlement to assessment in accordance with section 26 (4),

(c) there has been a change in any of the following:

(i) ownership;

(ii) legal description;

(iii) the classification referred to in section 26 (8);

(iv) the eligibility for, or the amount of, an exemption from assessment or taxation;

(v) municipal boundaries,

. . .

(1.4) In subsection (1.2) (b) (i) "error" means an entry resulting from a clerical or arithmetical error, or an entry based on incorrect facts.

The other relevant statutory provision is s-s. 1.2 (1) of the Assessment Authority Act Regulations. Again, I have underlined the bits which most directly affect this appeal:

> 1.2 (1) An assessment roll and notice of assessment shall contain the following particulars:
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> (a) the name and last known address of the person assessed;
>
> (b) a short description of the land;
>
> (c) the classification of
>
> (i) the land, and
>
> (ii) the improvements;
>
> (d) the actual value by classification of
>
> (i) the land, and
>
> (ii) the improvements;
>
> (e) the total assessed value for
>
> (i) general purposes, and
>
> (ii) other than general purposes;
>
> (f) the total assessed value of exemptions from taxation for
>
> (i) general purposes, and
>
> (ii) other than general purposes;
>
> (g) the total net taxable value for
>
> (i) general purposes, and
>
> (ii) other than general purposes;
>
> (h) a statement on the notice of assessment as to the method of submitting a complaint and the date by which the complaint must be delivered to the assessor;
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> (i) such other information not inconsistent with the Act or regulations as the commissioner may require.

3. *The Issue Restated*

The issue in this appeal as I have stated it in the first part of these reasons simplifies itself by the application of the statutory provisions into whether "the actual value determined . . . in relation to a revised assessment roll is not the same as the actual value entered in the assessment roll by

reason of an . . . omission". Mr. Justice Shaw said that the two actual values were not the same and that an omission was the reason for the difference. The Assessor brought this appeal because he disagrees with that conclusion.

It should be noted that it was not seriously argued on behalf of Cominco that the reason for the difference in actual value was because of "an error" since the definition of "error" in s-s. 2 (1.4) does not seem to include the circumstances of this case.

It should also be noted that Cominco conceded before the Assessment Appeal Board that there had been no change in the eligibility for an exemption from assessment or taxation within the meaning of para. 2 (1.2) (c) (iv). It was therefore not open to Cominco to raise any issue about that provision in this appeal.

4. *The Application of the Statutory Provisions*

I have set out s-s. 1.2 (1) of the Assessment Authority Act Regulations. That subsection requires, under para. (f), that the total assessed value of exemptions from taxation for general purposes must be contained on an assessment roll and in a notice of assessment. The Tadanac Smelter was exempt from tax under para. 398 (q) of the *Municipal Act* as an improvement for pollution control. But the assessed value of the Tadanac Smelter was not included as an exemption in the 1985 Assessment Roll, even though it was required by para. 1.2 (1) (f) of the Regulations to be included. In my opinion, the failure to include the total assessed value of the Tadanac Smelter under the heading of exemptions was an omission. The effect of that omission was that the total assessed value of the Tadanac Smelter was wrongly included in the total assessed value for general purposes and it was wrongly included in the actual value by classification of the Cominco improvements for the purpose of para. 1.2 (1) (d) of the Assessment Authority Act Regulations.

I revert now to subpara. 2 (1.2) (b) (i) of the *Assessment Act*. By reason of the omission to include the Tadanac Smelter in the total assessed value of exemptions for the 1985 roll, the actual value, as it should have been determined under the *Assessment Act* in relation to the 1985 revised assessment roll, was not the same as the actual value entered in the 1984 assessment roll. The reason why those actual values were not the same was by reason of the omission of the Tadanac exemption from the 1985 revised assessment roll.

The failure to include something in the assessment roll, and in the assessment notice, that is required to be included by law is, in plain language, an omission. If the result of the application of that plain language is to create an overlap between subpara. 2 (1) (1.2) (b) (i) and subpara. 2 (1.2) (c) (iv) then my only observation is that it is not surprising that there is an occasional overlap in such a complicated statutory provision. The existence of the overlap should not compel me to give the word "omission" a meaning other than its plain meaning.

5. *Disposition*

I agree with Mr. Justice Shaw's conclusion on the issue under appeal as set out in 23 B.C.L.R. at p. 68 and in 48 D.L.R. at p. 541. No other issue was raised on this appeal. I would dismiss the appeal.

Reasons for Judgment of Mr. Justice Hutcheon July 6, 1989

The facts are set out in the reasons for judgment of Mr. Justice Esson and I need not review them. For my purposes, it is sufficient to note that the appellant, Cominco Ltd., sought to appeal from the refusal of the assessor to complete a revised assessment roll. Certain improvements at the Tadanac smelter were recognized for the first time as eligible for exemption and Cominco requested that the exemptions be entered in the revised roll prepared in September 1985. The

assessor opposed the appeal on the ground that the exemptions were not one of the subject-matters that permitted a revision; thus the Assessment Appeal Board was without jurisdiction.

The various subject matters that enable or oblige the assessor to complete a revised assessment roll in the second year are found in s. 2 (1.1) and s. 2 (1.2) of the *Assessment Act*. The scheme of the Act and my reference to the second year are made clear by these sections:

> 2. (1) The assessor shall, not later than September 30, 1984 and September 30 in each even numbered year after that, complete a new assessment roll in which he shall set down each property liable to assessment within the municipality or rural area and give to every person named in the assessment roll a notice of assessment, and in each case the roll so completed shall, subject to this Act, be the assessment roll for the purpose of taxation during the 2 following calendar years.
>
> (1.1) The assessor shall, not later than September 30, 1985 and September 30 in each odd numbered year after that, complete a revised assessment roll containing revisions to the assessment roll for the purpose of taxation during the following calendar year.
>
> (1.2) Subsection (1.1) applies only to cases where
>
> (a) land or improvements that are liable to assessment by the operation of section 34, 35 or 36 are not entered in the assessment roll or where land or improvements that have ceased to be liable under those sections are shown on the roll, (a.1) a restriction, not previously taken into account pursuant to section 26 (3.2) and (3.3), affects the value of land and improvements that are liable to assessment under section 34, 35 or 36,
>
> (b) the actual value, determined under this Act in relation to a revised assessment roll, is not the same as the actual value entered in the assessment roll by reason of
>
> (i) an error or omission,
>
> (ii) new found inventory,
>
> (iii) the permanent closure of a commercial or industrial undertaking, business or going concern operation,
>
> (iv) new construction or new development to, on or in the land or improvements or both, or
>
> (v) a change in any of the following:
>
> (A) physical characteristics;
>
> (B) zoning;
>
> (C) the classification referred to in section 28 or 29;
>
> (D) entitlement to assessment in accordance with section 26 (4),
>
> (c) there has been a change in any of the following:

(i) ownership;

(ii) legal description;

(iii) the classification referred to in section 26 (8);

Thus, if, for example, there was a permanent closure of an industrial undertaking (s. 2 (1.2) (b) (iii)) the assessor is directed to complete a revised assessment roll not later than September 30 in the odd-numbered year.

The Assessment Appeal Board ruled against the assessor on the ground that the actual value of the Tadanac smelter was not the same as the actual value entered in the 1984 assessment roll by reason of error (s. 2 (1.2) (b) (i)). On a judicial review by way of a stated case, Mr. Justice Shaw upheld the decision of the Board but on the basis that the difference in actual value was by reason of omission not error.

In my opinion neither position is open to Cominco because there was no change in actual value. Until there is a change in actual value we do not reach the question whether the change is by reason of an error or omission. For convenience I repeat the opening words of s. 2. (1.2):

> 2. (1.2) Subsection (1.1) applies only to cases where
>
> * * *
>
> (b) the actual value, determined under this Act in relation to a revised assessment roll, is not the same as the actual value entered in the assessment roll by reason of . . .
>
> [emphasis added]

"Actual value" is not defined in the Act but in determining actual value as he is required to do by s. 26 (2) the assessor is given certain factors to consider in s. 26 (3):

> 26. (2) The assessor shall determine the actual value of land and improvements and shall enter the actual value of the land and improvements in the assessment roll.
>
> 26. (3) In determining actual value, the assessor may, except where this Act has a different requirement, give consideration to present use, location, original cost, replacement cost, revenue or rental value, market value of the land and improvements and comparable land and improvements, economic and functional obsolescence and any other circumstances affecting the value of the land and improvements.

Subsection (3) allows for special circumstances (where this Act has a different requirement) but, subject to this exception, subsection (7) directs that "Land and improvements shall be assessed at their actual value." Then subsection (10) imposes on the assessor the obligation to complete the assessment roll:

> 26. (10) The actual values of land and improvements determined under this section shall be set down separately on the assessment notice and in the assessment roll together with information specified pursuant to section 2 (2).

This takes us back to Section 2 (2):

2. (2) The assessment roll and notice of assessment shall be in the form and contain the information specified by regulations made under the *Assessment Authority Act*.

and thus to Regulation 497/77 made under the *Assessment Authority Act* and so far as relevant Regulation 1.2 (1):

1.2 (1) An assessment roll and notice of assessment shall contain the following particulars:

(a) the name and last known address of the person assessed;

(b) a short description of the land;

(c) the classification of

(i) the land, and

(ii) the improvements;

(d) the actual value by classification of

(i) the land, and

(ii) the improvements;

(e) the total assessed value for

(i) general purposes, and

(ii) other than general purposes;

(f) the total assessed value of exemptions from taxation for

(i) general purposes, and

(ii) other than general purposes;

(g) the total net taxable value for

(i) general purposes, and

(ii) other than general purposes;

* * *

[emphasis added]

When, by reason of s. 2 (1.2) (b) one is directed to "the actual value entered in the assessment roll" that can only be "the actual value" shown in the assessment roll for land and improvements. The actual value shown on the assessment roll need not be market value because of the special circumstances provided in s. 26 (4) (residence over 10 years), s. 27 (pole lines, pipelines, rights

of way, etc.), s. 28 (farm land) and s. 29 (forest land). But in each of these cases, the Act describes as "actual value" the result of the assessment whether by rates prescribed by the commissioner (s. 27) or schedules of timber values prescribed by the commissioner (s. 29).

Both the Assessment Appeal Board and Mr. Justice Shaw held that the meaning of the phrase "actual value" used in s. 2 (1.2) (b) included the assessed value of the exemptions.

This conclusion overlooks the fact that exemptions are dealt with in a specific way in s. 2 (1.2) (c), that is, "there has been a change in any of the following . . . (iv) the eligibility for, or the amount of, an exemption from assessment or taxation".

In the ordinary sense of the words, I should have thought that provision would apply to the circumstances in this case. However, both Mr. Vaughan, counsel for Cominco, and Mr. Savage, counsel for the assessor, take the position, to which I accede, that the recognition of an exemption that had not been previously recognized is not the kind of change contemplated by s.-s. (c) (iv).

Nevertheless, the subject matter of exemptions is dealt with specifically in s.-s. (c) (iv). In these circumstances, I am unable to accept that the phrase "actual value entered in the assessment roll" means not only the actual value of the land and improvements but also the assessed value of exemptions.

Accordingly, the assessor was not required to complete the revised assessment roll to permit a revision of the exemptions.

The first question on the stated case is answered as follows:

> 1. Did the Assessment Appeal Board err in law in its interpretation of the meaning of "actual value" as that word is used in the *Assessment Act*, and in particular section 2 (1.2) (b) thereof?

Answer: Yes.

I would allow the appeal with costs to the assessor.

Reasons for Judgment of Mr. Justice Esson July 6, 1989

This is an appeal by the assessor against one aspect of a judgment given by Mr. Justice Shaw on the hearing of a case stated to the Supreme Court by the Assessment Appeal Board. The judgment dealt with the question whether the assessor, and later the Board, had erred in its interpretation of s. 398 (q) of the *Municipal Act*, R.S.B.C. 1979, c. 290 which provides that land or improvements used primarily to control or abate pollution are entitled to exemption from property tax. The issues related to two properties owned by Cominco - the Tadanac Smelter and the Warfield Fertilizer Plant.

In respect of both properties, Shaw J. held that the Assessment Appeal Board had erred in its interpretation of s. 398 (q) and thus had erred in upholding the decision of the assessor not to grant certain exemptions. The assessor has not sought to appeal the merits of that decision but, in respect only of the Tadanac Smelter, contends that Cominco had no right to complain against the assessor's decision in the year in which the complaint was made.

That issue arises out of the provisions of the *Assessment Act* which provide that, in general, assessments should only be made in even years and that there is no general right to complain in

the second year if a complaint has been made in the first. The assessor, as he was required to do, made an assessment of each property as of July 1, 1984. Cominco made no complaint to the Court of Revision against the Warfield assessment in respect of the assessment of that property in the first year. It therefore had the right, under s. 40 (5) of the *Assessment Act*, to complain against that assessment in respect of the second year. It duly launched that complaint or appeal in late 1985 to the 1986 Court of Revision.

At the same time, Cominco launched a similar appeal in respect of the Tadanac Smelter. It had no right to do so under s. 40 (5) because it had filed a complaint in respect of that property in the first year. That complaint was filed in late 1984 and was directed to the 1985 Court of Revision. The issues raised by that complaint were not those eventually dealt with in the stated case before Shaw J. but it is common ground that the taking of the appeal in the first year removed the general right to appeal in respect of that property in the second year.

The question in respect of the Tadanac Smelter is therefore whether Cominco can bring itself within the restricted conditions which confer a right of appeal in respect of the second year, even where there has been an appeal taken in respect of the first. Essentially, that turns on the question whether the assessor was obligated by s. 2 (1.1) and 2 (1.2) of the *Assessment Act* to complete a revised assessment roll for the purpose of taxation during the second year. It will be convenient here to reproduce those sections as well as s. 2 (1):

> **Completion of roll**
>
> 2. (1) The assessor shall, not later than September 30, 1984 and September 30 in each even numbered year after that, complete a new assessment roll in which he shall set down each property liable to assessment within the municipality or rural area and give to every person named in the assessment roll a notice of assessment, and in each case the roll so completed shall, subject to this Act, be the assessment roll for the purpose of taxation during the 2 following calendar years.
>
> (1.1) The assessor shall, not later than September 30, 1985 and September 30 in each odd numbered year after that, complete a revised assessment roll containing revisions to the assessment roll for the purpose of taxation during the following calendar year.
>
> (1.2) Subsection (1.1) applies only to cases where
>
> (a) land or improvements that are liable to assessment by the operation of section 34, 35 or 36 are not entered in the assessment roll or where land or improvements that have ceased to be liable under those sections are shown on the roll;
>
> (a.1) a restriction, not previously taken into account pursuant to section 26 (3.2) and (3.3), affects the value of land and improvements that are liable to assessment under section 34, 35 or 36,
>
> (b) the actual value, determined under this Act in relation to a revised assessment roll, is not the same as the actual value entered in the assessment roll by reason of
>
> (i) an error or omission,
>
> (ii) new found inventory,
>
> (iii) the permanent closure of a commercial or industrial undertaking, business or going concern operation,

(iv) new construction or new development to, on or in the land or improvements or both, or

(v) a change in any of the following:

(A) physical characteristics;

(B) zoning;

(C) the classification referred to in section 28 or 29;

(D) entitlement to assessment in accordance with section 26 (4),

(c) there has been a change in any of the following:

(i) ownership;

(ii) legal description;

(iii) the classification referred to in section 26 (8);

(iv) the eligibility for, or the amount of, an exemption from assessment or taxation;

(v) municipal boundaries,

(d) section 28 (7) applies, or

(e) section 29 (5) applies.

It will be noted that, apart from the provision for revising the roll where the actual value differs from the actual value entered in the assessment roll by reason of an error or omission, the matters which create an obligation to complete a revised roll are all, in substance, changes of one kind or another affecting the assessed property which have taken place within the first year. It is common ground that, if an obligation to complete a revised roll arose in respect of the Tadanac Smelter, it could only be on the basis of an error or omission. The Assessment Appeal Board considered the issue and held that there had been a right of appeal because there had been an error. Shaw J. found that the Board had erred in that decision because it had overlooked the restricted meaning given to "error" by s. 2 (1.4) which reads:

2. (1.4) In subsection (1.2) (b) (i) "error" means an entry resulting from a clerical or arithmetical error, or an entry based on incorrect facts.

Cominco concedes that the error of the assessor in completing the 1984 roll did not involve an entry resulting from a clerical or arithmetical error, or an entry based on incorrect facts.

The chambers judge, however, accepted the alternative submission of Cominco based on the word "omission". He rejected the assessor's contention that "omission" could not be construed to include an error in law of the kind found to have been made in the interpretation of s. 389 (q). He expressed his conclusion thus:

<u>"Omission"</u>

> The word "omission", as used in s. 2 (1.2) (b) (i), does not have a restricted statutory definition. Cominco submitted that if there has been an omission to categorize pollution control improvements as such, then the Board has jurisdiction to rectify this omission. I agree. Had the Legislature intended to ascribe a limited definition to the word "omission", I would have expected to see it defined in a restricted manner as was done for the word "error". There is nothing which restricts the omission to being based upon incorrect facts. There is therefore no reason why it may not also be based upon incorrect law, which is the essence of the nature of the omissions alleged by Cominco.
>
> I conclude, therefore, that the Board was correct in holding that s. 2 (1.2) (b) (i) of the Act applied to permit revisions of the exemptions for taxation.

The sole issue on this appeal is whether Shaw J. erred in that conclusion.

The words "error or omission" are not the subject of any general definition in the *Assessment Act*. They are, however, employed in the related context of s. 40 which defines the circumstances in which there is a right of appeal against an assessment. That section, so far as it may be relevant to the present issue, reads:

> 40. (1) Where a person is of the opinion that an error or omission exists in the completed assessment roll in that
>
> (a) the name of a person has been wrongfully inserted in, or omitted from, the assessment roll;
>
> (b) land or improvements, or both land and improvements, within a municipality or rural area have been wrongfully entered on, or omitted from the assessment roll;
>
> (c) land or improvements, or both land and improvements, have been valued at too high or too low an amount;
>
> (d) land or improvements or both land and improvements have been improperly classified;
>
> (e) an exemption has been improperly allowed or disallowed; or
>
> (f) the commissioner has failed to approve an application for classification of land as a farm under section 28 (1), or has revoked a classification of land as farm under the regulations,
>
> he may personally, or by a written notice signed by him, or by a solicitor, or by an agent authorized by him in writing to appear on his behalf, come before, or notify, the Court of Revision and make his complaint of the error or omission, and may in general terms state his ground of complaint, and the court shall deal with the complaint, and either confirm, or alter, the assessment.
>
> (1.1) Where a person is of the opinion that an assessor made revisions to the assessment roll in a manner not authorized by section 2 (1.1) to (1.5) or failed to make revisions to the assessment roll as required by section 2 (1.1) to (1.5), he may complain in the same manner as in subsection (1) of this section.

It is s. 40 (1.1) upon which Cominco must rely in claiming a right of appeal in respect of the Tadanac Smelter for the second year. It asserts that this is a case in which the assessor failed to make revisions to the assessment roll as required by s. 2 (1.1) to (1.5).

Had Cominco raised the issue of the pollution exemption in the first year, it clearly would have had a right of appeal within in s. 40 (1) (e) on the ground that an exemption had been improperly disallowed. As a matter of plain language, one would say that it could appeal because it was of the opinion that an error existed in the roll in that an exemption had been improperly disallowed. It would, in my view, be a strained use of language to say that the basis for appeal was that an omission existed in the completed assessment roll.

It is also of some interest to note that the first two subsections of s. 40 (1) provide instances of omissions existing in the roll. In subsection (a), it is the omission of the name of a person. In subsection (b), it is the omission of land or improvements. Those subsections cannot of course be taken as defining the word "omission" in this Act, but are of some importance in that they are clear examples of the ground intended to be covered by that word. Clearly, everything else set out as a ground of appeal in s. 40 (1) can most aptly be described as an error.

For the assessor, Mr. Savage submits that "omission", although not expressly defined by s. 2 (1.4) must take its colour from that section on the basis of the rule of construction that the meaning of a word may be ascertained by reference to the meaning of the words associated with it. He refers to E. A. Driedger's Construction of Statutes, 2nd Edition 1983, p. 110 where the author says:

> When two or more words which are susceptible of analogous meanings are coupled together they are understood to be used in their cognate sense. They take their colour from each other, the meaning of the more general being restricted to a sense of analogous to the less general. . . .

Although I do not disagree with that submission, I would put the matter somewhat differently. I have referred to s. 40 (1) to demonstrate that "omission" is used there in relation to matters which, in a plain and literal sense, are omissions, and that it is entirely unnecessary to rely on "omission" to decide whether there is a right to appeal on the ground that an exemption has been improperly disallowed. Had it not been for the restrictive language of s. 2 (1.4), I think there could be no possible question but that the Assessment Appeal Board was correct in holding that the issue raised by Cominco regarding the pollution exemptions was an allegation of error resulting in a finding of error. But s. 2 (1.4) is there. It makes it clear that the Legislature did not intend the plain meaning of error to apply in relation to the second year. In my view, the reason why the Legislature did not expressly restrict the meaning of omission is that, on its face, it is a word of much narrower scope than error. The intention of the Legislature in expressly restricting the scope of "error" cannot have been to confer on "omission" a wider scope that it would otherwise have had. The effect of the chamber judge's decision, in respect of matters arising in the second year, is to expand the meaning of "omission" to cover all of the ground which "error" would have covered had there not been the restriction imposed by s. 2 (1.4), and thus to render that clear restriction of no effect.

I earlier expressed the view that to describe the improper disallowance of an exemption as an "omission" would be to strain the language. On the other hand, I accept that, by putting the requisite degree of strain on the language, the word "omission" can be made to do that work. As it is put in the Cominco factum, it is an omission to allow an exemption. In the language of the chambers judge, it is an omission to make an entry allowing an exemption. By that approach, one can describe as an omission every positive mistake which would normally be described as an error. It is an omission to do what should have been done. I do not accept that, in the context of s. 2 (1.2) (b) (i), the Legislature intended "omission" to be employed in that way.

I therefore conclude that the error in law made by the assessor in the first year was neither an error nor omission within that section and that the assessor therefore was not required to complete a revised assessment roll for the second year in respect of the Tadanac property. From that, it follows that there was nothing against which Cominco could complain in the second year, and that it therefore had no right to bring proceedings in respect of that property. Having reached that conclusion, I need not consider the assessor's alternative submission, based on the language of s. 2 (1.2) (b), to the effect that the matters relied upon by Cominco in respect of Tadanac did not bring about any difference between the actual value entered in the assessment roll and that "determined . . . in relation to a revised assessment roll."

I would allow the appeal accordingly.