

the province, or whether it is the federal government of Canada, I don't know — has a lien on all old age pensioners' property. With regard to property being valued at \$2,000, a great bulk of the property in my locality could not be replaced at less than \$5,000. Whatever value the government would put on it, I do not know. Take this lien. You have to remember we are in the Dominion of Newfoundland, not the Dominion of Canada. Take young boys, six or eight years old; they start carrying rocks off the ground and they work on the land right up to the time they are young men. Sometimes they are on it 40 years before the old man passes out; the property belongs to them just as much as it does to their father. When father married he took over virgin territory; as the sons grew up they helped clear the land, now my sons are on it. I know of some people today who are getting old age pensions and whose sons are absolutely helpless to assist them. One is in hospital and there is no way for that son to help his father out. I have here some findings by legal authorities and in this weekly, *The Prairie Farmer*, of 1½ million readers, it says that in every question asked those legal authorities, the answer was, "No, you have no right to make over your property on the grounds that the government has a lien on your property."

Mr. Chairman What are you reading from?

Mr. Bailey *The Prairie Farmer*, a weekly published in Canada.

Mr. Chairman The opinion of that article is simply the author's conception of what the law is; from a lawyer's point of view there is no authority for anything except a previously decided case.

Mr. Bailey We are told we get increased benefits; we cannot hope to get increased benefits without increased responsibilities. One goes hand in hand with the other. I for one would not like us to go into confederation and for someone to turn around and say to me afterwards, "You did not explain this." I want the people to know. All I know is the means test is there....

Mr. Smallwood They cannot take it if it is worth \$2,000. If the widow lives, she gets it. If the widow dies, someone in the family or a stranger who has contributed to the support of that person gets it. But in any case, the state can only get back what it gave where the estate is worth over \$2,000 net. Then it can only get it back if no one has

helped out the old couple. About this lien. There is just a little in what Mr. Bailey says. It's the first time Mr. Bailey and I partially agreed in public since the Convention began. Here is the answer. "No province requires an applicant [for old age pensions] to turn over his property to the provincial government either before or after granting a pension. After a pension is granted a provincial pensions authority may, if authorised by provincial legislation, encumber any real property owned by the pensioner." That means if a province has its own provincial law requiring its pension authority to encumber any real property of the old age pensioner, then that authority can do so. There may be provinces where there is such a provincial law, that is their business. If we became a province, and if the legislature passed a law giving authority to the pensions authority to encumber and take a lien, then it can do so, but there has to be a Newfoundland law to authorise them to do it.... There is no such Newfoundland law now. We are not compelled to pass any such law. If we have a legislature they will be our elected representatives. I doubt very much if an elected House of Assembly in Newfoundland would pass a law to give power to the old age pension authority to encumber the property....

Mr. Chairman Your point is, the lien to which Captain Bailey refers arises under legislation passed by the provincial government, which makes it a purely statutory lien?

Mr. Smallwood Purely provincial.

Mr. Hickman Mr. Smallwood's explanation may point out that the government cannot take the lien. Mr. Bailey is correct, for the simple reason, as I understand the act, you cannot transfer the property while or after you are receiving the pension, can you?

Mr. Smallwood That is right.

Mr. Hickman Read section 3, page 6 of the Pensions Act.... He cannot transfer his property, therefore he must retain it in his own name. The government authority has the first lien. In effect they take back what they gave him. Going on further, you said anybody, whether related or not, who supported the old age pensioner would then be entitled to receive the property.

Mr. Smallwood That is roughly the case, but not exactly.

Mr. Hickman You will find that anybody who has contributed to the support of the pensioner by