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ELECTION MEASURES TO BE DISCUSSED

BILL INCREASING PERSONAL INCOME TAX EXEMPTIONS
The Committee: Milton Foland, John Flynn, Jack Leiter, R. W. Nahstoll, and Louis Berelson, Chairman.

BILL AUTHORIZING STATE BOYS' CAMP NEAR TIMBER, OREGON
The Committee: Edwin C. Berry, Arthur Goldman, H. W. Hebblethwaite, Francis H. Murphy, Arthur Stanley, and David Robinson, Chairman.

AMENDMENT FIXING QUALIFICATIONS OF VOTERS IN SCHOOL ELECTIONS

All Committees under Legislation and Elections Section, Nelson C. Hazeltine, Section Chairman.

INTERIM REPORT, LAW ENFORCEMENT COMMITTEE
The Committee: Myron Cole, Earl Condit, Asa Cutler, Stanley Earl, Irving Enna, Tom Humphrey, Ira Jones, W. L. Josslin, Francis S. Murphy, Dr. Neal Zimmerman, and McDannell Brown, Chairman, under Public Safety Section, Quincy Scott, Section Chairman.

ALSO SPEAKER...

DR. HARRY H. KALAS
Director of the National Christian Teaching Mission

Dr. Kalas perfectly understands that discussions of the City Club reports to be presented today may absorb all of the program time. Hence he announces no topic but will be prepared with remarks designed to fill whatever minutes are allotted to him. Prior to accepting his present position, Dr. Kalas was Executive Secretary of the Iowa Council of Churches. He is presently in Portland to direct the Portland Christian Teaching Mission, a program enrolling 125 local churches.

ALSO IN THIS ISSUE...

CITY CLUB ELECTION MEASURE REPORTS

BILL AMENDING LICENSING AND ACQUISITION PROVISIONS OF HYDROELECTRIC COMMISSION ACT
The Committee: Melville Millar, Francis S. Murphy, Herbert Schwab, Francis Staten, L. L. Riggs, Chairman.

OLD AGE PENSION ACT
The Committee: Henry Bauer, The Rev. Walter J. Knutson, Dr. John M. Pierson, R. Burke Morden, and Peter Twist, Chairman.

Prepared under Section on Legislation and Elections, Nelson C. Hazeltine, Section Chairman.
BILL AMENDING LICENSING AND ACQUISITION PROVISIONS
OF HYDROELECTRIC COMMISSION ACT

PURPOSE: Amending hydroelectric commission act of Oregon requiring commission to set forth the maximum rate of return and amortization in license; providing that state or any municipality thereof shall have right to take over any project at expiration of the original license upon payment of fair value not exceeding net investment; if not taken over, commission may issue new license under then existing laws or extend original license according to the terms and conditions thereof for periods of five years; providing further, upon payment of just compensation state has right to acquire project during any license period by condemnation.

306 YES—I vote for the bill.
307 NO—I vote against the bill.

To the Board of Governors of the City Club of Portland:

Your committee was assigned the task of investigating and reporting on Senate Bill 99, Chapter 42, Oregon Laws 1947. The Bill contains proposed amendments to Secs. 119-114, 119-121 and 119-123, O.C.L.A., which are portions of the Hydroelectric Act of 1931. Senate Bill 99 was passed by the 1947 legislature, vetoed by the late Governor Earl Snell, passed over his veto, and is now referred to the people by referendum to be voted upon by them at the general election of November 2, 1948.

In making its investigation the committee interviewed groups and individuals actively favoring passage of Senate Bill 99 and those actively opposing it. In addition, it interviewed state and federal officials and certain other interested citizens and investigated as far as possible the history of the passage of Senate Bill 99 by the 1947 legislature and the veto thereof by the late Governor Earl Snell.

The present hydroelectric law, and the proposed amendments, apply to any hydroelectric development to be licensed by the state of Oregon. It is apparent, however, that both the advocates and opponents of the proposed law consider it important mainly in connection with an application by the Idaho Power Company to construct a stream flow dam at a site known as Oxbow on the Snake River in Eastern Oregon. It should be noted further, that there seems to be general agreement that there will be few, if any, additional applications for hydroelectric development in Oregon by private organizations under the old or the amended law, due to the lack of economically feasible sites. Prior to the Oxbow application, moreover, there was only one license granted under the 1931 law, which was that given to the California-Oregon Power Company for a dam on the North Fork of the Umpqua River.

The committee has considered the bill both for whatever general application it may have, and for its specific bearing on the proposed Oxbow license.

Sec. 119-114 of the 1931 law provides that it shall be the policy of the Hydroelectric Commission in granting licenses for the erection of dams to establish a system of accounts under which the net investment of the licensee in any project shall be amortized and paid out of surplus profits.

The first change in this section under the proposed amendment would eliminate the requirement that the Hydroelectric Commission establish a system of accounts. The practical effect of this change would be nil for the reason that under the State Public Utility Law as well as under the Federal Power Act, interstate electric utilities are required to comply with a uniform system of accounts prescribed by these agencies. It would be impractical in any case for the Hydroelectric Commission to prescribe accounts any different from those adopted by these agencies. The committee concludes therefore that there would be no loss of accounting control under the amendment.

The other suggested change in this section provides that the maximum rate of return and the proportion or amount of surplus, if any, in excess of a reasonable rate of return which shall be paid into the amortization reserve shall be set forth in the license rather than determined by the Commission from time to time. What differences might be made in actual administration of the revised section would depend on the manner in which the
Hydroelectric Commission used its discretion in granting any new license. The revision itself does not require the application of a principle any different from that embodied in the old law and followed by the Commission to date. In this connection it is interesting to note that the only license granted to date, that to the California-Oregon Power Company for the Umpqua development, prescribes that amounts in excess of a reasonable rate of return as established by the Public Utilities Commissioner, and amounts in excess of 6% in any event, shall be transferred to the amortization reserve. The terms of this license as granted under the old law are substantially identical in character with those which appear to be intended by the amendment.

In connection with the entire matter of the significance of the amortization principle, it should be observed that electric utilities are under the jurisdiction of the Public Utilities Commissioner so far as the rates are concerned; and these rates are supposed to be set at a level which will yield only a fair return on a fair value. With rates set in this manner, surplus earnings would result only from a miscalculation of probable earnings and it is unlikely that such a miscalculation would result in surplus earnings sufficient to make any substantial amortization of investment. However, whatever surplus earnings do result, can be applied toward amortization as effectively under the proposed amendment as under the present law.

The provisions of Secs. 119-123 and 119-121 which are in question in substance provide that at any time upon not less than two years notice, the state of Oregon or any municipality thereof, shall have the right to take over a project licensed under the Hydroelectric Act upon paying to the licensee the fair value of the property, not exceeding net investment, plus severance damages. Senate Bill 99 would change this provision by removing the state's power to take over at any time upon two years notice and restricts that power to take over upon not less than two years notice upon or after the expiration of any license. The terms upon which the state would take over remain the same. This question of take-over provisions appears to be, in the minds of the proponents of Senate Bill 99, the real objection to the 1931 Act. The points raised by the proponents of Senate Bill 99 in connection with this feature are:

1. That it holds the state back by preventing hydroelectric development;
2. It makes financing difficult; and
3. Fixing the recapture price at “net investment” works an unfair hardship upon the licensees.

With regard to point 1, both proponents and opponents of Senate Bill 99 appear to be in substantial agreement that the most important reason for lack of hydroelectric development in Oregon for the past few years is that there are no important sites other than the Oxbow site which can be fiscally developed other than by federal appropriations.

With respect to financing, the argument is made that the assurance of a fixed period of years of operation is essential to make securities attractive to investors. The implication is that specific bonds with maturities coincident with the term of the license are to be issued. In fact, utility systems characteristically issue securities, not on specific properties, but on their entire system, and according to a basic financing plan which provides for staggered maturities and refinancing, and with provisions also for calling indebtedness when lower priced money is available. In view of this consideration, the financing difficulty appears to be overstressed. With respect to the assurance to securities' holders that their investment will be protected in the event of public acquisition, the present law provides for a return of dollar investment in the event of such acquisition, in addition to a fair return on fair value.

The remaining point is that basing the recapture price on net investment is unfair. As your committee pointed out at the beginning of this report, the practical impact, if any, of Senate Bill 99 is almost entirely upon the projected construction of a dam at Oxbow by the Idaho Power Company. Both the proponents and the opponents of this measure agree that it is extremely unlikely that the state or a subdivision thereof will ever be interested in taking over a power dam at Oxbow. It then follows that the question of what the price shall be, if it is taken over, is also largely an academic question. None-the-less, while the principle in question may be an academic one, it is a principle. If Senate Bill 99 were enacted and if by some chance before the expiration of the license the state deemed it to be to its best interests to take over the Oxbow Dam, it would have to do so by condemnation proceedings which would allow the licensee to go into Court and obtain a price which would be arrived at by applying many variable factors which cannot be developed at this time and which might conceivably allow the licensee a substantial capital gain on its investment.

In substance, the 1931 Act provides a statement of principle to the effect that when a private corporation is granted the monopoly use of a public resource, it is entitled to obtain a fair margin of profit on its investment and in the event the people desire to take back from the private licensee their public resource, the licensee is entitled to the return of his capital investment plus any damages which it may sustain as a result of the severance of this particular resource from the rest of its system, but is not entitled to any speculative
capital gain by virtue of turning the public resource back to the public source from which it came.

Turning to the objections to Senate Bill 99 advanced by the opponents of this measure, we find that they claim that Senate Bill 99 would do substantially the following:

1. Allow power companies to saddle the public with huge debts;
2. Stifle regulation of profits;
3. Allow power companies to demand whatever the traffic will bear;
4. Vest ownership in private power companies over an indefinite period.

We find nothing in Senate Bill 99 which would enable the power company to burden the public with unreasonable debts.

Investment and securities control as administered by the State Public Utilities Commission and the Federal Power Commission would not be impaired. The amortization of investment from surplus profits which is provided by the present law can be as effective under the amendment. In fact, as noted above, the proposed law would adopt in almost identical terms the principles of the license granted under the present law to the California Oregon Power Company.

Likewise, rate regulation and recapture of profits could be as effective under the amendment as under the present law.

It is true that, as far as the state of Oregon is concerned, the amendment would tend to block the reacquisition of a developed site during the term of the license. As noted above, this is probably an academic question since any public acquisition is likely to be federal rather than state. None-the-less, it seems undesirable to remove from a state law an established principle however academic the matter may appear to be at the moment, in the absence of any apparent practical need for removing it.

The conclusions of your committee are as follows:

1. The only projected power development which may immediately be affected by the passage of Senate Bill 99 is the Oxbow site;
2. The passage or rejection of Senate Bill 99 will make no substantial difference one way or the other upon the development of the dam at Oxbow by the Idaho Power Company if it decides to build upon that site and if it can obtain the necessary state and federal licenses;
3. That the principle involved as to the recapture of public resources as set forth in the body of this report, albeit an academic one, is a sound one and should not be removed from the Act in the absence of any practical necessity for removing it;
4. That laws should be repealed or amended only when some useful purpose is to be served thereby and that there is no useful purpose to be served by the proposed amendments to the Hydroelectric Act.

Your committee feels that it is justified in pointing out that in its opinion the controversy over this bill is just incidental to a larger issue which is of principal interest to both sides. That issue appears to be whether the best interests of the Northwest are to be served by private development of power on the Snake River or by continuation of the erection of federally constructed and operated multi-purpose dams to include the Snake River. Senate Bill 99 appears to have become a symbol in this controversy. However, your committee is unable to see what concrete effect the passage or rejection of Senate Bill 99 would have upon this issue.

The recommendation of the committee is based strictly upon examination of the merits of Senate Bill 99 and is not based on any possible relationship it may have to any other issue.

Your committee therefore recommends against passage of Senate Bill 99.

Respectfully submitted,

MELVILLE MILLAR
FRANCIS S. MURPHY
HERBERT SCHWAB
FRANCIS STATEN
L. L. RIGGS, Chairman

Approved September 30, 1948, by Nelson C. Hazeltine, Section Chairman, Legislation and Elections for transmittal to the Board of Governors.

Received October 4, 1948, by the Board of Governors and ordered published and submitted to the membership for discussion and action.
OREGON OLD AGE PENSION ACT

PURPOSE: Directing Oregon legislature to provide funds by continuing appropriations and enact all necessary legislation to provide for and pay each needy female citizen of Oregon, 60 years of age, and each needy male citizen, 65 years of age, a monthly pension of $50, to feed, clothe, house and provide hospital, medical, dental, including biotics and other needed care, and provide decent burials for such needy citizens.

Governor to appoint commission to administer act; authorizing State Board of Control to issue certificates of indebtedness; State Public Welfare Commission to administer during interim; limiting cost of administration to one percentum of income.

310—Yes. I vote for the proposed law.
311—No. I vote against the proposed law.

To the Board of Governors of the City Club of Portland, Oregon

Gentlemen:

Your committee appointed to consider the proposed Old Age Pension Act herewith submits the following report.

An examination of the measure itself discloses that it goes far beyond the matters indicated in this title and that it is subject to numerous serious objections as will appear in the following discussion and explanation of the particular provisions of the measure:

PROVISION 1. The measure provides that it shall be the public policy of the State of Oregon “to properly feed, clothe and house and also to provide hospital and medical care, as well as medicines (including biotics and corrective devices such as crutches, teeth, supports, glasses and any other needed corrective devices), and a decent burial to any needy male citizen of Oregon who has reached the age of 65 years and to any needy female citizen of Oregon who has reached the age of 60 years” and, in addition, to establish an old age pension for persons thus qualified of $50 per month per person. A “needy” person is defined as “any person of qualifying age who receives income of less than $50 a month.”

Analysis. It would appear that a person thus qualified would receive both the pension and the other benefits provided by the act, but the act could be construed that a person so qualified would receive as a minimum the pension of $50 per month and would also receive such additional sum as might be required for proper food, clothing and housing and to supply the other benefits mentioned in the act. This is apparently another old age pension plan of the “Townsend” type combined with the other benefits set forth, payable not on the basis of actual need but to all persons possessing the broad arbitrary qualifications set forth in the act.

Under these arbitrary qualifications, a person with an income of $49.95 per month would receive the same full pension of $50 per month as a person entirely without income. The fact that the pensioner may have other funds or property, no matter how extensive, is not taken into consideration, nor the fact that the pensioner may have a wife or husband or son or daughter well able to support the pensioner, as such persons are now obligated by law to do.

The term “income” is not defined, hence such receipts as insurance annuities, employees’ pensions and payments which a pensioner may receive from testamentary and other trusts, since they are not “income” in the ordinary meaning of the term, would probably not be included in determining the amount of the pensioner’s income.

The pension and other benefits are payable to any “Oregon citizen” otherwise qualified under the act. The term “citizen” is not defined and no residence requirements are contained in the measure. Apparently, any U.S. citizen coming into Oregon and otherwise qualified under the act would become entitled to the pension and other benefits even though such person came into the state for the very purpose of receiving these benefits.

PROVISION 2. The legislature is “directed to provide the money necessary to fulfill the obligations of the state created by this act,” and in this connection is authorized to “transfer funds from any other fund, issue certificates of indebtedness, or take such other action as may be necessary.”

Analysis. This would give the financial requirements of the Old Age Pension Act virtual priority over all other financial requirements of the state not only in the exercise
of its taxing and borrowing power but in the use of all the funds of the state, no matter for what other special purpose they may have been created, unless otherwise protected by the Constitution.

It would be difficult to estimate the number of persons who would become entitled to pensions and other benefits of the act and what the cost would be, but obviously it would require such vast sums of money as would seriously tax the resources of the state, particularly in the probable event of withdrawal of federal aid, as will hereinafter be disclosed. Mr. C. Orford Chapman, editor of the Oregon Voter, from his investigation estimates that at least 85,000 persons would be entitled to the pension as well as the other benefits and the cost of the pension alone would amount to $4,250,000 per month or more than $50,000,000 annually. The cost may well be beyond the power of the state to bear and might disrupt the state’s economy.

PROVISION 3. The act is declared to be the public policy of the State of Oregon “notwithstanding any previously assumed or declared constitutional inhibition or restriction,” and further provides that “no law previously enacted or decision previously rendered shall be permitted or construed to restrict in any way the power of the people to initiate and pass legislation expressing their will” and that “it shall be the duty of the judiciary of whatever degree to declare this law to be the people’s will.”

Analysis. This is an attempt to make the measure immune from attack even on constitutional grounds and, if valid, would permit the majority of the voters on any measure, by assuming to declare the measure to be the people’s will, to place such measure above the constitution and thus circumvent any constitutional restrictions. Our present conception of government by constitutional law makes the constitution supreme and permits government by the majority only within the framework of the constitution. This novel device now proposed would permit the enactment of legislation against any class of people or minority group and at the same time deny or substantially limit the right of such minority class or group to the protection which is guaranteed by the constitution.

PROVISION 4. To administer the act, the measure provides for the establishment of an Old Age Pension Commission to consist of one person appointed by the governor. This commissioner is given the power, now possessed only by the probate court, to appoint guardians in the case of an inebriate, a spendthrift or an incompetent.

Analysis. It would appear to be obvious that such concentration of power in one man with the power of appointment resting solely with the governor might lead to a very unsatisfactory administration of old age relief. The power of appointing guardians should remain with the probate court under the necessary safeguards provided by the Probate Code.

PROVISION 5. The measure, upon its adoption, would go into immediate operation as an emergency measure and with the State Public Welfare Commission as the “interim disbursing agent.” The State Board of Control is authorized to provide the funds for the “interim” period of not less than $50 per month per person and to issue certificates of indebtedness for such purpose, which “shall be redeemed by an act of the legislature.”

Analysis. This appears to be another device to circumvent the state constitution which clearly limits the purposes for which the state may incur debt, among which welfare is not included. It establishes an undesirable precedent in that state debt could be incurred and expenditures made before the validity of the act could be determined. Such a provision is unjustified on the mere unsubstantiated declaration of the existence of an emergency.

PROVISION 6. To insure that this act shall remain continuously in operation from and after its adoption and to defer as long as possible any interference with the operation of the act by court process or referendum, the measure provides that the legislature must make an appropriation, separate and distinct, to the amount of not less than $50 per month per person, “to the end that should a referendum be filed against the law enacted by the legislature in pursuance hereof, or should any legal effort be made to defy the people’s will, this act shall continue to be administered by the State Public Welfare Commission during the interim only, until after due disposition of the litigation shall have been effected.”

Analysis. These provisions, if valid, would prevent the courts from enjoining the operation of the act so far as the pension provisions are concerned while its constitutionality was being examined and would prevent any stay of its operation during a referendum and thus make it impossible to obtain any relief from the measure, no matter how harmful or costly it might prove to be, except after the termination of litigation which would, no doubt, be protracted as long as possible, or except after a re-submission of the matter to the vote of the people. These provisions are also unjustified on the mere unsubstantiated pretext of an emergency.

WITHDRAWAL OF FEDERAL AID. The adoption of this measure would probably result in the withdrawal of federal aid under the Social Security Law. Under this law as amended during 1948 by the Congress, the federal government contributes $15 out of the first $20 paid monthly to each person entitled to old age assistance and one-half of
the balance up to a total maximum payment of $50 per month, making the federal contribution $30 on a maximum payment of $50 per month. Such contribution is payable only if the State Old Age Assistance Law complies with certain prescribed requirements. Among these is the following: “A state plan for old age assistance must, effective July 1, 1941, provide that the state agency shall in determining need, take into consideration any other income and resources of an individual claiming old age assistance.” The proposed measure is not based on actual need, as has been pointed out, and clearly does not comply with this requirement. Hence, federal aid would undoubtedly be withdrawn immediately after the adoption of this measure. In this connection, it should also be noted that under the federal law the minimum age qualification is 65 years for both men and women. The proposed measure reduces the minimum age for women to 60 years; hence, all benefits paid to women between the ages of 60 and 65 years would have to be paid by the state in any event.

SPONSORS. This initiative measure is sponsored by Joe E. Dunne, Henry C. Menasco, Opal L. Howk, G. L. Artz, J. A. Williams and Chas. A. Townsend, all of Portland, Oregon. The head of the group, Mr. Joe E. Dunne, as well as some of the other persons mentioned, have been identified with previous old age pension plans which have been turned down by the people of Oregon on two occasions. Upon invitation, Mr. Dunne and Mr. Chas. A. Townsend appeared before the committee. Their argument for the measure was a general plea for sympathy toward the aged who, they claimed, were discontented because required to prove their actual need and circumstances as a prerequisite to obtaining relief under the present procedure and should receive more liberal treatment.

ORGANIZED OPPOSITION. Apparently, since this is a national election year, the various state measures have thus far received little or no attention in the press, but strong opposition has thus far been expressed and published by the Oregon State Federation of Labor (A.F. of L.), the Oregon Business and Tax Research and the Oregon Voter. Upon invitation, both Mr. C. C. Chapman, editor of the Oregon Voter, and Mr. F. H. Young, secretary and manager of the Oregon Business and Tax Research, appeared before the committee and presented their arguments against the bill.

PRESENT OLD AGE ASSISTANCE. In view of the objectional features of the proposed measure, your committee has deemed it unnecessary to inquire into the sufficiency of the old age assistance given under present regulations. Under the Oregon law (Chapter 224, Oregon Laws 1942) “assistance shall be provided on the basis of need” to the extent that funds are available for such purpose. It is required that the person receiving such assistance shall have been a resident of Oregon five years or more within the nine years immediately preceding the date of application and for at least one year immediately preceding such date. Miss Loa Howard, present director of old age assistance in Oregon, stated that during the month of July, 1948, the average benefits, including medical assistance, paid to each person amounted to $46.14 and this represents about the average at the present time. She also stated that approximately three-quarters of the persons receiving assistance receive $50 per month or under and approximately one-quarter receive more than $50 per month. Under the Oregon law, a decent and respectful burial is also provided for in necessary cases. Oregon is now supplying substantial assistance to those in actual need to the extent of the funds available for that purpose.

CONCLUSION: From the analysis of the measure and the investigation it has made, your committee unanimously disapproves of the proposed measure and recommends that the City Club of Portland go on record as opposing this bill.

Respectfully submitted,

HENRY BAUER
REV. WALTER J. KNUTSON
DR. JOHN M. PIERSO
R. BURKE MORDEN
PETER TWIET, Chairman

Approved September 30, 1948, by Nelson C. Hazeltine, Section Chairman, Legislation and Elections for transmittal to the Board of Governors.

Received October 4, 1948, by the Board of Governors and ordered published and submitted to the membership for discussion and action.
ELECTED TO MEMBERSHIP

RAY M. HARRIS
Patent Attorney
Cook and Schermerhorn
Proposed by Frank W. Paris

THOMAS T. PARKER
Manufacturing Engineer
Hyster Company
Proposed by Eugene Caldwell

MOTORISTS GET PARKING RELIEF

New York motorists—long-time sufferers from high parking rates—are finally to get a break, according to the American Society of Planning Officials.

Construction has begun in lower Manhattan on the first publicly-owned parking garage—a structure that will be seven stories high and will provide space for from 1,050 to 1,500 cars, depending on whether the vehicles are self-parked or attendant-parked. And rates may be 50 percent below those charged by private garages.

WISCONSIN HELPS MORE PHYSICAL DISABILITY CASES

Under the unique public aid program, Wisconsin is giving financial support to an increasing number of persons who suffer permanent physical disability.

According to a current article in Public Welfare, the journal of the American Public Welfare Association, Wisconsin is the only state with specific legislation providing aid to certain types of disabled persons on a statewide basis.

The law provides up to $80 per month cash assistance to persons so disabled that they require constant and continuous medical care. Half the costs of the program are born by the state, half by the counties.

PROPOSED FOR MEMBERSHIP
AND APPROVED BY THE BOARD OF GOVERNORS

If no objections are received by the Executive Secretary prior to October 22, 1948, the following applicants will be elected:

CHARLES BRADLEY, M.D.
Associate Professor of Pediatrics and Psychiatry
University of Oregon Medical School
Proposed by Richard M. Steiner

RALPH W. GOLBY, Attorney
Associate with Freed and Failing
Proposed by John C. Failing

NORMAN A. STOLL, General Counsel
Bonneville Power Administration
Proposed by Hall Templeton

MIGRANTS' SUMMER SCHOOL SUCCESS

New Jersey officials have embarked on a new venture in education—summer school for the children of migrant workers.

The American Public Welfare Association reports that 65 children ranging in age from 2 to 14 completed the second term of operation of the unique summer school which is run jointly by the Migrant Labor Division of the State Department of Labor and the State Department of Education.

Pupils are divided into four age groups and are taught reading, writing, and arithmetic with the state's basic curriculum used as a guide for the tutoring. Almost all of the children are from Georgia, Florida, and South Carolina and will either return to the South or move further North with their parents to late harvest fields.