

(5) Rules under the 1935 Act

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| (i) <i>Local Government and Civil Service Rules.</i> | (iii) <i>H.M. Forces (Civil Employment) Rules, p. 530.</i> |
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(i) Local Government and Civil Service Rules

**THE LOCAL GOVERNMENT AND CIVIL SERVICE (SUPER-
ANNUATION) RULES, 1936. DATED JUNE 24, 1936.(a)**

1936 No. 651

[*These Rules (S.R. & O. 1936, II p. 2030) are printed as amended by Rules dated June 25, 1940 (S.R. & O. 1940 No. 1076, p. 529 below) and December 29, 1947 (S.R. & O. 1947 (No. 2809) I, p. 1571).*]

The Lords Commissioners of His Majesty's Treasury, after consultation with the Minister of Health and the Secretary of State for Scotland, in pursuance of the powers conferred on Them by Section 9 of the Superannuation Act, 1935, and of every other power enabling Them in this behalf, hereby make the following Rules:—

PART I

GENERAL RULES

1. These Rules may be cited as the Local Government and Civil Service (Superannuation) Rules, 1936.

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

“ the Civil Service ” means the permanent Civil Service of the State;

“ officer ” includes “ servant ”;

“ superannuation allowance ” includes “ pension ”; and

“ local superannuation enactment ” means an enactment (including a scheme made thereunder or in pursuance thereof) relating to the superannuation of officers of a local authority.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

52 & 53 Vict.
c. 63.

(a) See also 1 Edw. 8 & 1 Geo. 6. c. 68. s. 41 (2). These Rules were applied as modified by S.R. & O. 1946 No. 1391, see the title “ Metropolitan Police District.” See also S.R. & O. 1940 No. 1076, p. 529 below.

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3. These Rules shall apply to any local authority to which, upon the application of that authority, the Treasury has directed that they shall apply.

4. The Superannuation Acts and every local superannuation enactment shall, so far as applicable to an officer qualified for or entitled to the benefit of these Rules, have effect subject to the modifications made by these Rules.

5. If any question arises between an officer and any local authority as to his right to any payment from that local authority under these Rules or as to the amount of such payment, the question may be referred by either party, where the local authority is a local authority in England or Wales, to the Minister of Health, and where the local authority is a local authority in Scotland, to the Secretary of State for Scotland, who may determine the question.

PART II

RULES APPLICABLE TO PENSIONABLE OFFICERS OF LOCAL AUTHORITIES WHO BECOME ESTABLISHED CIVIL SERVANTS.

6. In this part of these Rules—

(a) the expression “the officer” means a person who, being a pensionable officer of a local authority to which these rules apply, becomes an established civil servant (otherwise than in the capacity of an officer to whom Section 11 (9) of the Mental Treatment Act, 1930, applies) and as respects whom it is certified to the Treasury at the time of his appointment by the Department of the Civil Service to which he is appointed that, with the consent of the local authority to his leaving their service, either

- (i) he was appointed on account of his special qualifications; or
- (ii) he was selected from other candidates by a selection board, and his local government service was a material factor in his selection;(a)

(b) the expression “the responsible local authority” means the local authority in whose service the officer was immediately before his appointment to the Civil Service.

7.—(1) If the officer on ceasing to be employed by the responsible local authority becomes entitled to a return of contributions under any provision of the local superannuation enactment applicable to him, and if, within one month after his appointment to the Civil Service takes effect he gives notice in writing to the responsible local authority relinquishing such right, the said provision for the return of contributions shall, subject to the provisions of these Rules, cease to have effect in relation to him and any person claiming under him:

Provided that if the officer dies on or before the last day on which he may give notice as aforesaid and the Treasury are satisfied that he had

(a) Para. (a) as amended by S.R. & O. 1940 No. 1076.

decided to relinquish his right to a return of contributions, the Treasury may sanction the waiver of such notice in writing, and thereupon the officer shall be deemed to have given notice in accordance with the terms of this rule.

(2) The responsible local authority shall immediately inform the Department of the Civil Service in which the officer is employed of any such notice in writing as aforesaid which has been received by that authority.

8.—(1) For the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any retiring award to be made to him or (in the case of death) to his legal personal representatives, any service of the officer which was pensionable local authority service for the purposes of the local superannuation enactment applicable to him at the date of his appointment to the Civil Service shall, subject as hereinafter provided, be deemed to have been service in an established capacity in the Civil Service:

Provided that this paragraph shall not apply to—

- (a) any service in respect of which the officer has made contributions under a local superannuation enactment if those contributions have been returned to him and have not been subsequently refunded by him prior to his entry into the Civil Service or if having a right to the return of them, he has not relinquished that right under these Rules; or
- (b) any service which has been taken into account in the calculation of any superannuation allowance awarded to him under a local superannuation enactment before his appointment to the Civil Service or of any annual allowance awarded to him as compensation for the loss of a whole time office or of any two or more offices which in the aggregate involved the whole-time service of the officer.

(2) When any such retiring award falls to be calculated upon the number of completed years served by the officer, the amount of such award shall be calculated only upon the number of completed years served by him in an established capacity in the Civil Service.

(3) If the aggregate pensionable service as determined under paragraph (1) of this rule amounts to at least 10 years but service in an established capacity in the Civil Service is less than 10 years, there may be granted to the officer under and subject to the Superannuation Acts an annual superannuation compensation or retiring allowance equal to one-eightieth of the annual salary and emoluments of his office for each completed year of his service in an established capacity in the Civil Service.

(4) For the purposes of this rule, the expression “retiring award” includes any payment whether of an annual allowance or of an additional allowance which may be made to an established civil servant and any payment of a gratuity which may be made to the legal personal representatives of an established civil servant under the Superannuation Acts.

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9.—(1) On the retirement of the officer from the Civil Service or any other public office or employment recognised by the Treasury as being employment to which it is expedient that the provisions of Section 4 of the Superannuation Act, 1914, should apply in such circumstances as qualify him for the grant of an annual superannuation allowance under the Superannuation Acts as modified by these Rules then, subject as hereinafter provided(a)—

4 & 5 Geo. 5.
c. 86.

12 & 13 Geo.
5. c. 59.
19 & 20 Geo.
5. c. 17.
19 & 20 Geo.
5. c. 25.

15 & 16 Geo.
5. c. 47.
19 & 20 Geo.
5. c. 35.

(a) if at the date of his appointment to the Civil Service he was subject to the Local Government and other Officers Superannuation Act, 1922, or to that Act as modified by Section 124 of the Local Government Act, 1929, or Section 7 of the Local Government (Scotland) Act, 1929, he shall be entitled to receive from the responsible local authority an annuity payable during life and calculated at the rate of 1/60th of his pensionable emoluments in respect of each completed year (if any) of his contributing service under the relevant statutory provisions, and 1/120th (or such higher rate not exceeding 1/60th as the responsible local authority may, by resolution, passed before, or within six months after, his appointment to the Civil Service, have determined) of such emoluments in respect of each completed year, or part of a year exceeding six months (if any), of his non-contributing service;

(b) if at the date of his appointment to the Civil Service he was subject to the Fire Brigade Pensions Acts, 1925 to 1929, he shall be entitled to receive from the responsible local authority an annuity payable during life and calculated at the rate of 1/60th of his pensionable emoluments in respect of each completed year (if any) not exceeding thirty in all of his approved service under the said Act of 1925 (including any service which he is entitled to reckon as approved service under Section 22 (1) (a) of the said Act) and the responsible local authority may increase a superannuation allowance granted under this sub-paragraph in the like manner and circumstances and subject to the like conditions as they may increase a pension under sub-section (2) of Section 22 of the said Act;

(c) if at the date of his appointment to the Civil Service he was subject to some other local superannuation enactment under which employees become entitled to benefits on retirement, he shall be entitled to receive from the responsible local authority an annuity payable during life, or if under such local superannuation enactment a superannuation allowance includes a lump sum payment in addition to an annuity, then an annuity payable during life and a lump sum, and the annuity or annuity and lump sum, as the case may be, shall be calculated at the rate of such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable local authority service as would have been applicable under that enactment in the calculation of his superannuation allowance,

(a) Para. (1) as amended by S.R. & O. 1947 No. 2809.

if at the date of his appointment to the Civil Service he had attained the age of 60 years, and completed 40 years of pensionable local authority service;

- (d) if at the date of his appointment to the Civil Service he was not subject to any such local superannuation enactment as aforesaid but the responsible local authority had a discretionary power under a local superannuation enactment to grant superannuation allowances to employees on retirement, that local authority may grant him a superannuation allowance calculated at the rate of such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable local authority service as would have been applicable under the local superannuation enactment if he had been qualified for a grant thereunder at the date of his appointment to the Civil Service.

(2) Notwithstanding anything in the foregoing provisions of this rule

- (i) if the local superannuation enactment to which the officer was subject distinguishes between contributing and non-contributing service, any superannuation allowance which he is entitled to receive under the provisions of the foregoing paragraph shall, in so far as it relates to contributing service, be calculated at the full rate appropriate to contributing service, notwithstanding that the period of such service may have been less than 10 years;
- (ii) no service of the character specified in the proviso to Rule 8 (1) shall be taken into account in granting or calculating any superannuation allowance under this rule.

(3) For the purposes of this rule, the expression "pensionable emoluments" means the amount in respect of salary, wages and emoluments on which, at the date of the officer's appointment to the Civil Service, his superannuation allowance under the local superannuation enactment applicable to him would have been based if at that date he had been entitled or qualified to receive one:

Provided that where such superannuation allowance would have been based on the average emoluments received during a period of years and that period is longer than the period of the officer's pensionable local authority service for the purposes of the local superannuation enactment so applicable to him as aforesaid, the latter period shall be substituted for the longer period.

(4) Where by virtue of sub-paragraph (b) or of sub-paragraph (c) of paragraph 1 of this rule the officer becomes entitled to a superannuation allowance from the responsible local authority and the pensionable local authority service in respect of which it is calculated was service as an established officer under the Asylums Officers' Superannuation Act, 1909, or that Act as modified by the Asylums and Certified Institutions (Officers Pensions) Act, 1918, or was approved service under the Fire Brigade Pensions Act, 1925 the responsible local authority shall have the same right (if any) to receive contributions towards the superannuation allowance from any other authority or authorities with whom the officer may have previously served as they would have had if the officer had become entitled to a superannuation allowance under the said Act of

9 Edw. 7.
c. 48.
8 & 9 Geo. 5.
c. 33.

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1909 or under that Act as modified by the said Act of 1918 or under the said Act of 1925, as the case may be, and the proviso to Section 12 of the said Act of 1909 or Section 7 (2) of the said Act of 1925, as the case may be, shall apply to the determination of any dispute between the responsible local authority and any other authority as to the amount of any such contribution.

10.—(1) Where under the last preceding rule the officer will, if he retires from the Civil Service in such circumstances as qualify him for the grant of an annual superannuation allowance under the Superannuation Acts as modified by these Rules, become entitled to a superannuation allowance from the responsible local authority, that local authority shall, as soon as may be after the officer's appointment to the Civil Service, record in their minutes and notify both to the Department in which the officer is employed and to the officer the local superannuation enactment applicable to him, the length of his pensionable local authority service (contributing and non-contributing respectively) and the amount of his pensionable emoluments within the meaning of Rule 9 (3).

(2) If the officer disputes the accuracy of the record so notified to him by the responsible local authority and within three months after the receipt of the notification applies, where the local authority is an authority in England or Wales to the Minister of Health, and where the local authority is an authority in Scotland to the Secretary of State for Scotland, to determine any question as to the accuracy of the record, the Minister or the Secretary of State may determine that question and a local authority shall record in their minutes any determination of that question.

(3) On the officer's retirement from or death in the Civil Service, or any other public office or employment recognised by the Treasury as being employment to which it is expedient that the provisions of Section 4 of the Superannuation Act, 1914, should apply the Department in which he was employed shall notify the fact to the responsible local authority, and if he was retired with an annual superannuation, compensation or retiring allowance, the amount of such allowance, and the length of service and the emoluments upon which it was calculated.(a)

4 & 5 Geo. 5.
c. 86.

9 Edw. 7.
c. 10.
50 & 51 Vict.
c. 67.

11. If the officer is retired from the Civil Service under Section 6 of the Superannuation Act, 1909 (abolition of office, etc.) with an annual compensation allowance, or under Section 2 of the Superannuation Act, 1887 (removal on the ground of his inability to discharge efficiently the duties of his office) with an annual retiring allowance, he shall be paid by the responsible local authority such sum by way of return of contributions and interest (if any) as he would have been entitled to receive at the date of his appointment to the Civil Service if he had then retired from their service for the reason for which he is retired from the Civil Service, and in addition, if his contributions would then have been returnable with interest, interest similarly calculated in respect of the period from the date of his appointment to the Civil Service to the date of his retirement therefrom.

(a) Para. (3) as amended by S.R. & O. 1947 No. 2809.

12. If the officer dies after retirement from the Civil Service in circumstances which render his legal personal representatives eligible for a gratuity under Section 2 (2) of the Superannuation Act, 1909, then for the purpose of calculating the deficiency upon which such gratuity is based, any superannuation allowance (or any lump sum in addition thereto) paid to him by the responsible local authority shall be added to the amount of the superannuation allowance and additional allowance received by him under the Superannuation Acts.

13.—(1) Nothing in these Rules shall affect any liability or obligation of the officer in respect of any arrears of contributions under a local superannuation enactment.

(2) If any sum payable by the officer to any local authority for the purpose of acquiring superannuation rights under a local superannuation enactment remains unpaid at the date of his appointment to the Civil Service, the officer shall be deemed for the purposes of the payment of such sum to have remained in the service of the local authority, and in the event of his death before the whole of the sum has been paid the liability for the unpaid balance shall be treated as cancelled.

14. Any payment to the officer under this part of these Rules by a local authority shall be charged in the same manner, as nearly as may be, as such payment would have been charged if at the date of his appointment to the Civil Service the officer had been retiring from the service of the local authority in circumstances entitling him to or qualifying him for such payment under the local superannuation enactment applicable to him.

PART III

RULES APPLICABLE TO ESTABLISHED CIVIL SERVANTS WHO BECOME PENSIONABLE OFFICERS OF LOCAL AUTHORITIES.

15. In this part of these Rules—

- (a) the expression “the officer” means a person who, being an established civil servant (including a person who is serving or has served as an officer of the Unemployment Assistance Board or as a Commissioner of the Board of Control), becomes a pensionable officer of a local authority to which these Rules apply and as respects whom it is certified to the Treasury by that local authority at the time of his appointment to their service that, with the consent of the Department of the Civil Service in which he was employed to his leaving the Civil Service, either—
- (i) he was appointed on account of his special qualifications; or
 - (ii) he was selected by the local authority from other candidates and his civil service was a material factor in his selection;
- (b) the expression “the responsible local authority” means the local authority to whose service the officer is appointed from the Civil Service or, if subsequently without having become entitled to any benefit under these Rules the officer becomes a pensionable officer of any other local authority to which these Rules apply in circumstances which entitle him to reckon for superannuation

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purposes all his local government service subsequent to his civil service, the local authority in whose service he is for the time being.

16.—(1) On the officer's appointment by the responsible local authority, the Treasury shall notify to them and to the officer the period of the officer's service which is to be taken into account for the purposes of Rule 17.

(2) If the officer subsequently becomes a pensionable officer of any other responsible local authority, such authority shall forthwith inform the Treasury of the fact and thereupon the Treasury shall send such authority a notification in the terms of paragraph (1) of this rule.

17. For the purpose of determining under the local superannuation enactment applicable to the officer, when he ceases to hold office under the responsible local authority, whether he has served for any minimum period which under that enactment would entitle him to or qualify him for any benefit or (in the case of death) would entitle his legal personal representatives to any benefit, the following periods of service namely—

- (a) any period of service which shall have been notified to the responsible authority by the Treasury under Rule 16; and
- (b) in the case of a person who was in pensionable local authority service immediately before he became a civil servant, any period of pensionable local authority service which, if he had remained a civil servant, would have been taken into account for the purposes of Part II of these Rules,^(a)

shall, subject as provided in Rule 18 (4), be taken into account, and if the local superannuation enactment is one under which in return for contributions officers become entitled to benefits, any such period of service shall be deemed to have been a period during which the officer was a contributor under that enactment.

18.—(1) If the officer on ceasing to hold office under the responsible local authority becomes entitled to a superannuation allowance under the local superannuation enactment applicable to him, whether by virtue of Rule 17 or otherwise, the superannuation allowance shall be ascertained in the following manner—

- (a) if he is subject to the Local Government and other Officers' Superannuation Act, 1922, or to that Act as modified by Section 124 of the Local Government Act, 1929, or Section 7 of the Local Government (Scotland) Act, 1929, the superannuation allowance shall be an annuity payable during life and calculated at the rate of 1/60th of his pensionable emoluments in respect of each completed year (if any) of his contributing service under the relevant statutory provisions, and 1/120th (or such higher rate not exceeding 1/60th as the local authority may by resolution have determined) of such emoluments in respect of each completed year, or part of a year exceeding 6 months (if any), of his non-contributing service;

^(a) Para. (b) as amended by S.R. & O. 1946 No. 1391 *see* the title "Metropolitan Police District."

- (b) if he is subject to the Fire Brigade Pensions Acts, 1925 to 1929, the superannuation allowance shall be the pension to which he is entitled under those Acts, having regard to the length of his approved service, and for the purpose of calculating this pension Scale 1 of Table 1 in the Schedule to the said Act of 1925 shall be deemed to provide a pension of 1/60th of annual pay for each completed year of approved service from one to twenty-four years and Scale II of that table shall be deemed to provide a pension of 1/60th of annual pay for each completed year of approved service from one to nine years;
- (c) if he is subject to any other local superannuation enactment under which officers become entitled to benefits on retirement, the superannuation allowance shall be an annuity payable during life, or if under such local superannuation enactment a superannuation allowance includes a lump sum payment in addition to an annuity, then an annuity payable during life and a lump sum, and shall be calculated at the rate of such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable local authority service as would have been applicable under that enactment in the calculation of his superannuation allowance if on his ceasing to hold office he had attained the age of 60 years and completed 40 years of pensionable local authority service.
- (2) Notwithstanding anything in the foregoing provisions of this rule, if the local superannuation enactment distinguishes between contributing and non-contributing service, any superannuation allowance which the officer shall be entitled to receive under those provisions shall, in so far as it relates to contributing service, be calculated at the full rate appropriate to contributing service, notwithstanding that the period of such service may have been less than 10 years.
- (3) If the officer on ceasing to hold office under the responsible local authority is not subject to any such local superannuation enactment as aforesaid but the responsible local authority have a discretionary power under a local superannuation enactment to grant superannuation allowances to employees on retirement and if the officer is qualified for the grant of such an allowance, the local authority may grant to him a superannuation allowance calculated at the rate of such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable local authority service as would be applicable in the case of a person who, apart from these Rules, was qualified for a grant under the local superannuation enactment.
- (4) Notwithstanding anything in the foregoing provisions of this rule or of Rule 17 no service of the character specified in the proviso to Rule 8 (1) shall be taken into account in determining any minimum period under Rule 17 or in granting or calculating any superannuation allowance under this rule.
- (5) For the purposes of this rule—
- (a) the expression “ service ” includes in the case of a person who was in the service of the responsible local authority immediately before he became a Civil Servant and to whom Part II of these

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Rules applied, any service which was then reckonable as service for the purpose of the local superannuation enactment applicable to him;(a)

- (b) the expression "pensionable emoluments" means the amount in respect of salary, wages and emoluments on which the superannuation allowance of the officer would have been based if apart from these Rules he had been entitled to or qualified for a superannuation allowance under the local superannuation enactment applicable to the case:

Provided that if the allowance would have been based on the average emoluments received during a period of years and that period is longer than the period of the officer's pensionable local authority service for the purposes of the local superannuation enactment applicable to the case the latter period shall be substituted for the longer period.

19. If the officer ceases to hold office under the responsible local authority in such circumstances as qualify or entitle him to receive from that local authority an annual superannuation allowance under the local superannuation enactment applicable to him or under that enactment as modified by these Rules, the Treasury may grant to the officer such superannuation allowance and additional allowance, if any, as might have been granted to him under the Superannuation Acts at the date when he became a pensionable officer of a local authority if he had then retired from the Civil Service on the ground of ill health, and if those Acts had provided in the event of his service in the Civil Service being less than ten years for the grant of a superannuation allowance calculated, if he was subject to the Superannuation Act, 1859, at the rate of one-sixtieth or, if he was subject to the Superannuation Act, 1909, one-eighth, of the annual salary and emoluments of his office for each completed year of his reckonable pensionable service.

22 Vict. c. 26.

20. On the officer ceasing to hold office under the responsible local authority in the circumstances specified in the last preceding rule, that local authority shall notify to the Department of the Civil Service in which he was employed immediately before becoming a pensionable officer of a local authority and to any local authority in whose service he may have been a pensionable officer immediately before becoming a civil servant the amount of the superannuation allowance awarded to him by the responsible local authority and the length of service upon which it was calculated.

21.—(1) If the officer on ceasing to hold office under the responsible local authority is awarded by that authority an annual superannuation allowance under the local superannuation enactment applicable to him or under that enactment as modified by these rules, and if immediately before his appointment to the Civil Service he was a pensionable officer of some other local authority and on his appointment to the Civil Service became an officer to whom Part II of these Rules applied, then,—

- (a) if the local superannuation enactment applicable to him was one under which officers become entitled to benefits on retirement,

(a) Para. (a) as amended by S.R. & O. 1946 No. 1391 see the title "Metropolitan Police District."

he shall also be entitled to receive from the local authority in whose service he was immediately before his appointment to the Civil Service an annual superannuation allowance ascertained in accordance with the provisions of sub-paragraphs (a) (b) and (c) of paragraph (1) and paragraphs (2) and (3) of Rule 9;

- (b) if the local authority in whose service he was immediately before his appointment to the Civil Service have a discretionary power under a local superannuation enactment to grant superannuation allowances to employees on retirement on certain conditions, that local authority may though those conditions are not fulfilled grant to the officer a superannuation allowance calculated at the rate of such fraction or fractions of his pensionable emoluments within the meaning of Rule 9 (3) in respect of each year or part of a year of his pensionable local authority service (excluding service of the character specified in proviso (b) to Rule 8 (1)) as would have been applicable under the local superannuation enactment if he had been qualified for a grant thereunder.(a)

(2) Notwithstanding anything in this rule no pensionable local authority service shall be taken into account for the purposes of this rule if it is service which is taken into account for the purposes of the grant or calculation of the allowance granted to the officer by the responsible local authority.

22. Any payment to the officer under this part of these Rules by a local authority other than the responsible local authority shall be charged in the same manner, as nearly as may be, as such payment would have been charged if at the date of his appointment to the Civil Service the officer had been retiring from the service of the local authority in circumstances entitling him to or qualifying him for such payment under the local superannuation enactment applicable to him.

*James Stuart,
Arthur Hope,*

Two of the Lords Commissioners of
His Majesty's Treasury.

Treasury Chambers.
24th June, 1936.

(ii) Assistance Board (Superannuation) Rules

THE ASSISTANCE BOARD (SUPERANNUATION) RULES, 1940.(b)
DATED JUNE 25, 1940.

1940 No. 1076

The Lords Commissioners of His Majesty's Treasury, after consultation with the Minister of Health and with the Secretary of State for Scotland, in pursuance of the powers conferred upon Them by Section 9 of the

(a) Para. (1) as amended by S.R. & O. 1946 No. 1391 *see* the title "Metropolitan Police District."

(b) These Rules supersede the provisional rules of the same title which were made on the 8th May, 1940.