instead of £36 out of every £100. There was no attempt to face up to that argument, for the simple reason that the Minister could not do it. That is the reason; and it is no good accusing me of being able to twist figures or to present a case in order to prove the opposite, because the information I am using is available to every member if he wishes to see it.

We get the sort of performance which we had from the member for South Perth, when he talked about a district being consistently revalued when his own Minister picked it out as one of the districts which because it had not been revalued, had caused inconsistencies in revaluations. How can we deal with a situation like that! Where do we start?

Mr. Grayden: Nonsense! It was pointed out that it was revalued in 1959.

Mr. TONKIN: I suggest that the member for South Perth should read *Hansard*.

Mr. Grayden: I don't care what it says in *Hansard*—

Mr. TONKIN: The member for South Perth does not care what is in *Hansard* or what his Ministers say.

Mr. Grayden: Why don't you stick to your facts?

Mr. Brand: Who is arguing with whom?

Mr. TONKIN: Now that the ranting has finished, I will conclude.

Mr. Brand: I wondered where the ranting was coming from!

Mr. TONKIN: I submit that the argument on this side of the House has been completely convincing; and no attempt on the part of the Government has been made to face up to the criticism. To those who charge us with being frivolous and capricious in this matter I can, in justification for our attitude, repeat the protests which have been made—and they must have been many, because when the *Daily News* or *The West Australian* will print something in support of a case from this side, then it has to be pretty strong indeed. Already protests have been published in the Press indicating that the dissatisfaction is widespread; and well the Government will experience it if, perchance, circumstances are such as to force it to a general election.

Question put and a division taken with the following result:—

Ayes—21.

Mr. Bickerton	Mr. Kelly
Mr. Brady	Mr. D. G. May
Mr. Curran	Mr. Moir
Mr. Davies	Mr. Norton
Mr. Evans	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Heal	Mr. Sewell
Mr. J. Hegney	Mr. Tonkin
Mr. W. Hegney	Mr. H. May
Mr. Jamieson	*(Teller.)*

Noes—21.

Mr. Bovell	Mr. Hutchinson
Mr. Brand	Mr. Lewis
Mr. Burt	Mr. I. W. Manning
Mr. Cornell	Mr. W. A. Manning
Mr. Court	Mr. Mitchell
Mr. Crommelin	Mr. Nalder
Mr. Gayfer	Mr. Nimmo
Mr. Grayden	Mr. Runciman
Mr. Guthrie	Mr. Wild
Mr. Hart	Mr. O'Neil
Dr. Henn	*(Teller.)*

Pairs.

Ayes.	Noes.
Mr. Graham	Mr. O'Connor
Mr. Toms	Mr. Dunn
Mr. Hawke	Mr. Craig

The SPEAKER (Mr. Hearman): The voting being equal, I give my casting vote with the Noes.

Question thus negatived.

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT BILL

Returned

Bill returned from the Council with an amendment.

ADJOURNMENT OF THE HOUSE

MR. BRAND (Greenough—Premier) [9.50 p.m.]: I wish to advise the House that we will be sitting tomorrow (Thursday). I move—

That the House do now adjourn.

Question put and passed.

House adjourned at 9.49 p.m.

Legislative Council

Thursday, the 30th August, 1962

CONTENTS

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4 p.m., and read prayers.

QUESTION ON NOTICE

ITINERANT SALESMEN

Protection of Housewives

The Hon. E. M. HEENAN asked the Minister for Mines:

(1) Has it come to the knowledge of the Minister for Police that a number of people, mainly housewives, have complained about the questionable methods adopted by certain itinerant salesmen in inducing them to sign contracts for the purchase of expensive sets of books, etc., for their children?

(2) If the answer is in the affirmative, is it proposed to take any steps to deal with the situation?

The Hon. A. F. GRIFFITH replied:

(1) Yes, in regard to high-pressure sales tactics being employed by certain salesmen, but not in regard to stand-over methods or threats.

(2) If any person orders a salesman from the premises and he refuses to leave, he would be liable for trespass and a complaint to the local police would ensure his removal.

BILLS (2): THIRD READING

1. Business Names Bill.

   Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and passed.

2. Cemeteries Act Amendment Bill.

   Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and transmitted to the Assembly.

LAW REFORM (STATUTE OF FRAUDS) BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Justice) [4.5 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to provide that the Statute of Frauds, 1677—an old English Act—continues in force in Western Australia, in relation to any promise or agreement, whether made before or after the coming into operation of this Bill, but as if several passages were deleted from section 4. Those passages are contained in clause 2 of the Bill.

Before proceeding with any further detailed explanation of the intentions of the Bill, it should be said that the principal Act—which is an Imperial Act and may be referred to as 29 Charles 2 Chapter III of 1677—has been enforced since the founding of the colony in 1829, and continued in force under section 57 of the Constitution Act, 1889. That Act authorises the State Legislature to alter such Imperial Acts in force in Western Australia.

Regardless of criticism and allegations of the Statute of Frauds being badly drafted, and though judges and writers have for more than a hundred years been urging the repeal of the provisions to which objection is now taken, the main body of the Act has been in force for nearly three centuries. As indicative of the urgent need of the day for some such legislation to be brought down, it may be said that the disorder consequent upon the ravages of the Civil War, the Cromwell era, and the Restoration, had emboldened unprincipled litigants to proceed with spuriously-founded claims supported by false evidence.

So we see the Statute of Frauds was introduced for the prevention of many fraudulent practices commonly endeavoured to be upheld by perjury and subornation of perjury. Its need at the time was urgent to overcome the perplexities of finding the facts in a common law action. There was a further obstacle to justice in that juries were by right allowed to make decisions consequent upon their personal knowledge and independent of the evidence brought to court; nor could their verdicts be brought to conform with the new demands of society. It is because of such legislation as the Statute of Frauds that British justice, as it has come down to us, came into being.

Section 4 of the Act provided that in the case of the following agreements no action should be brought unless the agreement, or some memorandum or note thereof, is in writing and signed by the parties to be charged therewith, or some other person thereunto by him lawfully authorised—

(a) whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate;

(b) whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person (i.e. on a guarantee);

(c) to charge any person upon an agreement made upon consideration of marriage;

(d) upon any contract or sale of lands, tenements or hereditaments or any interest in or concerning them;

(e) upon any agreement that is not to be performed within the space of one year from the making thereof.

In 1925, the Imperial Parliament repealed the provision in section 4 governing contracts for the sale of interests in land, and re-enacted the same with slight modifications, by section 40 of the Law of

Property Act, 1925. Section 4 of the Statute was repealed in 1954 by the Law Revision Committee of England, except so far as it concerns "any special promise to answer for the debt, default or miscarriage of another person."

Because of changed conditions, it is considered that the provisions of section 4 of the Statute of Frauds, in so far as they apply in this State, should be brought into line with those now prevailing in England. That view is supported by the following facts:—

(a) The reasons for the passing of the Act in 1677 no longer obtain. Any particular parties may themselves give evidence notwithstanding their interest in proceedings.

(b) In nearly all civil actions the facts are ascertained by a judge or magistrate and not by a jury.

(c) Uniformity with England in regard to this section is desirable.

(d) Finally, as previously mentioned, judges and writers, for over a century, have been urging the repeal of the provisions now objected to.

The Law Reform Committee of the Law Society of Western Australia recommended the repeal of section 4 of the Statute of Frauds in so far as it relates to—

1. Any special promise by an executor or an administrator to answer damages out of his own estate.

2. The charging of any person upon an agreement made upon consideration of marriage.

3. Any agreement that is not to be performed within the space of one year from the making thereof.

This Bill covers the Law Society's recommendation. It will enable actions to be brought in respect of those agreements just mentioned, and appearing in clause 2 of the Bill, notwithstanding that such agreements are not evidenced by writing signed by the party to be charged, or his agent.

Debate adjourned, on motion by The Hon. E. M. Heenan.

LOTTERIES (CONTROL) ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.7 p.m.]: I move—

That the Bill be now read a second time.

This Bill, which has been passed in another place, has two main objects. The first is to legalise the existing practice of the Lotteries Commission paying out on a ticket which has been lost or destroyed, upon the submission of a statutory declaration by its owner. Though this procedure has been in operation for some years, there is, in fact, no authority in the Act for the commission to pay prizes, except upon production of the prize-winning ticket. The attention of the commission has been drawn to this fact by the Auditor-General, as a result of which this Bill proposes the amendment of section 10 of the Act.

Under the appropriate paragraph of subsection (d) of that section, the commission is authorised to pay out the prize money payable in respect of a prize-winning ticket on receipt of the ticket purporting to be endorsed by the person purporting to be the holder of the ticket with his signature and address. Because there is no statutory provision in respect of destroyed or lost tickets, it is intended to add to that paragraph the words set out in clause 2 of the Bill, and so legalise the existing practice.

The second amendment, which appears in clause 3, is being introduced with a view to extending the scope of charitable organisations which may be granted permission by the commission to hold any guessing competition, raffle, or art union, in connection with any bazaar or fair proposed to be held, and on such terms and conditions as the commission thinks fit. The permits so granted are referred to as one-day raffles. Such raffles are permitted on condition that they be conducted and finalised on the one day at a properly-organised function, and the sale of tickets is confined to where the function is being held. There is no provision in section 18 of the Act for the issuance of such permits to other public organisations.

It is desired to extend the provisions of that section to cover such various organisations as the parents and citizens' associations, Christian women's associations, etc., and other bodies having as their objective the promotion and advancement of social welfare, including public recreation and sport.

In order that such organisations might be included under the provisions of section 18, it is intended to add the words set out in clause 3 of the Bill to the end of subsection 3 of section 18, thus bringing all of those bodies previously described within the ambit of charitable organisations, as defined by subsection 3. The commission has, in effect, been issuing permits to such bodies over a number of years, and the provisions set out in clause 3 of the Bill will validate future permits.

Debate adjourned, on motion by The Hon. W. F. Willesee.

POLICE ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT BILL

Assembly's Message

Message from Assembly received and read notifying that it had agreed to the amendment made by the Council.

PHARMACY AND POISONS ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.16 p.m.]: I move—

That the Bill be now read a second time.

Amongst many things dealt with under the provisions of the Pharmacy and Poisons Act, Compilation Act, 1910, are the conditions of apprenticeship and training required preparatory to registration as a pharmaceutical chemist.

The purpose of this Bill is to substitute for the apprenticeship system of training for chemists, a system whereby a three-year academic course of training will need to be undertaken by students at a technical college or a college which might be referred to as an institute of technology. The details of the proposed new scheme of training will be prescribed by regulation, for which purpose appropriate authority is included in clause 5 of the Bill.

It is further proposed that the three-year course previously mentioned is to be followed by one year of practical training in a pharmacy under a qualified pharmacist. This new system has already been adopted in Queensland, New South Wales, and Victoria, and it is understood that South Australia and Tasmania are giving consideration to introducing a similar change.

The counterpart in Great Britain to the Pharmaceutical Council of Western Australia, abolished the apprenticeship system there some years ago. That body has requested our council, as well as all British Commonwealth countries to likewise conform. Several reasons are advanced: firstly, the new system of training is considered more modern and efficient; secondly, its introduction would facilitate reciprocity between the members of the British Commonwealth; and, thirdly, our standard would be maintained on a comparable basis with that existing elsewhere.

A further reason pointing to the desirability of introducing basic training on broad academic lines, is the necessity for pharmaceutical chemists to keep abreast of the greatly increasing range of new synthetic drugs. It is also considered that the number of hours available for academic study under the existing apprenticeship system is too limited as regards present-day study requirements. The time at present allotted for apprentices is three half-days per week at the technical college.

It has been advanced also in favour of this Bill that no Commonwealth scholarships are at present being granted. It may be expected that under the new system of academic training a fairly large number of Commonwealth scholarships will become available to students who take the pharmacy course. It should be pointed out that a continuance of the present apprenticeship system beyond a reasonable transition period could lead to Western Australian pharmacists being ineligible for registration in Britain and other States in Australia which have already fallen into line.

There is accordingly provision in clause 2 of the Bill that the amendment now proposed shall come into operation as an Act to be proclaimed on a day not later than the 31st March, 1963, with the further overriding provision contained in clause 3 —paragraph (b) of proposed new subsection (2) of section 21—that qualifications under the existing system must have been obtained before the 31st December, 1968, for eligibility for registration. Such provisions will enable the apprenticeship system to taper off.

Apprentices still under training at the date of the proclamation of the Bill will therefore be permitted to complete their indentures and receive registration provided their training has been completed before the last day in December, 1968. It follows that during the transition period the two systems will run concurrently, with a gradual falling off in the number of apprentices.

As previously indicated, the passing of this measure will ensure that we in Western Australia will keep abreast of developments in other countries and the States of the Commonwealth in this particular professional training sphere.

Debate adjourned, on motion by The Hon. W. F. Willesee.

GRAIN POOL ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.21 p.m.]: I move—

That the Bill be now read a second time.

The Wheat Pool Act was amended last session consequent upon the varied activities of The Trustees of the Wheat Pool of Western Australia, in connection with

voluntary oat pools over the past decade or so, and also in its capacity as manager and agent for the Western Australian Barley Marketing Board.

The 1961 amendments made particular provision for the handling of reserve funds in relation to the pooling of both oats and wheat; and, as a consequence, the short title of the parent Act was changed from the "Wheat Pool Act 1932-1956" to "Grain Pool Act, 1932-61". It is presently considered desirable to change the name of the corporate body from "The Trustees of the Wheat Pool of Western Australia" to "The Grain Pool of W.A." This is provided for in clause 3 of the Bill by the insertion of a new section 1A.

The provisions of subsection (1) of the proposed new section will preserve and continue in existence The Trustees of the Wheat Pool of Western Australia as a body corporate under the name of The Grain Pool of W.A., but so that the corporate identity of the body corporate and its rights, powers and duties shall not be affected. The aforementioned safeguard is facilitated through the provisions of subsection (2) of the new section 1A.

Clause 4 (a) of the Bill is purely consequential in its application. Clause 4 (b) proposes to remove the definition of "Minister" for the reason that the inclusion of this definition in the Grain Pool Act is redundant to the overriding provisions of section 4 of the Interpretations Act, 1918-1957. The appropriate part of that section reads as follows:—

> "Minister" means the Minister of the Crown to whom the administration of the Act or enactment or the Part thereof in which the term is used is for the time being committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of the Minister.

A further amendment consequential to the earlier change in title of the corporation, occurs in clause (5) affecting section 3 of the Act. This Bill is considered a very necessary measure and is commended to members.

Debate adjourned, on motion by The Hon. S. T. J. Thompson.

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [4.23 p.m.]: I move—

That the Bill be now read a second time.

The relatively small number of employees under the Public Service Act who, because of some minor physical disability, are precluded from membership of the superannuation fund contribute, in lieu, to the provident account established under the Superannuation and Family Benefits Act.

Until the Act was amended last year to enable the State to subsidise the benefits where provident subscriptions to the superannuation fund were required as a condition of service, no payment whatever was required of the State. Such obligations by the State were not, however, made retrospective. That prevented the payment of the subsidised benefits in respect of contributions made prior to December, 1961—the date of assent of the Act.

Many employees have been contributing for as long as 10 years, and, in all, about 20 employees are to miss out on the subsidy in respect of contributions made prior to the passing of the amending regulation. The main purpose of this Bill is to overcome that defect in the amending Bill of 1961.

It is considered equitable to treat all members of the provident account on the same benefits basis, and, consequently, the passing of this measure will effectuate that desire by giving retrospective effect to the Act passed last session. The immediate cost to the State will not amount to a substantial sum and the ultimate cost spread over many years will approximate no more than about £9,000.

The minor amendments contained in the Bill have to do with provident account conditions. They will remove some existing doubts regarding the definition of "Condition of Service." Such will be clarified by reference being made, in particular, to employees only—because of their inability to pass the required medical examination to become eligible as contributors for the benefits of the superannuation scheme, or because of ineligibility due to age—being covered by the subsidy provisions relating to provident subscriptions.

Debate adjourned, on motion by The Hon. W. F. Willesee.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [4.26 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 11th September.

Question put and passed.

House adjourned at 4.26 p.m.