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[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1936.

A BILL

To ratify an agreement made between the Honourable David Henry Drummond, the Minister of Public Instruction of the State of New South Wales for and on behalf of the said State of the one part and the Honourable Robert Gordon Menzies, Attorney-General of the Commonwealth of Australia for and on behalf of the said Commonwealth of the other part; to provide for the carrying into effect of the said agreement; to validate certain matters; and for purposes connected therewith.

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the Child Welfare Short title.
(Commonwealth Agreement Ratification) Act, 1936.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The agreement, a copy of which is set out in the Validation of agreement.
Schedule to this Act, is hereby validated.

3. (1) In this Act, unless the context or subject matter Definitions.
otherwise indicates or requires,—

“Agreement” means the agreement ratified by this Act.

“Child” means boy or girl under the age of eighteen years and, in the absence of positive evidence as to age, apparently under eighteen years of age.

“Officer” means officer appointed for the administration of the State Act, and includes any person acting under the instructions of the Minister charged with the administration of the State Act, but does not include any special or other magistrate appointed for the judicial administration of the State Act.

“State Act” means the Child Welfare Act, 1923, as amended by subsequent Acts, and includes any Act passed after the commencement of this Act in amendment of or in substitution for that Act as so amended, and also includes the regulations for the time being in force under any such Act.

“State institution” means an institution in the State established under the State Act, and includes any place or premises of the State in which a child may be held, detained, or placed under any of the provisions of the State Act.

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(2) A reference in this Act to a "child to whom the agreement relates" shall be construed as a reference to a child who has been committed into or ordered to be committed or removed into or detained in a State institution by a court, judge, magistrate or justice of the peace acting or purporting to act under any law or ordinance of or in force in the Territory for the Seat of Government.

4. Notwithstanding any other Act, all the provisions of the agreement may be carried into effect, and the Governor, the Minister, and the secretary and other officers are hereby expressly authorised to make, do and execute any acts, matters and things that may be necessary or desirable to give full effect to the provisions of the agreement or of this Act, and the Governor may, for the purpose of enabling full effect to be given to the provisions of the agreement or of this Act, by proclamation to be published in the Gazette, amend, modify, supplement, repeal or suspend the provisions of any Act or any rule, ordinance, regulation or by-law.

Carrying agreement into effect. cf. Act No. 62, 1931, s. 5.

5. (1) Any child to whom the agreement relates may, under and in accordance with the provisions of the agreement, be received into the custody of an officer, and when any such child has been so received the following provisions shall have effect:—

Supplementary provisions.

- (a) The child to whom the agreement relates shall be detained, cared for and maintained in all respects as if he had been lawfully committed by a children's court under an order then in force.
- (b) The child to whom the agreement relates shall, subject to the provisions of the agreement, become and remain subject to the terms and provisions of the State Act in all respects as if he had been lawfully committed by a children's court under an order then in force.
- (c) The Minister, the secretary and other officers may, subject to the provisions of the agreement,

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as regards any such child to whom the agreement relates exercise any powers, discretions and authorities vested in them by the State Act.

- (d) The State Act shall, in its application to or in respect of any child to whom the agreement relates, be read and construed as if the expression "child" where used therein had the meaning given to that expression by this Act.

(2) Where a child to whom the agreement relates has, in purported or intended execution of the provisions of subclause (a) of clause two of the agreement or of the provisions of subsection one of this section been received by an officer—

- (a) no action, suit or proceeding shall lie against the State or any officer or authority of the State for or by reason of the apprehension, conveyance or removal of such child or his detention in any State institution (including the Metropolitan Shelter) or the exercise of any power, discretion or authority vested in any person by the State Act;
- (b) the State, and any officer or authority of the State shall not be held liable by reason of any further order of any court, judge, magistrate or justice of the peace acting or purporting to act as referred to in subclause (a) of clause two of the agreement unless and until notice of the same has been given to the secretary.

(3) Unless the context otherwise requires any notice, demand, request or communication that may or is to be given or made to the State or the Minister or the secretary or any other authority of the State in pursuance of or under the agreement by the Attorney-General of the Commonwealth or other the Minister of the Commonwealth for the time being administering the statutes and ordinances of the Territory for the Seat of Government relating to uncontrollable children, shall be deemed to have been duly given or made if signed by or on behalf of the Attorney-General or such Minister as the

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the case may be, and delivered to the secretary or sent in a prepaid letter addressed to the secretary at his usual official address.

(4) Nothing in this section shall be construed so as to prejudice or limit the generality of section four of this Act.

6. Any act, matter or thing made, done or executed by the Governor, the Minister, or the secretary or any other officer which would have been lawful if this Act had been in force at the time such Act, matter or thing was made, done or executed is hereby validated. Validation.

SCHEDULE.

AGREEMENT made the sixth day of December, in the year one thousand nine hundred and thirty-five, between the Honourable David Henry Drummond, the Minister of Public Instruction of the State of New South Wales, for and on behalf of the said State, of the one part, and the Honourable Robert Gordon Menzies, Attorney-General of the Commonwealth of Australia, for and on behalf of the said Commonwealth, of the other part. Whereby it is agreed as follows:—

1. In this agreement unless the contrary intention appears the singular shall include the plural and the plural the singular and the masculine the feminine and the following expressions shall have the meanings respectively set opposite to them:—

“Attorney-General” means the Attorney-General for the time being of the Commonwealth or other the Minister of the Commonwealth for the time being administering the statutes and ordinances of the Territory relating to uncontrollable children.

“Court” includes judge, magistrate, or justice of the peace.

“Child” means boy or girl under eighteen years of age and, in the absence of positive evidence as to age, apparently under eighteen years of age.

“Commonwealth” means the Commonwealth of Australia.

“Officer” includes member of police force or any authorised person.

“Minister”

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- “Minister” means the Minister of the State for the time being administering the State Act.
- “Secretary” means the Secretary to the Child Welfare Department of the State or the person acting as such for the time being.
- “State” means the State of New South Wales.
- “State Act” means the Child Welfare Act, 1923, of the State, as amended by subsequent Acts, and includes any Act hereafter passed in amendment of or in substitution for such Act and includes the regulations for the time being in force under any such Act.
- “State institution” means an institution in the State and established under the State Act or any place or premises of the State in which a child may be held, detained or placed under any of the provisions of the State Act.
- “Superintendent” includes manager or person in charge for the time being.
- “Territory” means the Territory for the Seat of Government of the Commonwealth.

2. (a) When a court acting or purporting to act under any law or ordinance of or in force in the Territory commits any child into or orders any child to be committed, removed into or detained in any State institution such child may be taken by an officer of the Territory from the Territory to the Metropolitan Shelter of the Child Welfare Department of the State at Sydney, and when such child is, together with the said order of the Court and if required evidence of identity of the child, handed over by such officer to and received into the custody or charge of the Superintendent of such Metropolitan Shelter then during the subsistence of the said order of the court or of any order of the court acting or purporting to act as aforesaid amending or extending or in replacement of such order, but subject to the provisions of this Agreement such child shall be detained, cared for and maintained in such Metropolitan Shelter and conveyed and removed to a State institution or institutions as determined by the Minister from time to time and there detained, cared for and maintained as if the child had been a child lawfully committed by a Children's Court of the State to a State institution under the State Act by an order then in force.

(b) Subject to the provisions of this Agreement upon the child being received into the custody or charge of the Superintendent of the said Metropolitan Shelter as aforesaid the child shall become and thereafter remain subject to the terms and provisions of the State Act in all respects as if such child had been a child lawfully committed to a State institution by a Children's Court of the said State under the State Act by an order for the time in force and the Minister, the Secretary and other officers of the State may as regards such first-mentioned child exercise any powers, discretions and authorities

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authorities vested in any of them by the State Act, save and except that no child shall be boarded out, placed out, or apprenticed under the State Act without the consent of the Attorney-General.

(c) Where any child is handed over by an officer of the Territory to the Superintendent of the said Metropolitan Shelter in purported or intended execution of the provisions of subclause (a) of this clause no action, suit or proceeding shall lie against the State or any officer or authority of the State for or by reason of the apprehension, conveyance or removal of such child or his detention in the said Metropolitan Shelter or any State institution or the exercise in respect of such child of any power, discretion or authority vested in any person by the State Act and the State and any officer or authority of the State shall not be held liable by reason of any further order of any Court acting or purporting to act as mentioned in subclause (a) of this clause unless and until the Secretary has been given notice of the same.

3. Upon service upon him of an order under the hand of the Attorney-General directing the removal to the Territory of a child detained in a State institution or boarded out, placed out, or apprenticed under the State Act in pursuance of this Agreement the Secretary shall forthwith deliver or cause to be delivered at a centre to be agreed upon such child into the custody of the person named in the order as authorised to receive the child.

4. Any child who in pursuance of this Agreement has been received in a State institution or who has been boarded out, placed out, or apprenticed under the State Act and who is discharged therefrom or from the operation of the State Act shall be conveyed to the Territory or other centre as may be determined upon by the Attorney-General at the cost and expense of the Commonwealth.

5. In respect of each and every child who is handed over by an officer of the Territory to the Superintendent of the Metropolitan Shelter as aforesaid and is received into the custody or charge of the said Superintendent, the Commonwealth shall pay to the State the cost to the State of maintaining such child and any expense reasonably incurred in conveying such child from one place to another. For the purpose of this clause the cost to the State of maintaining a child shall, during the continuance and operation of this Agreement, be deemed to be one pound ten shillings per week and proportionately for part of a week:

Provided that if in exercise of the powers conferred by or under the State Act a child is boarded out or placed out or apprenticed the said weekly payments of one pound ten shillings for the cost of the maintenance of such child shall not be payable in respect of the period for which such child shall be actually in the custody and charge of the person or master to whom he is boarded out, placed out or apprenticed and in lieu thereof the Commonwealth shall pay to the State the expenses incurred by the State on behalf of the child
(including

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(including boarding out or maintenance payments, payments for clothing, medical and dental attention, and for conveyance of the child from the State institution to the place at which it is boarded out or placed out or apprenticed and its return from such place to a State institution).

6. In the month of July in each year during the continuance or operation of this Agreement the Secretary shall furnish to the Attorney-General particulars of—

- (1) the names of all children in respect of whom the Commonwealth may be liable, who in the period ending on the thirtieth day of June then last past and commenced in the first case with the commencement of this Agreement and in subsequent cases with the first day of July of the preceding year were received, detained, cared for, maintained, or otherwise dealt with by the State or its officers or authorities under or in pursuance of this Agreement; and
- (2) the State institutions in which such children respectively were maintained and the period of maintenance in each institution.

7. In the calendar month after the termination of this Agreement the Secretary shall furnish to the Attorney-General the particulars mentioned and referred to in clause six hereof in regard to all children in respect of whom the Commonwealth may be liable, but in reference to the period commencing on the first day of July last past and ending on the termination of this Agreement.

8. Any moneys payable by the Commonwealth to the State pursuant to this Agreement shall be paid to the Secretary at Sydney.

9. Within a period of one calendar month after the particulars referred to in clause six hereof have been furnished to the Attorney-General in respect of any period ending on the thirtieth day of June in each year as mentioned in such clause, and after the particulars referred to in clause seven hereof have been furnished to the Attorney-General in respect of the period ending on the termination of this Agreement the Commonwealth will pay to the State, as herein provided, the moneys payable hereunder in regard to all children in respect of whom the Commonwealth may be liable for or in relation to the period ending on the thirtieth day of June, or the termination of this Agreement, as the case may be, to which the particulars relate.

10. Either the Minister or the Attorney-General may terminate this Agreement at any time by giving to the other of them six calendar months' previous notice in writing of such termination.

11. Upon and after any such termination, the Attorney-General may make an order directing the removal from the State to the Territory of any child at such termination detained in a State institution under this Agreement, or boarded out, or placed out or apprenticed under the State Act and this Agreement (but subject in every

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every such case to the arrangements for such boarding out or placing out or apprenticeship), and may cause such order to be served upon the Secretary, and the Secretary shall, forthwith, at the State institution or other place in which such child is, deliver or cause to be delivered such child into the custody of the person respectively named in the order as authorised to receive such child, and the person shall immediately convey to the Territory the child so delivered to him.

12. Notwithstanding any such termination of this Agreement, the provisions of this Agreement (including the provisions of clauses four, five and fifteen) shall continue to apply to and with respect to the children at the said termination detained hereunder in State institutions, or boarded out, or placed out or apprenticed under the State Act, and this Agreement, until delivered to a person authorised by the Attorney-General to receive them, or until discharged from such institutions or from the operation of the State Act.

13. Unless the context otherwise requires any notice, demand, request or communication that may or is to be given or made by the Attorney-General of the Commonwealth to the State, or the Minister, or the Secretary or any other authority of the State in pursuance of or under this Agreement, shall be deemed to have been duly given or made if signed by or on behalf of the Attorney-General and delivered to the Secretary or sent in a prepaid letter addressed to the Secretary at his usual official address.

14. Unless the context otherwise requires any notice, demand, request, communication, certificate, statement or particulars that may or are to be given or made or furnished by the State, or the Minister, or the Secretary or any other authority of the State to the Commonwealth or to the Attorney-General in pursuance of or under this Agreement shall be deemed to have been duly given, made or furnished if signed by or on behalf of the Minister, or the Secretary or other authority and delivered to or left at the office of the Attorney-General at Canberra or sent in a prepaid letter addressed to the Attorney-General at Canberra.

15. If any child shall die whilst detained in a State institution or whilst otherwise in the custody of the State under the terms of this Agreement or whilst boarded out, or placed out or apprenticed under the State Act and this Agreement the State shall do all things necessary for such child's burial, and the Commonwealth shall pay to the State all reasonable expenses to which the State may have been put in connection with the burial of such child.

16. The Commonwealth shall be responsible for the cost for the conveyance of all children from the territory to the said Metropolitan Shelter at Sydney, and the Commonwealth shall pay to the State the reasonable expenses of conveying all such children from the said Shelter to a State institution and of the removal of any child from one State institution to another.

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17. This Agreement is subject to ratification by the Parliament of the said State and by a law of the Territory, and shall not be of any force or effect until so ratified.

In witness whereof the parties hereto have hereunto set their hands this day and year first above-written.

Signed by the Honourable David Henry Drummond, Minister of Public Instruction of the State of New South Wales, for and on behalf of the said State, in the presence of—
C. H. BATE.

D. H. DRUMMOND.

Signed by the Honourable Robert Gordon Menzies, the Attorney-General of the Commonwealth of Australia, for and on behalf of the said Commonwealth, in the presence of—
GEO. S. KNOWLES.

ROBERT G. MENZIES.

