No. 1791.

An Act to Validate certain Agreements made or to be made between the Treasurer, the Commissioner of Taxes, and certain Vendors of Motor Spirit.

[Assented to, October 13th, 1927.]

Be it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:--

1. This Act may be cited as the "Motor Spirit Vendors' Agreement (Validation) Act, 1927".

2. Any agreement in the form set out in the Schedule to this Act or to the like effect made, whether before or after the commencement of this Act, between the Treasurer of the first part, the Commissioner of Taxes of the second part, and any Vendor within the meaning of that term as defined in the Taxation (Motor Spirit Vendors) Act, 1925, of the third part shall be valid and effectual for all purposes.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.
THE SCHEDULE.

This Indenture is made the day of One thousand nine hundred and twenty-seven BETWEEN THE HONORABLE RICHARD LAYTON BUTLER the Treasurer in and for the State of South Australia acting as a Public Officer of His Majesty's Government of South Australia who with his successors in office is hereinafter called "the Minister" of the first part ERNEST HARRY CORNISH the Commissioner of Taxes for the State of South Australia who with his successors in office is hereinafter called "The Commissioner of Taxes" of the second part and a Company incorporated in and having its office in the State of South Australia at (hereinafter called "The Company") of the third part WHEREAS on the 30th day of November 1925 an Act of Parliament of the State of South Australia was passed called the "Taxation (Motor Spirit Vendors) Act 1925" (hereinafter referred to as "the said Act") by which every Vendor of Motor Spirit was required to pay to the Commissioner of Taxes in addition to any other income tax payable by such Vendor income tax calculated at the rate of Three Pence for every gallon of motor spirit sold by such vendor within the State of South Australia AND WHEREAS the Company is a Vendor of Motor Spirit within the meaning of the said Act AND WHEREAS the Company upon the said Act coming into force added to the charge for Motor Spirit to its customers an amount equal to threepence per gallon AND WHEREAS the said Act was declared invalid by the High Court of Australia on the 25th day of November 1926 AND WHEREAS the Company for the period from the commencement of the said Act to the 25th day of November 1926 has actually received from its customers the sum of £ in respect of the additional amount of Three Pence a gallon charged as aforesaid upon portion of the said Motor Spirit supplied to its customers AND WHEREAS the Minister has requested the Company to pay to the Commissioner of Taxes the said sum of £ and all further amounts from time to time to be actually received by the Company in respect of such tax charged as aforesaid as and when such amounts shall be received by the Company the Minister has agreed to allocate the said sum to a special Roads Fund and to apply the same in the construction or reconstruction of roads in the State of South Australia AND WHEREAS certain of the customers of the Company have applied to the Company for a refund of the amounts charged to them during the years 1925 and 1926 in respect of the said Tax AND WHEREAS doubts have arisen as to the validity of the claim of the said customers for such refund NOW THIS INDENTURE WITNESSETH THAT IT IS HEREBY AGREED as follows:—

1. The Company shall forthwith pay to the Commissioner of Taxes the said sum of £ less all costs incurred by the Company in and about the preparation and execution of this Indenture or otherwise in relation to this Indenture and less any deduction or deductions which shall have been made by any customer or customers by way of contra account in respect of any moneys which shall have been paid by such customer or customers to the Company in respect of any tax and such further sum or sums of money as may from time to time be received by the Company from its customers in respect of such tax provided always that nothing herein contained shall be considered as in any wise imposing any obligation whatsoever to collect any outstanding amounts charged as tax or otherwise from any customer or customers of the Company.

2. The Commissioner of Taxes shall forthwith pay such sum to a Special Roads Fund hereinafter called "the Main Roads Fund" constituted by the Highways Act 1926 to be used for the purpose provided in the said Act.

3. The Commissioner of Taxes and the Minister will at all times hereafter jointly and severally indemnify and keep indemnified the Company against all claims and demands which may be made by any of the customers of the Company against the Company in respect of any moneys received and to be received by the Company from its customers as aforesaid in respect of the said Tax and whether before or after.
after the execution hereof and also against all actions suits proceedings and costs in respect thereof and in particular the Minister and the Commissioner of Taxes or one of them will on demand pay to the Company the amount of any sums which may be adjudged to be payable by the Company to such customers in respect of the said tax and also the amount of all costs awarded against the Company in respect of any proceedings on account thereof and also the amount of all costs as between Solicitor and own client which may be incurred by the Company in resisting any such proceedings or in relation thereto and the Commissioner of Taxes and the Minister or one of them will also on demand pay to the Company the amount of any sums which the Company may be unable to recover against its customers in respect of any tax which has been paid by the Company to the Commissioner of Taxes including any deduction or deductions made by any customer by way of contra account in respect of any moneys which shall have been paid by such customer to the Company in respect of any tax and all the costs incurred by the Company whether as between party and party and solicitor and own client in endeavouing to recover such moneys and the Company shall be deemed to be unable to recover such sums when the Company shall have written the same off in its books of account as not being recoverable and shall have given notice thereof to the Commissioner of Taxes and such writing off and notice as aforesaid shall be conclusive evidence that the Company is unable to recover such sums and the Company shall not be bound to take any legal proceedings against any customer in respect thereof or permit its name to be used for any such proceedings but the Company will comply with the reasonable directions of the Commissioner of Taxes with regard to steps towards the collection of such moneys short of taking legal proceedings therefor Provided that the said Company shall take all reasonable steps to resist all legal proceedings brought against the Company by any customer in respect of any claim for the return of any moneys paid to the Company in respect of any tax and in particular will do such things and employ such solicitors or counsel in resisting any such proceedings as the Government may from time to time require.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first before written.

Signed sealed and delivered by the said the
HONORABLE RICHARD LAYTON BUTLER, as
Treasurer, in and for the State of South
Australia, in the presence of—

Signed sealed and delivered by the said ERNEST
HARRY CORNISH, as Commissioner of Taxes,
in the presence of—

The Common Seal of

was hereto affixed the
day of

1927, in the presence of—