said, this proceeding is complete as well as final. The act contains no authority for a second assessment or a second application, and I discover no provisions in the law from which it could be inferred that any such subsequent assessment to make good deficiencies in the collection of the first, was contemplated by the framers of the act. The act provides how a new apportionment is to be made, in case the first apportionment is reversed or so modified as to make it necessary (§ 29), and this express provision is entitled to some weight, as an exclusion of authority to make a second apportionment, while the first remains in force, neither reversed nor modified.

Upon the whole, I am of opinion that the liability imposed by this statute upon the stockholders of banking associations, is a several liability for a ratable and equal share of the debts, in proportion to the whole debts and the whole capital stock, and not a liability to each creditor until he is paid, limited only by the amount of stock held by the stockholder, and that the statute gives no authority or jurisdiction to make more than one judgment, the first apportionment and judgment remaining unreversed.

I am, therefore, of opinion that the order appealed from should be reversed with costs.

All the judges concurring.

Order reversed.

THE METROPOLITAN BANK and THE SHOE AND LEATHER BANK *v.* VAN DYCK, Superintendent of the Bank Department: MEYER *v.* ROOSEVELT.

The act of Congress passed February 25, 1862 (ch. 33), making certain treasury notes of the United States a legal tender in payment of debts between private persons, is constitutional and valid.

The power to borrow money on the credit of the United States carries with it, it seems, the power to attach the quality of a legal tender to the notes issued, when, in the judgment of Congress, it is necessary to make them effectual for the purpose of borrowing.

The validity of this provision, as an exercise by Congress of the power to regulate commerce, discussed and maintained by MARVIN, J.

The provision of the Constitution of this State (art. 8, § 6), that the legislature shall require the redemption in specie of all bills and notes put in circulation as money, is not self-executing, so that the refusal of a bank to redeem its bills in specie authorizes the Bank Superintendent to sell the securities deposited with him.

Until the legislature shall require the redemption of bank bills in specie, an offer to pay in treasury notes made a legal tender by act of Congress is sufficient under the general banking law (ch. 260 of 1838, § 4), which only authorizes a sale of the securities upon default in paying such bills in "lawful money of the United States."

THE respondents in the first above entitled cause are banking associations, organized under the general banking law of this State, and the several acts amendatory thereof, and are located and doing business in the city of New York. By the provisions of those acts, the said banks were required to deposit securities with the bank department for the redemption and payment of the bills or circulating notes issued by such banks respectively. Upon default of any such bank, upon lawful demand, to pay any such note or bill "*in the lawful money of the United States*," the holder of such note was authorized to cause the same to be protested, and the superintendent of the bank department, on receiving such protest, is directed to take the proceedings prescribed by said act, to compel payment thereof, out of the securities so deposited with him for that purpose, and if need be to sell the same. (Chap. 260 of 1838, § 4.) On the 26th of March, 1863, one D. Valentine, being the owner and holder of a bill or note issued by each of the respondents, of the denomination of ten dollars, presented the same at their several banks, and demanded payment thereof in the gold or silver coin of the United States, which was refused by the respondents, but each tendered to him, and offered to pay the said note or bill in a note of the donomination of ten dollars, issued by the secretary of the treasury, upon the credit of the United States, under and by virtue of the act of the Congress of the United States, entitled "an act to authorize the issue of United States