

HOUSE . . . . . No. 6

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**The Commonwealth of Massachusetts**

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OFFICE OF THE COMMISSIONER OF BANKS,  
STATE HOUSE, BOSTON 33, November 5, 1958.

*To the Honorable Senate and House of Representatives.*

In compliance with §§ 33 and 33A of chapter 30, General Laws, as amended, I have the honor to submit herewith recommendations for legislation accompanied by drafts of bills for your consideration.

EDWARD A. COUNIHAN, III,  
*Commissioner of Banks.*

## RECOMMENDATIONS.

## SAVINGS BANKS.

1. Section 11 of chapter 168 of the General Laws provides that a quorum of the trustees of a savings bank shall not be less than seven. It is our opinion that, in some instances, this is an inadequate number because it could represent less than fifteen per cent of a board of trustees. A quorum of a board of trustees should represent at least a majority. We are of the opinion, therefore, that this law should be amended.

2. Chapter 168, governing savings banks, currently provides no vehicle authorizing a savings bank to surrender its charter in order to continue in business under a charter issued by the federal government. In the last session of the Congress, a bill was introduced which would have created a system of federal savings banks. As submitted to the Congress, this bill would have authorized a board of trustees of a savings bank to invest the depositors' funds with few, if any, restrictions thereon.

The savings bank system was introduced in Massachusetts over one hundred and forty years ago, and the cornerstone of its success is contained in the legislative controls which have governed its investments. This has resulted in the system receiving the confidence of the depositing public, and, as a result thereof, savings banks have flourished so that today it is one of the biggest businesses in Massachusetts, with assets in excess of five billion dollars.

If the federal government is going to seriously consider the creation of a federal savings bank system so vastly different in legislative supervision, then it is the obligation of the Commonwealth to protect the deposits of its citizens in savings banks by making sure that they will not be exposed to a loose and unsupervised system.

It is my obligation as Commissioner of Banks to make you aware of this possibility. The protection of the deposits of our citizens can be accomplished by seeing to it that the Board of Bank Incorporation, which originally chartered a savings bank in the public

interest, should have a voice in determining whether the public interest will be served by permitting such an institution to surrender a Massachusetts charter in exchange for one offered by the federal government. If public convenience and advantage will be promoted by such a move, the Board of Bank Incorporation should have the right to allow the savings bank to accept such a charter; if it would not be promoted, the board should have the right to reject the bank's petition to leave the state system.

The accompanying drafts of legislation will accomplish these objectives.

#### TRUST COMPANIES.

3. In 1950 and 1951 the then Commissioner of Banks suggested to the General Court that the sale of negotiable checks by persons other than banks ought to be under legislative control. Since that time this business has grown, and such checks are now being sold in all parts of the Commonwealth. Complaints have reached this office indicating that citizens who have purchased such checks have sustained losses as a result of the looseness of the operation. It is our opinion that legislative occupation of this field is essential.

4. In 1955, the then Commissioner of Banks supported legislation which amended § 44 of chapter 172 of the General Laws in order to create what has been commonly called a "two-way street" with respect to conversions, mergers and consolidations of Massachusetts trust companies into national banks and vice versa. The purpose was to bring the Massachusetts law into conformity with that of the National Banking Act, the latter apparently authorizing national banks to convert into or merge or consolidate with a state-chartered commercial bank, provided that the supervisory authority of the State had no voice in the state institution converting into or merging or consolidating with a national banking association. The approval given by the then commissioner to this legislation was in good faith and was intended to equalize the powers of both state and federally chartered commercial banks. It now appears, however, that the Federal Deposit Insurance Corporation may, in certain instances, refuse to approve a conversion into or merger or consolidation with a state-chartered trust company, and, in addition thereto, it also appears that the Federal Reserve Board, while it has no authority to interfere with such conversion, merger or con-

solidation per se, does, in effect, have such authority because it can refuse to approve the continuation of branches which the national bank may have had prior thereto. It is the opinion of the Banking Department that this does not provide a true two-way street, and we feel that until such time as the federal government removes all restrictions therefrom that no Massachusetts trust company should be placed in an inferior position with respect to a national banking association as it now appears to be. In other words, a trust company can convert into, or merge or consolidate with, a national banking association without permission of the state government. On the other hand, the reverse is not true because of the strings held by the Federal Deposit Insurance Corporation and the Federal Reserve Board in certain instances.

The accompanying drafts of legislation will accomplish these objectives.

#### MISCELLANEOUS.

5. Section 8 of chapter 167 now provides for criminal penalties in the event that the Treasurer of a bank or one performing his duties fails to make a return, statement or report to the Commissioner of Banks as required by law. It has been the opinion of this department for some time that this provision is inadequate in that in many instances the officer actually responsible for the conduct of the bank's business is the President or Executive Vice-President rather than the Treasurer. We therefore feel that this statute should be amended in order to make it applicable to all officers or employees to whom may be directed a request for information by the Commissioner of Banks.

The accompanying draft of legislation will accomplish this objective.