

# Bankers' Nightmare?

*Think American bankers  
are thrilled with the rise of  
Richard Shelby as the new  
chair of the U.S. Senate  
Banking Committee?  
Think again. Long-time  
Washington journalist  
Robert Novak, who  
interviewed the  
Republican legislator and  
past supporter of  
consumer privacy rights,  
puts things in perspective.*

**T**he Senate Committee on Banking, Housing, and Urban Affairs, one of the most important Congressional committees dealing with economic policy, is about to encounter its fourth chairman in five years. Each is a distinctive type.

Republican Alfonse D'Amato of New York, called "Senator Pothole" because of his affection for public works, was a devoted friend of the banking industry and generally a conservative who nevertheless drifted leftward in an unsuccessful effort to avoid defeat for re-election in 1998. His successor, Republican Phil Gramm of Texas, was a doctrinaire free-market conservative and de-regulator. When Democrats took control of the Senate in May, 2001, Gramm was replaced by Democrat Paul Sarbanes of Maryland, an archetypal big-government, pro-regulation liberal. With Republican recapture of the Senate in the 2002 elections, Sarbanes must be replaced by a Republican—but not Gramm, who is retiring from public life.

The new Republican chairman, 68-year-old Richard C. Shelby of Alabama, is less easily classified. The son of a Birmingham steelworker, he earned a law degree from the University of Alabama in 1963 and stayed in Tuscaloosa to practice law. He became active in Alabama Democratic politics during the George Wallace era, was elected to the State Senate in 1970, and in 1978 at age 44, won election to the U.S. House of Representatives. In 1986, he unseated Republican Senator Jeremi-

ah Denton, who as a U.S. Navy Admiral was the highest-ranking American P.O.W. during the Vietnam War.

Shelby ran against Denton from the left, attacking him for voting to cut Social Security benefits and owning two Mercedes autos. Once in the Senate, Shelby settled into the small and rapidly disappearing niche of conservative southern Democrats. In 1993, he attracted his first national attention by opposing newly inaugurated President Bill Clinton's tax increase. The White House declared Shelby persona non grata and sought to make a public example of what happens to a Democrat who opposes Clinton.

On the day after the Republicans won a Senate majority in the 1994 elections, Shelby crossed the aisle and became a Republican.

Shelby has been a member of the Banking Committee for sixteen years, from his first day in the Senate, but this has not been his first priority. For the last eight years, he has been a member of the Intelligence Committee (nearly all of

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this time as chairman or vice chairman) and has concentrated on his work there. He has not muted his criticism of the Central Intelligence Agency and its leadership, repeatedly calling for the replacement of George Tenet as director. Membership on the Intelligence Committee is rotated, and Shelby rotates off the committee in January.

Shelby's voting record was conservative when he was a Democrat and grew more conservative still as Republi-

can. His ratings for 2001, the most recent year available, are 100 percent conservative (measured by the American Conservative Union) and 5 percent liberal (measured by the Americans for Democratic Action).

Nevertheless, bankers did not celebrate when the November 5 election returns indicated that Shelby would be replacing Sarbanes. The industry's lobbyists call him "undependable" and "erratic." Their real objection is Shelby's past support of consumer privacy rights against financial institutions who market the names of their depositors.

Immediately after the mid-term voting, banking lobbyists spread word that Shelby's Banking Committee seniority dated from his Democratic days and he should not become chairman based on Republican seniority alone. They suggested that the next Republican in line—Senator Robert Bennett of Utah, a conservative considered "dependable" by the banking industry—might be bumped up to get the chairmanship. That was just a trial balloon, and it crashed. Shelby is unopposed as chairman.

Chairman Shelby must deal with these questions: Will he strengthen, weaken, or leave alone the Sarbanes-Oxley Act? How can investor confidence be restored? What is his analysis of the economy? What are his views of bankers, both international and U.S.? How does he rate the performances of the International Monetary Fund and the Federal Reserve Board?

During the recent post-election lame-duck session of Congress, Senator Shelby left the Senate floor to sit down with me in his Senate Hart Office Building quarters. Tall and immaculately groomed as always, he responded to my questions in his soft Alabama drawl with candid, sometimes surprising replies.

**NOVAK:** *Senator, how would you say that your chairmanship will be different from that of Senator Sarbanes?*

**SHELBY:** Well, I think it will be different in several ways. Senator Sarbanes is a Democrat, and he's a lot more liberal than I am. I believe that we first ought to do no harm as far as looking at the markets—including capital markets. I would want to make sure that no one else in the market did



*New Senate Banking chief*  
**Richard Shelby:** *somewhere between D'Amato and Gramm.*

harm to the rest of the market. I will probably be fairly active in oversight because I think if we pass laws and forget

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them and we basically ignore the regulations that flow from those legislative acts, that’s irresponsible on our part.

We got the Sarbanes-Oxley bill, which is sweeping in nature. The ink is just barely dry on it. But I think that on the Banking Committee that we ought to see: How is the bill going to work? How is it working? Is it working as we intended for the legislation to work? Do we need to change it? Or do we need to, you know, push and shove here and there—from the committee’s perspective. The same is true of Gramm-Leach-Bliley, which was really sweeping legislation. And there are a lot of other things on the books.

My view would be to make sure that the Banking Committee is active, fair, and is doing everything it can to let the market work. But the market has to be honest. I realize you can’t legislate ethics. You can’t mandate ethics, but you can root out unethical and criminal behavior. And a lot of that is for the Justice Department. Some of it might be for our committee and our oversight responsibility.

**NOVAK:** *Of the two previous immediate Republican chairmen, D’Amato and Gramm, would either of those be a model for you?*

**SHELBY:** No, no. I would probably be in between those guys. But you know, I hate to try to say how I would be compared. I plan to be active. I think the committee would be active. I believe that I can bring on members of the committee—Republicans—to work with me on that.

**NOVAK:** *I gather you are undecided, or you think it’s too early to determine, whether Sarbanes-Oxley is the right mix, whether it goes too far, whether you need some fine tuning—*

**SHELBY:** I think that would be fair because we don’t know yet. The ink is maybe not dry on the legislation. It is sweeping legislation. But its importance, as we all know, stems from the many scandals and fraud and so forth rising from the capital markets and the accounting profession.

I don’t believe, after sixteen years on the committee, that the accounting profession could basically regulate itself. And I hate that, because it would be an ideal situation to let them regulate themselves—if they’d been tough on their own people at times. Because the last thing I’d want to do is to set up a huge bureaucracy to oversee the profession of accounting.

But I think we’re going to have to do some things to get the attention of the accounting profession. One of the problems the accounting profession has now and will have for a long time is that it’s a rule-based accounting system as opposed to a principle-based accounting system. So you pass an accounting rule, and the first thing people—smart people such as lawyers, accountants—say is: How can we get around that rule? And they’ve been very successful at it.

Well, as an investor, and we’re all investors to some extent in the capital markets, we’re interested in the truth. What’s the truth—not hype, not fraud, not all of this. How do we get that? We have to set the standards high. If we set the standards high, or if the accounting board does, then I think maybe we’ll have a different day.

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*“I think Chairman Greenspan probably has missed a few things.”*

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I’m not so naïve to think that where there are billions of dollars, there’s not going to be fraud and abuse and everything that goes with it.

**NOVAK:** *Do you think the amendment of Glass-Steagall went too far?*

**SHELBY:** I do. I voted against it. One of my big concerns with Glass-Steagall reform was that it moved investment banking and commercial banking together. Let me explain.

Commercial banking—if you have a state charter or federal charter and you have the FDIC insurance, you have a franchise. Investment banking doesn’t have that. They’re strictly in the marketplace.

Well, when you put them all together without Chinese walls, I think you’re going to have some problems down the road. What are we interested in? The safety and soundness of our banking system.

I sat on the committee many years back when we had the thrift debacle. The thrift people were getting into the

real estate business, big time. They were getting into the banking business. They were into everything. What happened? A charge of \$180 billion against the taxpayers, because we bailed the thrift industry out. We're still paying for it. We borrowed the money.

Now the Federal Deposit Insurance Corporation fund is not too strong. I hope it's never under such assault that it could go under, but if it did, we'd be visiting the taxpayer again. That was my concern about commercial banking and investment banking and real estate. If the banks were trying to get into that, which some of them say they would, we're affecting potentially the safety and soundness of the system, particularly if we let the taxpayer ultimately bail out everybody.

**NOVAK:** *The bankers now want to get into real estate. What do you think about that?*

**SHELBY:** Well, if they're going to get in there, I guess they'll be selling cars or jewelry next. That's a commercial activity. I don't see how you rationalize that real estate is a financial product. It's a home. It's a building. It's a shopping center.

So if they get into real estate, I think there's going to be a lot of risk on insurance claims and ultimately a risk against the future taxpayers in this country. History is a guide here. I hope it won't happen because I think it's not smart, and it will lessen competition in the marketplace. It will be a concentration of power and ultimately guaranteed by the taxpayers.

**NOVAK:** *How do you assess the way President Bush and the Administration handled the Securities and Exchange Commission and the accounting oversight board situation? Do you think this has been one of their less stalwart efforts?*

**SHELBY:** Well, let me go back a little bit. SEC Chairman Harvey Pitt is someone I've known since I've been on the Banking Committee. Harvey Pitt is a very able person. He may, if you look in the totality of things, have been one of the most qualified SEC chairmen—at least on paper.

But he made some bad judgments, and the last one tripped him up when he failed to divulge something so material regarding Bill Webster to his fellow commissioners or to the White House. I think that tipped the scales the other way, and of course, he's gone now.

And of course, Webster is someone I've known a long time. I've worked with him on a number of issues. I have a lot of respect for him. But if you have a tainted process, the product of the process will go, and it did.

So now we have a situation now—the President does—and a chance to start all over.

I hope they will nominate someone for SEC chairman with integrity above reproach, who has knowledge

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of the markets, knows what he or she is doing, and will work with fellow commissioners on getting another person as chairman of the Public Company Accounting Oversight Board. Those two things I think are very important to restoring investor confidence and public confidence in the capital markets.

I'm hoping the White House will do this. I have not tried to have input into the selection because I will be chairing the committee that decides whether or not the candidate has the qualifications to serve as chairman of the SEC.

**NOVAK:** *There's been some talk about the weakness of the international banking system. Will you look into that? Are you concerned about that?*

**SHELBY:** We will. Absolutely. We have jurisdiction over the World Bank and the IMF on the Banking Committee. And I have a lot of interest in them because I'm interested in geopolitical issues.

The world financial system is tenuous at best. Look at Argentina. Look at Brazil. We're just talking about some pretty big countries. For a number of years, Mexico was tottering. We got behind them. They did pay us back.

As we get into the committee business later on, we will be involved in some oversight into this. How are the IMF

and the World Bank doing? All the development banks, in fact—how are they doing? How could they do better?

**NOVAK:** *How do you think they're doing?*

**SHELBY:** Right now, I think they're in tenuous shape. They could do better. For years, they were making government-to-government loans. They still are, and a lot of that money went down rat holes. It never reached the people. They never got to where you would have a banking system where people could create a free market. That concerns me greatly. I think they have made some progress in that respect, but they've got a long way to go. I will be active.

**NOVAK:** *What's your assessment of the record of the Federal Reserve under Chairman Greenspan and particularly, how they've handled the last couple of years?*

**SHELBY:** Well, I think Greenspan is very able, but no one is God. If you look at his whole record as Chairman of the Board of Governors, he has been good. He has not been perfect. No one is. You have the human element there.

The Federal Reserve Chairman and the Board cannot control everything like they used to. There are so many things in the world—you mention international finance—that they do not control.

They don't control the bond market. You know the bond market is so important, but it's anticipating movements all over the world. The price of oil or the surplus of oil—it has nothing to do with the Federal Reserve, you know, but it has a heck of a lot to do with the bond market.

I think the Chairman probably has missed a few things.

**NOVAK:** *What has he missed?*

**SHELBY:** I think Greenspan tightened some credit two years ago at the wrong time. But that was a judgment call, because there were a lot of indications. The market had started spiraling downward in late summer-early fall of 2000, and the Fed was a little late getting on it.

I think at the moment our economy is fundamentally sound, but we're not hitting on all cylinders yet, and there's some slack out there that has to be taken up.

**NOVAK:** *What would you say is the main thing that needs to be done on the economy?*

**SHELBY:** I think confidence. Confidence level is so important in the economy because two-thirds of our economy is consumer-driven. And, of course, I've been involved in tax reform. I'm going to propose a flat rate tax, where in-

vestments are expensed immediately and where income is taxed once.

I believe that when people keep more of their money, they will make prudent decisions rather than the govern-

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**SHELBY:** *I do.*

ment. And big taxes are not the answer to our economy. They are a strain on our economy.

**NOVAK:** *Some of the banking lobbyists were not happy about your accession because they thought you were not viable on the—*

**SHELBY:** Not a lobbyist?

**NOVAK:** *—on the consumer issue, that you were anti-banking on privacy.*

**SHELBY:** No, I'm not anti-banking at all. But I'm not a lap dog to anybody. I don't ever intend to be, and I hope no one else will be. I have been involved in deregulation of a lot of things where the banking community worked with me, but we do have differences on the privacy rights of individuals.

I believe that the information that you have with your bank, in your bank account, belongs to you, the individual, and not to the bank. It is a property right, and the bank should not be able to sell, use, rent, or do anything with that information—without your permission.

**NOVAK:** *Are you going to pursue legislation on that?*

**SHELBY:** I hope so. I was able to do that with drivers' licenses, where the states were selling people's drivers' license information without their permission, and it finally led to at least one murder.

We were able to stop that. I was involved in leading that charge. I just feel strongly there. And I think that I'm backed by the overwhelming majority of the American people. ◆