

and Hewlett Packard. I think we can all agree it's hard to beat a team with a bench like that.

As the Congressman representing Carnegie Mellon, and as co-chair of the Congressional Caucus on Robotics, I ask my colleagues to join me in honoring the Tartan Racing Team and Carnegie Mellon University for their innovations in robotics and for their DARPA Grand Challenge Victory.

IN RECOGNITION OF DR. SACVAN  
BERCOVITCH

**HON. MICHAEL R. McNULTY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, December 4, 2007*

Mr. McNULTY. Madam Speaker, I am most pleased to recognize the outstanding contributions of Dr. Sacvan Bercovitch, the Powell M. Cabot Professor of American Literature Emeritus of Harvard University, who has been awarded the Bode-Pearson Prize for his outstanding contributions to American studies.

Professor Bercovitch is the brother of a beloved constituent, Ninel Segal. He has been called "one of the great literary historians of the 20th century" and "one of the first American scholars to analyze the ideological and rhetorical functions of literature and to link art to political and cultural themes." Many of his works have been translated in French, German, Chinese, Italian, and others. I am pleased to insert into the RECORD the citation presented to Professor Bercovitch by the American Studies Association:

"Rare, extravagant spirits," says Emerson in his essay on History, "come to us at intervals, who disclose to us new facts in nature." Tonight it gives me great pleasure, on behalf of my fellow committee members, Elaine May and James Miller, to award the Bode-Pearson prize to one such spirit, indeed, the presiding spirit of American Studies, Sacvan Bercovitch. Through his writings, intellectual projects, and service to the Association, Professor Bercovitch has made an unparalleled set of distinguished contributions over the last 30 years. Perhaps no single literary historian has exerted the profound influence over his field that Bercovitch has, for he has been the key figure in the ideological turn of American literary study and the galvanizing source of its interdisciplinary practice. If the American Studies community is infinitely more robust than it was the last time the Association met in Philadelphia in 1983 when tonight's honoree was its president, it may well be the fruit of Sacvan Bercovitch's labors. If this sounds extravagant, know that it merely does justice to the extravagant bounty of his learning, the extravagant scope of his inquiry, the extravagantly searching range of his intellect, the extravagant intensity of his example for three generations of students, and the extravagant vitality of his commitment.

Bercovitch began his career as an Americanist with his publication, in 1966, of an essay on Cotton Mather, but he had begun his informal study of America some years before. As a Canadian from Montreal's rough-and-tumble Yiddish-speaking quarter, his fascination with U.S. culture preceded his engagement with its literary traditions. While Bercovitch never lost that connection to his past, and indeed, translated several of the great Yiddish writers of the 20th century, his own American studies took him to the New

School of Social Research, Reed College, Hightstown, New Jersey, where he trained to join a kibbutz in Israel, then on to Claremont college, where he took his graduate degrees, then to Brandeis, and UC-San Diego until he arrived at Columbia, where he was to stay for 13 years before taking his last academic post, at Harvard. Like Hawthorne's Holgrave, he worked at various trades, scholarly and otherwise, all of which contributed to the swell of consciousness that resulted in two paradigm-changing scholarly works of his early career: *The Puritan Origins of the American Self* (1975) and *The American Jeremiad* (1979).

In the early 1980s, Bercovitch developed the intellectual underpinnings of the next great phase of his career, when he edited and co-edited two seminal books of the era, *Reconstructing American Literary History and Ideology* and *Classic American Literature*. Let me remind you how influential those collections were when they appeared two decades ago. For the first, Bercovitch assembled an impressive line-up of scholars and literary historians whose work would resonate for years to come—like Sandra Gilbert, Walter Michaels, Werner Sollors, Wendy Steiner, Robert Stepto, and Eric Sundquist, scholars who made the case for profession only slowly—all too slowly—awakening to the realization that the literary history of the U.S. needed to be reconstructed; with Myra Jehlen, he showed that the urgency of that reconstruction was ideological and that classic American literature, the redoubt of liberal humanism, was nothing if not political, in a series of essays by Jonathan Arac, Houston Baker, Gerald Graff, Don Pease, Carolyn Porter, Jane Tompkins, and Alan Trachtenberg, among other distinguished contributors. These collections, in no small part, helped to reinvent the study of American literature and, in so doing, changed the future of this Association.

Some of you will remember vividly what the Association's meetings were like as a direct consequence of Bercovitch's term, in San Diego, New York, and Miami, and can assure people who have only recently found a home here that the intellectual ferment of these years was dizzying, especially to the extent that it matched Sacvan Bercovitch's critical example: the cultural study of literature and literary study of culture broke wide open the intellectual boundaries of the Americanists' sense of the object of scholarly inquiry. That generation of scholars who changed the way we do business, if only because they followed the ways his work so vigorously aroused the possibilities of interdisciplinary study, through what Bercovitch called the "reciprocities between symbolic and social systems." Moreover his leadership also gave the Association a new critical urgency, by moving it away from the hidebound, dry academicism that had dominated it for the previous two decades and toward public engagement. At the time there were many who resisted and not a few who resented this new direction, yet the growth of the Association might suggest just how sorely needed and how keenly received was the charge that Sacvan Bercovitch had laid before us. The ASA's sense of itself has evolved in the last ten years, and perhaps the role of cultural study of literature and the literary study of culture is not as crucial as it once was, but these changes have only been possible because of the difference that Bercovitch—his colleagues, students, and followers—first wrought.

That charge was freshly shaped in his next great contribution to American literary studies, his supervision of the new Cambridge History of American Literature, brought to completion only in the year before last. This project made bold to rewrite, not as one book or two or even the four volumes that its predecessor had essayed 70 years prior, but as eight volumes written by some thirty scholars. The task proved arduous, and perhaps its completion depended as much upon the contributors' loyalty to Bercovitch as it did their commitment to their assignment. The lesson rehearsed in page after page of the History is "dissensus," the vision of literary history that rejects easy coherence and instead accommodates the evidence of vivifying resistance out of which a fuller, truer history may be understood—the turning of the inside of literary texts out and the turning of contexts in. Bercovitch's founding idea prompted a complex way of imagining literary historiography, one that especially enlivened the understanding of students and younger scholars, so much so that the "History" that they created was largely understood to be something of a generational enterprise. Indeed, the influence of the Cambridge History can be calculated in the way its separate parts have arrived with all the authority of established wisdom; its arguments crystallize the very terms of our practice over 20 years. In this sense, its eight volumes are but the shell of a project that will outlast us all.

Bercovitch's own reading and research led him to Hawthorne and inevitably *The Scarlet Letter*, but I will pass over the great achievements of his scholarship, just as I also pass over the dutiful recitations of his many, many honors and awards, the editorial and advisory boards and executive committees on which he has served, the consultancies, the positions of leadership he undertook in a surprising variety of places all too numerous to mention, in order to take a final few minutes to recall his presidency of this association. In so many ways, the current ASA is a wonderful prism of his multifaceted accomplishments. Members of longer standing than I will testify that Bercovitch "saved" the ASA, by which they mean that during his tenure he undertook a major effort to resuscitate and transform the organization. At the time, ASA was wholly dependent on the University of Pennsylvania and in debt a considerable amount of money to them. Penn even held the copyright to AQ. Bercovitch mobilized a number of influential ASA members, including past president Daniel Aaron and Leo Marx, to change the *modus operandi*. He also realized that, most of all, the culture of ASA had to change, and beginning with a panel of luminaries devoted to the organization's future at Philadelphia in 1983, he undertook to reshape it into the entity we know today. As part of a major re-evaluation, the association took ownership of its journal, established new publishing arrangements, raised new funds, relocated to Washington, DC, shifted to annual meetings (although the planning for this began with Bercovitch, Michael Cowan eventually pushed it through). Plus, the ASA under Bercovitch began to internationalize, reinvigorating ties with the Canadian and European associations, even as it moved forcefully to diversify, naming Martha Banta as program chair of the San Diego conference, which, in turn, featured the work of several future presidents—Mary Helen Washington, Stephen Sumida, Vicki Ruiz—all of whom became involved in the organization for the first time.

In short, we might dedicate ourselves tonight to making ASA worthy of this immeasurably rich legacy. So please join with me and applaud, extravagantly, the career of

Saki Bercovitch.—Gordon Hutner, Professor of American Literature, University of Illinois, Editor, American Literary History.

RESTORE ACT OF 2007

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 2007

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of H.R. 3773, the "Responsible Electronic Surveillance That Is Overseen, Reviewed, and Effective Act of 2007." I support this legislation, the RESTORE Act, because it corrects the damage done by the misnamed Protect America Act and restores this Nation's commitment to the rule of law, the dignity of the individual, and the separation of powers. This legislation is worthy of an aye vote from all Members because it restores allegiance to the Constitution and gives our intelligence agencies all the tools they need to conduct the foreign surveillance necessary to keep our country safe.

Mr. Speaker, in August of this year, I strongly opposed S. 1927, the so-called "Protect America Act" (PAA) when it came to a vote on the House floor. And I was a very reluctant supporter of H.R. 3356, the House alternative that attracted a majority of votes, but not a two-thirds super-majority, on the House floor. Had the Bush Administration and the Republican-dominated 109th Congress acted more responsibly in the two preceding years, we would not have been in the position of debating legislation that had such a profoundly negative impact on the national security and on American values and civil liberties in the crush of exigent circumstances. As that regrettable episode clearly showed, it is true as the saying goes that haste makes waste.

The PAA was stamped through the Congress in the midnight hour of the last day before the long August recess on the dubious claim that it was necessary to fill a gap in the Nation's intelligence gathering capabilities identified by Director of National Intelligence Mike McConnell. But in reality it would have eviscerated the Fourth Amendment to the Constitution and represented an unwarranted transfer of power from the courts to the Executive Branch and a Justice Department led at that time by an Attorney General whose reputation for candor and integrity was, to put it charitably, subject to considerable doubt.

The legislation before us, the RESTORE Act, H.R. 3773 is superior to the PAA by orders of magnitude. This is due in no small measure, Mr. Speaker, to the willingness of the leadership to reach out to and work with all members of the House. The result shows. The RESTORE Act does not weaken our Nation's commitment to its democratic traditions. Rather, it represents a sound policy proposal for achieving the only legitimate goals of a terrorist surveillance program, which is to ensure that American citizens and persons in America are secure in their persons, papers, and effects, but terrorists throughout the world are made insecure. Let me direct the attention of all members to several of the more important aspects of this salutary legislation.

First, H.R. 3773 explicitly affirms that that the exclusive law to follow with respect to au-

thorizing foreign surveillance gathering on U.S. soil is the Foreign Intelligence Surveillance Act (FISA). As initially enacted by Congress in 1978, the exclusivity of FISA was undisputed and unambiguous. I hasten to add, however, that while FISA remains the exclusive source of law, H.R. 3773 recognizes that the law as enacted in 1978 can and should be adapted to modern circumstances and to accommodate new technologies. And it does so by making clear that foreign to foreign communications are not subject to the FISA, even though modern technology enables that communication to be routed through the United States.

Second, under H.R. 3773, the Foreign Intelligence Surveillance Court (FISC) is indispensable and is accorded a meaningful role in ensuring compliance with the law. The bill ensures that the FISC is empowered to act as an Article III court should act, which means the court shall operate neither as a rubber-stamp nor a bottleneck. Rather, the function of the court is to validate the lawful exercise of executive power on the one hand, and to act as the guardian of individual rights and liberties on the other.

Third, the bill does not grant amnesty to any telecommunications company or to any other entity or individual that helped Federal intelligence agencies spy illegally on innocent Americans. I strongly support this provision because granting such blanket amnesty for past misconduct will have the unintended consequence of encouraging telecommunications companies to comply with, rather than contest, illegal requests to spy on Americans. The only permissible path to legalization of conduct in this area is full compliance with the requirements of the Foreign Intelligence Surveillance Act.

Moreover, Mr. Speaker, it is important to point out that the loudest demands for blanket immunity comes not from the telecommunications companies but from the Administration, which raises the interesting question of whether the Administration's real motivation is to shield from public disclosure the ways and means by which government officials may have "persuaded" telecommunications companies to assist in its warrantless surveillance programs. I call my colleagues' attention to an article published in the Washington Post last Sunday, in which it is reported that Joseph Nacchio, the former CEO of Qwest, alleges that his company was denied NSA contracts after he declined in a February 27, 2001 meeting at Fort Meade with National Security Agency (NSA) representatives to give the NSA customer calling records.

Mr. Speaker, the authorization to conduct foreign surveillance on U.S. soil provided by H.R. 3773 is temporary and will expire in 2 years if not renewed by the Congress. This is perhaps the single most important limitation on the authority conferred on the Executive Branch by this legislation. The good and sufficient reason for imposing this limitation is because the threats to America's security and the liberties of its people will change over time and thus require constant vigilance by the people's representatives in Congress.

To give a detailed illustration of just how superior the RESTORE Act is to the ill-considered and hastily enacted Protect America Act, I wish to take a few moments to discuss an important improvement in the bill that was adopted in the full Judiciary Committee markup.

The Jackson-Lee Amendment added during the markup made a constructive contribution to the RESTORE Act by laying down a clear, objective criterion for the Administration to follow and the FISA court to enforce in preventing reverse targeting.

"Reverse targeting," a concept well known to members of this Committee but not so well understood by those less steeped in the arcana of electronic surveillance, is the practice where the government targets foreigners without a warrant while its actual purpose is to collect information on certain U.S. persons.

One of the major concerns that libertarians and classical conservatives, as well as progressives and civil liberties organizations, have with the PAA is that the understandable temptation of national security agencies to engage in reverse targeting may be difficult to resist in the absence of strong safeguards in the PAA to prevent it.

My amendment reduces even further any such temptation to resort to reverse targeting by requiring the administration to obtain a regular, individualized FISA warrant whenever the "real" target of the surveillance is a person in the United States.

The amendment achieves this objective by requiring the administration to obtain a regular FISA warrant whenever a "significant purpose of an acquisition is to acquire the communications of a specific person reasonably believed to be located in the United States." The current language in the bill provides that a warrant be obtained only when the Government "seeks to conduct electronic surveillance" of a person reasonably believed to be located in the United States.

It was far from clear how the operative language "seeks to" is to be interpreted. In contrast, the language used in my amendment, "significant purpose," is a term of art that has long been a staple of FISA jurisprudence and thus is well known and readily applied by the agencies, legal practitioners, and the FISA Court. Thus, the Jackson-Lee Amendment provides a clearer, more objective, criterion for the administration to follow and the FISA court to enforce to prevent the practice of reverse targeting without a warrant, which all of us can agree should not be permitted.

Let us be clear, Mr. Speaker, that nothing in the bill or in my amendment requires the Government to obtain a FISA order for every overseas target on the off chance that they might pick up a call into or from the United States. Rather, the bill requires, as our amendment makes clear, a FISA order only where there is a particular, known person in the United States at the other end of the foreign target's calls in whom the Government has a significant interest such that a significant purpose of the surveillance has become to acquire that person's communications.

This will usually happen over time, and the Government will have the time to get an order while continuing its surveillance. And it is the national security interest to require it to obtain an order at that point, so that it can lawfully acquire all of the target person's communications rather than continuing to listen to only some of them.

The Jackson-Lee amendment gives the Government precisely what Director of National Intelligence McConnell asked for when he testified before the Senate Judiciary Committee: "It is very important to me; it is very important to members of this Committee. We