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Forward: Ed Sparer's Legacy

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FOREWORD

ED SPARER'S LEGACY

*Elizabeth M. Schneider**

This Symposium, jointly sponsored by the Edward V. Sparer Public Interest Law Fellowship Program and the *Brooklyn Law Review*, honors Ed Sparer's important contributions to health care reform in the United States, and commemorates the tenth-year anniversary of his death. A pioneer in the fields of poverty and health law until his death in 1983, Ed pursued an inspiring career as a nationally recognized teacher, scholar and activist. Ed's visionary work in health care reform presaged the current national debate on health care, and had a central focus which is the subject of this symposium—equal access to quality health care for all persons.

Ed Sparer graduated from Brooklyn Law School in 1959. He was one of the founders of both the first neighborhood legal services program, Mobilization for Youth Legal Services

* Professor of Law, Brooklyn Law School; Chair, Edward V. Sparer Public Interest Law Fellowship Program. I am grateful to Sylvia Law for her comments, to Ann McGinley for her work in chairing the Symposium, to Nan Hunter, Kathleen Sullivan, Minna Kotkin, Mary Jo Eyster and Joan Koven in helping to make the Symposium happen, and to Rachel Foster, Suzanne Brackley, Carolyn Grose and Elizabeth Silverberg for research assistance. A Brooklyn Law School Faculty Research grant generously supported my research and writing.

("MFY"), and the first national support center for legal services work, the Columbia Center on Social Welfare Policy and Law, and was "the intellectual architect of the legal strategy of the welfare rights movement."¹ In 1990, Brooklyn Law School honored this dimension of his work in a symposium on the 20th anniversary of *Goldberg v. Kelly*. The symposium was jointly sponsored by the Sparer Fellowship Program and the *Brooklyn Law Review*, and its proceedings were published in an issue of the *Brooklyn Law Review*.² Ed was a founder of the Health Law Project at the University of Pennsylvania Law School, and other important health reform organizations, where many of the contributors to this most recent Symposium worked with him. He was an influential scholar and advocate for health care reform and, at the time of his death, was Professor of Law and Social Welfare at the University of Pennsylvania Law School.³

Ed pursued health care reform as part of a larger process of social transformation. He understood that health care is about human relationships—between patient and caregiver, doctor and nurse, rich and poor. He promoted human self-actualization with the understanding that it could not be achieved solely on an individual basis, but required common struggle. As the Articles in this Symposium demonstrate, Ed's contributions to this field have shaped many of the individuals and many of the issues in this debate. His legacy is apparent in the structure and substance of this Symposium.⁴ I want to identify briefly some other facets of this legacy—beginning with the personal.

Ed's work was animated by a commitment to law as a vehicle for social change. This commitment led to the founding of the Sparer Fellowship Program in his honor in 1985. Ed

¹ Sylvia A. Law, *Some Reflections on Goldberg v. Kelly at Twenty Years*, 56 BROOK. L. REV. 805, 819 (1990). Ed Sparer's important work in the welfare rights movement is also discussed in the recent book by Martha F. Davis, *Brutal Need: Lawyers and the Welfare Rights Movement, 1960-1973* (1993).

² Symposium, *The Legacy of Goldberg v. Kelly: A Twenty Year Perspective*, 56 BROOK. L. REV. 729 (1990).

³ See *In Memoriam: Edward V. Sparer*, 132 U. PA. L. REV. 421 (1984).

⁴ The history, structure and substance of the Symposium is fully described in Ann C. McGinley, *Aspirations and Reality in the Law and Politics of Health Care Reform: Examining a Symposium on (E)quality Care for the Poor*, 60 BROOK. L. REV. 7 (1994).

died the summer before I started full-time teaching at Brooklyn Law School in 1983. Although I had met Ed only briefly, I knew of his work, his writing, his litigation, his organizing. At a time when I had been contemplating the move from full-time public interest litigation and advocacy to full-time law teaching, Ed sent me a draft copy of an article that he was writing, subsequently published in 1984 after his death.⁵ In this article he powerfully described the contradictions facing a law teacher committed to law as a vehicle of social change, as well as the institutional importance for law teachers to work with law students to foster public interest commitment.⁶ He mentioned a few younger lawyers whose work reflected the combination of theory and activism that he valued, and included me in that group.⁷ This article, his example, and his courage inspired me and gave me the courage to follow in his footsteps and to enter law teaching full-time. When Ed died a few months later, just as I was about to begin teaching at his alma mater, like many others I felt a deep personal sense of loss.

For me, Ed's legacy meant fostering an institutional commitment to assist students to work for justice, training students to carry on a tradition of public interest advocacy, and providing opportunities for them to do this work. In 1985,

⁵ Edward V. Sparer, *Fundamental Human Rights, Legal Entitlement and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement*, 36 STAN. L. REV. 509 (1984).

⁶ One of my favorite parts of this article is the following paragraph: I believe that the social struggle is what the radical law teacher's special vocation should be about. But even if, in the final analysis, there is no effective radical practice for the radical law teacher as teacher to exemplify and demonstrate to her or his students, there is still another task: to demonstrate concern and ways of working—doing legal work—that at the very least are helpful to some oppressed human beings, [that does some "good" for someone] regardless of their impact on oppressive systems. This, of course, is a "liberal" task as well. But that is no reason for radicals to dismiss such an effort. Caring about their fellow human beings is the beginning of both the radical and liberal faiths. Take that "caring" away, remove the impulse always to help your fellow human being (in a small way if you cannot do it in a more systemic way), and the radical becomes a hollow fake, a dangerous impostor. We cannot build a new society of caring human beings if we do not act to help our fellow humans now. However small the ways, we are what we do.

Id. at 574.

⁷ *Id.* at 511 n.5.

the idea of the Edward V. Sparer Public Interest Law Fellowship Program was born. Bertram Bronzaft, a 1961 alumnus of Brooklyn Law School who had worked with Ed on the *Brooklyn Law Review*, played a key role. The enthusiastic support of former-Dean (now-District Judge) David Trager was also vital, as was the support of the Sparer family: Ed's wife Tanya, and son Michael, who has carried on Ed's legacy as a lawyer and public health expert, and participated in this Symposium. Other close friends of the Sparer family and colleagues of Ed, such as Professor Sylvia Law of New York University Law School, another Symposium participant, also played important roles. The Sparer Fellowship Program was founded to carry on Ed's legacy by providing summer internships in public interest law and encouraging students to do legal work in the service of social change. One of our first Sparer Fellows, Claudia Werman, presently a clinical teacher at Hofstra University School of Law, specifically carried on this legacy by continuing Ed's unfinished work. In the summer of 1986, she worked at Community Legal Services in Philadelphia with Richard Weishaupt, also a Symposium participant, on health issues Ed had been addressing when he died.

Since 1986, Brooklyn Law School has had over 100 Sparer Public Interest Law Fellows who have carried out Ed's legacy in this country and around the world. As Fellows they have worked on civil rights, women's rights, gay and lesbian rights, Native American rights and international human rights issues, among others, as well as working in legal services and legal aid offices. We are particularly proud that many of these students have continued in public interest work after their fellowship experience. The Sparer Program has created an enthusiastic public interest presence at Brooklyn Law School. We have expanded the program to include Sparer Fellows who are selected *before* they come to Brooklyn Law School, (which has attracted outstanding students to the School) while also choosing Sparer Fellows while they are students. We have helped to build a public interest community through informational programs, fora, and symposia, to develop a loan forgiveness program and a public interest counseling position in the Office of Placement and Career Services, and to build support for Brooklyn Law Students for the Public Interest, a student organization also providing summer fellowships, which

was honored by the National Association for Public Interest Law in 1992.⁸ Developing the Sparer Program, nurturing this program and the growth of this public interest community, and seeing the capacities for committed lawyering grow in our students, has been one of the most gratifying aspects of my professional life. It has been *my* way of carrying on Ed Sparer's legacy.

Other aspects of Ed's legacy deserve note: his understanding of the interrelationship between law and social movement practice, and his particular contributions to health care which flow from this understanding. Ed's work as a lawyer, as an advocate, as an activist, and as a law teacher was unique. He understood the role of law in a social and political context, and the interrelationship between law and political change. His work was important to me, as a beginning law teacher struggling to make sense of the lessons that I had learned as a civil rights lawyer. It inspired me to apply his dialectical understanding of the role of rights, as well as his understanding of the crucial interrelationship between theory and practice, to the particular struggle in which I had been primarily engaged—the women's rights movement.⁹ Ed's philosophy continues to shape my work, my thinking, my advocacy and my teaching. But, as the Articles in this Symposium issue vividly attest, Ed's application of this approach to law and social reform, which anticipated the current national debate on health care and the issues which are so sharply presented in this debate, shaped an agenda of health care reform¹⁰ for a generation of advocates and

⁸ All of this has been accomplished through the commitment, energy and enthusiasm of an extraordinary faculty committee. This Symposium, chaired by Professor Ann McGinley, is an example of their outstanding work. We have also been blessed with many wonderful Sparer Fellows.

⁹ Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women's Movement*, 61 N.Y.U. L. REV. 589, 591 n.7 (1986).

¹⁰ See Edward V. Sparer, MEDICAL SCHOOL ACCOUNTABILITY IN THE PUBLIC HOSPITAL: THE UNIVERSITY OF PENNSYLVANIA MEDICAL SCHOOL AND THE PHILADELPHIA GENERAL HOSPITAL (1974); Edward V. Sparer, *Proposed Changes in Pennsylvania's Patient's Bill of Rights*, 5 HEALTH L. PROJECT LIBR. BULL. 250 (1980); Edward V. Sparer, *Gordian Knots: The Situation of Health Care Advocacy for the Poor Today*, 15 CLEARINGHOUSE REV. 1 (1981); Edward V. Sparer, *Comment on Consumer Agendas*, 5 HEALTH L. PROJECT LIBR. BULL. 273 (1980); Edward V. Sparer, *Health Planning For—or Against—Innovative and Improved Maternity Care: The Case of the Closing of Obstetrical Services at Presbyterian Medical Center in*

scholars. Ed's concerns about health care included both quality of care and equality of access for underrepresented groups, universal coverage, an emphasis on community control and advocacy, building cross-class coalitions, and on a multi-service approach. In her Article in this issue, Sara Rosenbaum, Senior Health Advisor to the White House Domestic Policy Council, describes Ed as having "set the standard" for federal policymakers¹¹ and the national debate which has ensued. In early 1992, when this Symposium was first planned, we could not have anticipated the vitality, urgency and timeliness of Ed's contributions to this national debate.

Many of the contributors to this Symposium worked with Ed in various capacities on health care reform. Ed's legacy runs deeply and vividly throughout the stimulating articles in this Symposium issue. Hopefully, his legacy will be carried forward as national dialogue on health care continues.

Philadelphia, 5 HEALTH L. PROJECT LIBR. BULL. 291 (1980); Edward V. Sparer, *The Case of Sarah Allen Nursing Home; Personal Reactions, Speculations, and Proposals Concerning the Plight of the Aged in Philadelphia*, 4 HEALTH L. PROJECT LIBR. BULL. 343 (1979); *Editorial*, 4 HEALTH L. PROJECT LIBR. BULL. 1 (1979); Edward V. Sparer, *The Family Medical Centers of Philadelphia; What They Are, What Their Promise Is, and How the Citizens of Philadelphia Can Help*, 3 HEALTH L. PROJECT LIBR. BULL. (1978); *Editorial Comment on "The Next Step,"* 3 HEALTH L. PROJECT LIBR. BULL. 1 (1978); Edward V. Sparer, *Legal Services and Social Change*, 2 HEALTH L. PROJECT LIBR. BULL. 329 (1977); Edward V. Sparer, *An Appeal to the Two Camps of Liberal Health Care Reformers*, 2 HEALTH L. PROJECT LIBR. BULL. 322 (1977); Edward V. Sparer, *The Legal Right to Health Care Public Policy and Equal Access*, 6 HASTINGS CTR. REP. 39 (1976); Edward V. Sparer, *Is There A Need for Health Care Insurance for Unemployed Workers and Their Families in Pennsylvania?*, 1 HEALTH L. PROJECT LIBR. BULL. 1 (1976); Edward V. Sparer, *Potential Disaster in National Health Plans*, 2 JUST ECON. 3 (1974).

¹¹ Sara Rosenbaum, *Setting a Place for Ed Sparer at the National Health Reform Table*, 60 BROOK. L. REV. 71, 81 (1994).