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## THE "SO-WHAT" FACTOR: HOW WILL NEW AND EMERGING TOBACCO REGULATION STRATEGIES INFLUENCE PUBLIC HEALTH HERE AND ABROAD? †

Dr. William H. Foege ††

Today has been absolutely wonderful. I find myself thinking about a book called *Consilience* by Edward Osborne Wilson.<sup>1</sup> He describes the origin of the word "consilience" as being, literally, the "jumping together" of knowledge.<sup>2</sup> Seeing the various disciplines of knowledge here jumping together was really a surprise. It was great.

People today were confessing that they were ex-smokers. I was thinking back to a smoking meeting in Argentina some years ago. I talked about how the people who do not smoke have no idea of how strong the addiction is. I talked about how twenty-five years ago I was a smoker, and how I, in fact, smoked in the shower. You do not find many smokers who smoke in the shower. To smoke in the shower you have to be very addicted and very tall.

Public health is not an old calling like farming or medicine or law. In fact, modern public health really started only 202 years ago, in 1796, when Edward Jenner did the first smallpox vaccination. The philosophy is worth spending a minute on.

The philosophy of science is clearly to break down the walls of

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† This essay is based on a speech Dr. William H. Foege gave at William Mitchell College of Law's Center for Health Law & Policy symposium titled, "Tobacco Regulation: The Convergence of Law, Medicine & Public Health."

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1. See EDWARD O. WILSON, *CONSILIENCE: THE UNITY OF KNOWLEDGE* (1998).
2. See *id.* at 8-9.

ignorance and to increase our knowledge of truth. The philosophy of medicine is to use that truth for your patient. But the philosophy of public health is to use that truth for everyone. Therefore, the basic philosophy of public health is "social justice."

That is why it seems so appropriate to be in Minnesota. All you have to do is close your eyes and you can hear Hubert Humphrey talking about the measure of a society—how it treats its old, its young, its infirm. The problem with all of this is that it is easy to get righteous if you work in public health. After all, that is quite a philosophy, "social justice." One could easily look down on professions where the philosophy is to make money. So it is easy to get smug.

Wednesday, I testified in Washington on polio and measles eradication worldwide. I talked about what has happened since that press conference in April of 1955 at the University of Michigan, when it was announced that the Salk vaccine protected against polio. We have a hard time remembering what the feeling was that day. The next day, in stores around the country, there were signs that said, "Thank you, Dr. Salk."

And so, I end up proud of public health people. Their ranks are made up of social radicals. I once had one of the Chicago Seven working for me. We have a lot of ex-Peace Corps volunteers. We are blessed with idealists. In fact, some people have said public health is the secular arm of theology. But sometimes we are dumb as dirt, because we think if we do good things, everything is going to come out all right.

In public health we are always worried about being contaminated: "Don't deal with corporations or you'll be contaminated." I have learned a lot. I deal with Merck, Inc. Merck, Inc. has donated three hundred million dollars worth of a drug called Mectizan to treat river blindness in Africa. Last year we gave it to twenty million people. I work with Glaxo Wellcome, and they are donating an anti-malarial drug that we are using in Africa. I am working with SmithKline Beecham, and they are giving hundreds of millions of dollars worth of a drug for elephantiasis. So, I have learned something about corporations and what they contribute to public health.

In 1993, the World Bank came out with a report telling us how we could put suffering and death together in a single number

called the "Disability-Adjusted Life Year."<sup>3</sup> Public health people had wanted to do this forever and could not figure out how to do it. The economists at the World Bank came up with a formula to do this.

My point is that we find help outside of public health, and now we found it in combating the biggest public health problem of the century. You have heard the statistics, so I am not going to repeat them. The problem dwarfs AIDS. It boggles my mind that Washington can be debating about what are high crimes and misdemeanors<sup>4</sup>—killing thousands people a day worldwide seems, to me, to be a high crime.

Cancer is a problem that has consumed the public health community for a long time. The first paper I published in the literature, thirty-five years ago, was on lung cancer survival rates. We have been involved for a long time, and we have not been making progress. The answer came from the lawyers. This turned things around because we started asking different questions.

This is the beginning of a solution in this country. So, I came here today to say thanks and to acknowledge the debt that we owe to the Minnesota lawyers. But I also came to burden you and to challenge you. You have started a wonderful process, but you are now part of a small, elite group of the most knowledgeable people in the world when it comes to law, tobacco and public health.

What do we do globally? If necessary, the tobacco companies could pay fines in this state that exceed their profits. If necessary, they could pay fines in the United States exceeding profits. But the industry would do this on the backs of the rest of the world. It would be great for the United States, but terrible for the world.

One of the staples that I grew up with in Iowa was the Good Samaritan story. Sometimes I wish I could hear the Good Samari-

3. See WORLD BANK, WORLD DEVELOPMENT REPORT 1993: INVESTING IN HEALTH, 1-16 (1993).

4. The U.S. Congress has recently spent a significant amount of time debating whether President Clinton's sexual encounters with a White House intern was an impeachable offense that should have resulted in the president's conviction for "high crimes and misdemeanors." See, e.g., Guy Gugliotta & Juliet Eilperin, *Judiciary Panel Shows Signs of Partisan Split; Members Condemn Clinton But Differ on Impeachment*, WASH. POST, Sept. 15, 1998, at A8 (reporting disagreement in U.S. House of Representatives Judiciary Committee over whether the president's conduct constituted "high crimes and misdemeanors" warranting impeachment). The U.S. Constitution provides that the president "shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." U.S. CONST. art. II, § 2.

tan story again for the first time, because it has such an unexpected ending; that is, the help comes from a different ethnic group—an unexpected ally. That is the feeling I had today when I heard the lawyers speaking—they are the unexpected allies.

The Good Samaritan story has ramifications globally. I remember well as a kid, as we were asking the question, “Who is my neighbor?” we were talking about people from Rwanda. It is only in the last few years that I have actually heard a new twist on this: my neighbor might also be someone born three hundred years from now. The ramifications cross geography and time.

We simply cannot say that the global problem is not our problem. Whether we talk about public health and social justice which transcend national boundaries, or whether we talk about religion and understand the neighborhood as going beyond the nation, or whether we find that the marketplace is now global—it does not matter. Our responsibility goes beyond Minnesota, beyond this nation, to the world.

Einstein talked about half of that when he said that nationalism is an infantile disease, that it's the measles of mankind.<sup>5</sup> The reason we study history is not so that we do not make mistakes, but to truly understand that everything we have today is not by accident, that there is a history to it. Once you grasp that concept, you know that everything you do today has a consequence in the future. The future does not just happen, it is created. A healthy Minnesota depends on a healthy nation and a healthy world.

You now know more about the legalities, the minefields, and the inner workings of the tobacco industry. If your work in Minnesota has given you new insights, you are obligated to use them globally.

I do not know much about law, but I do realize that there are problems with international law. It was recently stated that international law is to law as professional wrestling is to wrestling: no one over the age of nine mistakes it for the real thing.<sup>6</sup> But, you could help change that.

Is it possible to think of global taxation? Think of what developing countries could do if they generated revenue from tobacco taxes instead of growing tobacco. Are there legal issues globally

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5. See OXFORD DICTIONARY OF QUOTATIONS 268 (Angela Partington ed., rev. 4th ed. 1996).

6. See Stephen Budiansky, *A New World's Signs of Confusion*, U.S. NEWS & WORLD REP., Sept. 20, 1993, at 89.

that no one has thought of? If you can reach a settlement where the tobacco companies are willing to reimburse for medical expenses, why can't you help the whole world do this?

Why not a global plan? We heard today that the World Health Organization ("WHO") has a new director and that tobacco is one of her priorities. Derek Yach has been named by her to head up the global effort. What a wonderful opportunity if the Center for Health Law & Policy would figure out how to organize a pro bono task force of lawyers from Minnesota and other states to help WHO. Think of what the tobacco industry would be up against if they were up against the same group globally that they were up against in Minnesota. I can assure you, if you were able to get that sort of group, there is funding for implementation.

Would it be easy? No. We heard today that nothing about this case was easy. Of course it is not easy. But if you at the Center for Health Law & Policy and in Minnesota see yourselves as the answer to the global tobacco problem, that is exactly what you would become.

I have two final thoughts and they both involve Abraham Lincoln. The first comes from the book Garry Wills wrote on the Gettysburg Address.<sup>7</sup> His thesis is that one, two-minute talk ended up changing the United States from a plural noun to a singular noun.<sup>8</sup> You could be involved in one of the great breakthroughs of history, figuring out how to make the United Nations a singular noun.

The second has to do with the fact that Lincoln died 133 years ago. He has no DNA left in our gene pool, there are no living descendants of Abraham Lincoln, and yet there is not a day that goes by in this country that we do not know that this is a different place because he lived. Why is that? Because he left the social equivalent of DNA. You are leaving the social equivalent of DNA in Minnesota—you should make that immortality global.

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7. See GARRY WILLS, *LINCOLN AT GETTYSBURG: THE WORDS THAT REMADE AMERICA* (1992).

8. See *id.* at 146-47.

