

**UNIVERSITY OF CALIFORNIA
CENTER FOR SOCIAL JUSTICE
The Raven Lecture**

“The American City: A Tool for Progressive Change in the 21st Century”

Welcome: **Robert Berring,**
Acting Dean, Boalt Hall School of Law

Mary Louise Frampton
Director, Center for Social Justice

Introduction: **Rachel F. Moran**
Robert D. & Leslie-Kay Raven Professor
Boalt Hall School of Law
and
Director, Institute for the Study of Social Change

Speaker: **Matt Gonzales**
President, San Francisco Board of Supervisors

Date: **April 15, 2004**

Transcribed by: **Mim Eisenberg/WordCraft; December 2004**

[Tape 1, Side A.]

ROBERT BERRING: I'd like to—I'd like to speak in a big voice. That's what I'd like to do. I'd like to welcome everybody to the annual Raven Lecture. I'm Bob Berring, the interim dean at the Law School, and it's my pleasure and honor to welcome you all and to welcome our speaker, Matt Gonzales. We have a full program.

What I would like to do is to say a few words about the Raven Lecture, itself. The Robert D. and Leslie-Kay Raven Chair in Access to Justice, as well as the annual Raven Lecture, was endowed by the law firm of Morris & [Forrester?] in honor of Robert D. Raven, a Boalt Hall graduate from 1951. Mr. Raven was a distinguished advocate, someone who was well known both for the practice of law and for his devotion to social

issues. He was president of the Association of the Bar of San Francisco, of the California Bar Association, and the American Bar Association, and throughout his career, he fought for access to justice for everyone.

He also was a great servant to this Law School. He was president of our Alumni Association in 1973. He was on the University of California at Berkeley Foundation, and in 1983, the Law School gave him the Boalt Hall Citation, which is the highest award we can give to an alumni [sic; alumna] or an alumnus for distinguished service.

The Raven Lecture itself is in commemoration of his service to the bar and the university. It was established to enable members of the Boalt Hall community to learn about the work of leading advocates for social justice every year. Past Raven lecturers have included Barbara Babcock of Stamford, Charles Lawrence of Georgetown, Professor Rachel [F.] Moran, who [sic; whom] you're going to hear from in a few minutes, as well as many others.

This has become a signal part of the year. It's a symbol of spring, the end of the academic year, and the bringing together of people with new and interesting ideas. Both tomorrow's program and this lecture hold enormous promise, and it's my genuine pleasure to welcome.

I'd like to ask Mary Louise Frampton to come up and start things officially under way. [Applause.]

MARY LOUISE FRAMPTON: Welcome, to all of you and to our distinguished speaker, Matt Gonzales. We're pleased to see such a big crowd out for you. Not unexpected. Well deserving. There are really exciting things happening at Boalt now. The Center for

Social Justice is not only training the next generation of public interest lawyers, but we're also fostering a new kind of scholarship that views the law in a larger social context that is much more accessible to the public and is directly responsive to disadvantaged communities. And we're doing this in collaboration with social justice practitioners, with advocacy organizations, with community organizations, and even with the bench, so this is a whole new approach, and it's very, very exciting.

This is Raven Lecture this year is part of an inaugural event for the symposium tomorrow, called "The New Metropolis: Social Change in California Cities," and this is a collaborative effort. Actually, the New Metropolis symposium is sponsored by the Institute for the Study of Social Change, which is now directed by Professor Moran, and the Center for Latino Policy Research, so it's a very exciting collaborative effort. We hope that not only can you all come to the reception after this lecture but that you will come tomorrow, beginning at eight forty-five here, for a full day of fascinating scholars and community organizers, who will discuss this exciting topic.

Professor Moran, as the Robert D. and Leslie-Kay Raven professor, has the honor of introducing our speaker here. I want to tell you just a little bit about Rachel. She is a real superstar here at Boalt. She's been here since 1988, and many law schools have tried to steal her away, but we've always managed to bring her back. This year, she is energizing the Institute for the Study of Social Change. Both a wonderful teacher and a nationally renowned scholar, she teaches in the areas of torts and she's taught bilingualism and the law in the past. She's an expert on education, and she is just a wonderful, wonderful resource for all of us here at Boalt.

So, Professor Moran. [Applause.]

RACHEL F. MORAN: Before I get started introducing Matt, I just wanted to recognize David Montejano, the chair of the Center for Latino Policy Research, which is a cosponsor of this event, and he is here today in the audience.

It is a pleasure to introduce today's Raven Lecturer, Matt Gonzales. When we were planning this conference on *The New Metropolis: Social Change in California Cities*, we wanted a keynote speaker who could help to frame a new vision of urban California. No one is better qualified to do this than Matt Gonzales. During his recent campaign for mayor of San Francisco, he galvanized young and progressive voters by refusing to participate in politics as usual. Described as keenly intelligent, deeply charismatic and highly articulate, Matt Gonzales, throughout the political playbook, has made bold and decisive moves for change. Demonstrating the qualities of a gifted leader, he did not govern by watching the polls; instead, he made the polls watch him. His candidacy captured the imagination of not only San Francisco but the nation, and he demonstrated that urban politics are ripe for transformative change.

Before running for mayor, Matt served on the San Francisco Board of Supervisors, becoming the first member of the Green Party to hold elective office there. As president of the board, Matt has been a powerful force for progressive causes, pressing for inclusive and effective politics that serve the public good and not just special interests.

Matt forged his commitments to change by building on his experiences as a law student and a lawyer. At Stamford Law School, he worked on environmental issues and immigration law matters. After that, he was a public defender, and he pressed for vigorous prosecution of environmental crimes, illegal evictions and political corruption.

Matt exemplifies how law and public service can be combined in a career that blends legal practice, grassroots activism and political office. Indeed, he has just announced that he will not be running for another term on the board, and he mentioned to me that he is planning to start up a progressive law practice, which I believe will set another model for how to do law and do good at the same time.

Please join me today in welcoming Matt Gonzales as he shares with us his vision of *The American City: A Tool for Progressive Change in the 21st Century*. [Applause.]

MATT GONZALES: Thank you. You know, whenever I get invited to such an important institution as this, I'm reminded of something that happened to me in the year 2000. I was running for a post on the Board of Supervisors in San Francisco, and once I achieved the runoff, found a place in the runoff, I decided to join the Green Party. It was a decision that was met with disapproval by my allies, to say the least. Most of them counseled me to go to the Department of Elections and switch back. They said it was a terrible mistake. Some very prominent Democrats, who were also members of the Democratic County Central Committee, cancelled fund-raisers for me. Invitations, in fact, had already gone out.

In the midst of all of this, Medea Benjamin, the cofounder of Global Exchange, gathered a bunch of folks together at her home for a fund-raiser, and I had the pleasure of speaking with Jello Biafra, who had stood as a candidate for the Green Party, for the presidency, and those of you who know him, he's the lead singer of the punk band, the Dead Kennedys. And he said, "You know, Matt, joining the Green Party right now"—and he meant, of course, in the midst of the [Ralph] Nader Florida debacle—he said,

“You know, joining the Green Party right now is like naming your band The Dead Kennedys.” He said, “There are just certain places you’re never going to be invited to.”

[Audience laughter.]

I’m delighted to get this invitation. I really am. I had the pleasure of having teachers at Stamford Law School like Chuck Lawrence and Barbara Babcock, who have both preceded me in giving the Raven Lecture, and so I’m delighted to be in such good company.

I do want to just correct one thing Rachel said. I spent ten years as a public defender, and during that time, I didn’t push forward for any kind of prosecution. It wasn’t until I ran for district attorney, which was a rather unusual thing to have happen, to have a public defender who had never run an office or had any kind of administrative experience, to suddenly jump into a race for district attorney. And it was at that time that I was articulating a very progressive platform, which included the focusing of prosecutorial concerns on issues like the environment and some of the evictions that were taking place in the city that we felt were pretextual [sic], and it was a very strong platform against the death penalty, against the three-strike law.

One of the kindest things that was ever said about me in politics, although it wasn’t meant that way, was during that race. Some of you may know the conservative journalist, Ken Garcia. But of me, he said, in another era, that I would have been in the Socialist circle of Eugene Debs, and I took that as a compliment. [Some in audience chuckle.]

I want to say, really at the outset, that I’m not an academic. I mean, I consider myself one of a sort of cadre of progressive lawyers that are fighting for progressive

change, and that gets defined a lot of different ways. I mean, I think of it in a very broad sense, of a more democratic world, [an] egalitarian, humanistic world. It's that that we're sort of chasing, and sometimes we chase it as lawyers; sometimes we chase it in politics. And we bring, I think, to the political efforts that we've been involved—and I say *we* because it's always at least a small tribe of people trying to make this revolution happen—we bring to it a certain degree of daring, I think, in that we want progressive change to happen. We don't want to wait for it. Some of us are getting older. I'm thirty-eight years old. We're ready to live in the world that we can envision.

As I prepared some thoughts for today's talk, it occurred to me that speaking about the American city and about the progressive opportunities in that city necessitates, really at the outset, setting some kind of context for what is happening in that city and in the nation and internationally, even. And I want to just go through some things I think we're fairly familiar with, but I don't think we always think about it within the context of what can happen in municipality and some of the limitations that exist there.

The first thing I want to emphasize is that there's an increasing disparity between rich and poor in our society. I think it's quite noticeable. I think it's widening. It is said that the United States has the highest income inequality among all industrialized nations, that one out of three Americans are classified as living in poverty at least two months out of the year. And the United States has the highest number of people among full-time workers earning less than 66 percent of median income. The wealth of the top 1 percent has doubled in the last twenty years, at the expense of the bottom 40 percent, who have seen a 25 percent reduction in wealth. And one need only consider the state minimum wage, which is set at \$6.75 an hour, to calculate full-time work for that state minimum

wage, which is far above the federal minimum wage of \$5.15 an hour. Six seventy-five gets you roughly \$14,000 a year.

We're also living in an age of, I think, crisis in our democracy because of low voter turnout. We have single-digit turnouts in many important races in this country. Recently in a mayoral election in Dallas, there was a 5 percent turnout. School board races in Detroit, 1 percent turnout. And we're talking about registered voters who turned out to vote, so we're not even talking about those eligible to vote who aren't registered. Even in San Francisco, a place many would call the Athens of America, you have, in the 2001 city attorney's race, a turnout of 13 percent. And seven cities in Los Angeles County recently cancelled city elections because there were no contested races.

Related to this is the phenomena [sic; phenomenon] of allowing for proportional victories—or, rather, instead of majority elections, we allow for plurality victories. This is extremely distressing. Not only do we do it for congressional candidates who are trying to win their primaries, but we also do it in many state elections, where we allow a president of the United States to be elected, in some cases, by winning all the votes in a particular state simply by winning a plurality of the votes.

In the congressional races, it's particularly distressing because once you win the primary, and you look at all the congressional races in the United States, 97 percent of them are essentially pre-decided. There's no real contest that's going to take place there. And we know this because these districts have been gerrymandered in a way to create safe districts.

There is a very high number of incarcerated adults in our society. They can't vote. Many are disenfranchised once they're on parole. Last year for the first time,

according to Justice Department records, the number of people in United States jails and prisons exceeded two million. For African-American men between the ages of twenty and thirty-four, the percentage of African-Americans in prison was 12 percent. By comparison, 1.6 percent of white men in the same age group were incarcerated.

Now, I put this out there because I'm trying to paint a picture for you, in some ways, of really how bleak our society is and how much work there is to do, but I'm doing this in part because I'm also going to demonstrate that even in the midst of this kind of conservatism, that there is the opportunity to try to start breaking down some of these realities.

We have the new federalism; we have unfunded mandates; we have cuts in social programs; we have first-strike foreign policy approaches that I think destabilize the world peace; and, of course, we have the WTO [World Trade Organization], created in 1995 during the Uruguay round of GATT [General Agreement on Tariffs and Trade] talks, that essentially allow states and cities to be sued for interfering with trade and make these entities susceptible to penalties for anticipated profits. Europe is paying a hundred and fifteen million [\$115 million] in annual fees to maintain a ban on beef containing residues of artificial growth hormones. In the United States, we've had laws challenged and struck down that try to promote the environment, try to ban MTBE [methyl tertiary butyl ether] additives and things of the like.

And, of course, finally I'll just note the anti-immigrant sentiment that has kind of swept the country in the post-9/11 era. We have the passage of the Patriot Act, where even progressive Democratic darlings like Paul Wellstone and Barbara Boxer feel compelled to vote for it. We see broad powers to spy on American citizens and to detain

immigrants without due process, of course none of this being related to the security failures that led to 9/11 in the first place.

I think the walls that are created by these various issues that I'm raising are a challenge for the progressive community, and I think that, in many respects, the potential for what can happen in a progressive American city presents itself as a tool for trying to work to resist many of these what I would say are really anti-democratic values.

Now, I don't want to overstate the thing. The tools we have at our disposal on a city council are not bulldozers, but they're nails perhaps that you hammer into these walls and start to create cracks, and you start to create perhaps awareness about some of the things that can be accomplished. And once you make these advances, it's extremely difficult for them to be reversed.

Some of our victories are the result of home rule doctrines that exist in some of our state constitutions. California, for instance, allows for a certain autonomy for charter cities in California. It's Article 11, Section 5 that gives plenary power over municipal affairs. And we see that particularly in areas over election reform. Some of the advances that we have made are through the initiative process. It's frankly the progressives taking a page out of the conservative playbook, going to the voters directly, demanding things like a raise in the minimum wage, and these things happen because there is no state preemption in the constitution. The police powers that exist there give and grant to the municipality the right, as long as there's no state law preempting this activity, to legislate in this area. And in some cases, it's simply been through crafting very narrow laws that skirt commerce clause prohibitions against interfering with interstate travel and

commerce by tailoring laws that allow us to, for instance, create prohibitions to the expansion of chain stores, formula retail establishments and the like.

Now, let me emphasize, we have not always been successful. We lose more often than we win, but when you consider that everything we're working on is radical to a certain extent, when we do get a victory, even if it's once a year, we have made certain strides towards that inevitability of a progressive movement that I frankly believe in.

Some of the things that we've managed to do, even in the last three or four years: San Francisco became a city that issued the matricula consular cards, the ID cards for immigrants residing in the United States. We passed transgender health benefits for city employees, the only city in the United States to do that. We were the first city to pass a municipal solar bond. We've passed localized initiatives related to medical marijuana, trying to stave off federal interest in prosecuting these cases. Certainly in the context of gay marriage, we have engaged in city-wide civil disobedience. We have a district attorney, because of campaign pressures, who has articulated an anti-death penalty position that was recently tested with the recent killing of a police officer. We have a different approach in implementing three strikes. We have passed inclusionary housing ordinances which mandate a certain percentage of monies or housing be dedicated to affordability.

I want to focus on the first four that I mentioned, and try to talk about them a little bit, to show you, in practical terms, what can be accomplished. One of the realities of holding elective office if you're a member of the Green Party is coming to terms with having elected George [W.] Bush president. I think that there are many Greens who rightfully dispute this, who say Al Gore was a lousy candidate, couldn't win his own

state; there were more Democrats that voted for George Bush than there are members of the Green Party in the United States, et cetera, et cetera. But I want to kind of put that aside for a moment, and I just want to accept the premise that a vote for Ralph Nader, certainly in Florida, deprived Al Gore of the presidency, and I want to posit to you this idea of what a municipality can do about this.

In 1974, the City of Ann Arbor, Michigan, decided to do something about a recurring problem that they had. They were having municipal elections held where the Republican was winning a plurality of votes and winning the mayorship, this despite the fact that there were two other parties, the Democratic, essentially liberal party, and a more radical, progressive party called the Human Rights Party. These two parties were essentially getting over [sic; more than] a majority of the vote, but not able to win the mayorship.

They took a measure to the ballot. The voters approved it. And because of the state law in Michigan, which, like California, has almost a home rule doctrine as relates to municipal affairs and elections, fit squarely within that doctrine, the voters approved a measure that would allow voters to essentially rank their preferences when they went in to vote. So you could vote for your first choice and put down who your second choice was. In the election of 1975, the Republican mayor, James Stevenson, won 49 percent of the vote, just as he had in the previous election. The Democratic candidate, an African-American candidate, Albert Wheeler, won 40 percent of the vote, and the Human Rights Party won 11 percent of the vote. Her name was Carol Ernst.

Well, Carol was essentially eliminated from the runoff procedure, and the second choices of the folks that had voted for Carol were calculated, and lo and behold, Ann

Arbor, Michigan, elected its first African-American mayor, a Democrat who instituted progressive reform. Now, it didn't take the Republicans more than a year and a half to go back to the voters during the summer, when the students weren't around, to repeal this measure, and we haven't had anything like that instant runoff voting or rank-choice voting implemented since 1975.

When I first got to the Board of Supervisors, this seemed like something we should be working on, and while San Francisco elections are not decided by a plurality victory, one of the phenomena that we were seeing was such a low turnout, for instance in that city attorney race I pointed out earlier, 13 percent, that we went to the voters and said: Let's try to get a majority winner at a time when we have more people turning out to the polls. Let's save money by not having a runoff. But, more importantly for the Greens that were behind this measure, let's try to create a single city in the United States that can experiment with a type of voting that, if successful, will force changes in how the United States, how states, how cities around the country do elections, so that this argument about what happened in Florida doesn't stand as a reason for not joining our party.

Now, in the last couple of years we've been fighting to implement instant runoff voting. It looks like we have a favorable initial testing of the software upgrade that's going to allow us to implement this November, and we have a court that's very interested in seeing this happen. But I want to posit to those Democrats here, particularly those who, now in a federal election time, sort of continue to say, "Nader's a spoiler. A vote for Nader is a wasted vote," et cetera, et cetera—I want to ask the Democrats, "What have you done about this problem in three and a half years?" I mean, if you think about

it, I've laid it out to you very clearly. It's simply that we allow plurality victories. Let's just make a law that requires a majority victory. You don't have to change the electoral college. You don't need a constitutional amendment. Each state can decide how to award the electoral college votes. In Florida, it would simply mean that the state decided to adopt either a runoff five weeks later or, through a method of rank-choice voting or instant runoff voting, a situation where you can rank your preferences in a single trip to the ballot box.

Well, you know, such a measure, Measure 1, was before the voters in Alaska about two years ago. It would have applied to federal elections, including the presidential race that is coming up. The outcome of that, unfortunately, was that the voters rejected it. The Democratic Party, which is very powerful in Alaska, opposed the measure. I think that one of the reasons the Democrats have opposed this reform is because they have been the beneficiaries of this spoiler problem, although they don't like to speak about it. Certainly in 1992, when [William J.] "Bill" Clinton was elected president, there was a spoiler named [H.] Ross Perot. Do you remember him? He got 19 percent of the vote. Three-quarters of it was coming from George Bush Sr. [George H. W. Bush], and Bill Clinton was elected with 43 percent of the vote. What kind of democracy do we live in? And certainly for those of you who would be critical of the emergence of the Green Party in any extent or of a candidate trying to articulate positions against the Patriot Act, against the WTO, against NAFTA [North American Free Trade Agreement], against the war in Iraq, you can understand the dilemma that progressives are in when we feel that perhaps the Democrats aren't doing enough.

The possibility of a single municipality adopting a voting mechanism that could really put at center stage this issue, I think is enormously important. The idea that in a single American city, testing this voting method could result in what has been centuries of engaging in a particular kind of elections that have only served the two-party system I think has really profound possibilities.

One of the ways I think that this change could affect some of the income disparities that I spoke about at the outset is specifically on issues related to wage earning. I mentioned earlier that the state minimum was is \$6.75 an hour, and that gets you \$14,000 a year in California. I want to add to this the idea that in 1968, if you took California's minimum wage and you tied it to inflation, the minimum wage would be \$8.92 an hour. It wouldn't be \$6.75, it would be \$8.92. If you consider that in San Francisco the cost of living is 84 percent higher than in the rest of the United States, if you consider that the federal minimum wage, \$5.15, adjusted to the cost of living in San Francisco, would get you a minimum wage of \$9.48, you can imagine the context that a Green Party member, a progressive, the cadre of lawyers trying to make social change would consider.

We immediately got to work on trying to effectuate a minimum wage law. Now, one of the things that happened, and politics is very anecdotal in certain respects, is we happened to be out eating at a cheap Mexican restaurant: good food, inexpensive food. It was late at night, probably after midnight. I was there with a couple of my aides, and we started thinking: How much do the guys behind the counter make? We started talking about it. Oh, well, isn't there a living wage? Well, a living wage is ten dollars and something. But the living wage doesn't apply to all workers. It only favors those

represented workers, workers who are working for the city or have contracts with the city, and the living wage is a victory that is brought to you by organized labor.

When we started saying, Hey, you know what? We want to bring the bottom up for all the other workers, nobody was interested in this. Labor unions weren't interested because it wasn't going to help their workers. We couldn't get folks that had worked on the living wage in San Francisco to work on this initiative. Why? You're going to help primarily immigrant workers; you're going to help primarily unskilled workers that don't even go to the polls. And so there we were, trying to carve out an initiative effort that would ultimately go to the ballot. And eventually those entities that I'm critical of joined forces with us because they were essentially checkmated by their own politics.

As a result of raising the minimum wage in San Francisco to \$8.50 an hour, tying it to a consumer price index or inflation indicator for the future, we have been able to raise the wages of 50,000 workers in San Francisco. We have seen studies that indicate that there was a very strong and consistent relationship between wage earning and health. There is [Rejiv Batia?], who works with the San Francisco Department of Public Health. [He] has written, "Income is one of the strongest and most consistent predictors of health and disease in the public health research literature." The size of this effect is illustrated by a recent national study that found that people with average family incomes of \$15,000 to \$20,000 were three times as likely to die prematurely than those with family incomes greater than \$70,000 a year.

The strong relationship between income and health is not limited to a single illness or disease. People with lower incomes have higher risks than people with higher incomes for giving birth to low birth weight babies, for suffering injuries or violence, for

getting most cancers and for getting most chronic conditions. Moreover, the relationship between income and health extends beyond health narrowly defined as the absence of disease. Income supports eating nutritious food, being physically active, providing children with safe and nurturing homes, enjoying friendships and participating meaningfully and productively in society.

So I want to step back from this a moment and just reflect for a moment on what I said at the outset. Here we are, working within adverse conditions as it relates to income disparities. We're up against trends on a federal level, international level, with not sufficient resistance coming from Congress, and in a single city like San Francisco, you start to see possibilities. You start to see the possibility of the emergence of other viewpoints. You see directly impacting health and wages.

About two years ago, I was in my office and got a phone call from some neighbors, residents of District 5, that includes Cole Valley, an area near Golden Gate Park. And they were very concerned—it's a very small neighborhood commercial district, and they were very concerned about a chain store, Walgreens, moving into the area. They hadn't been given any notice of it. They wanted to try to negotiate with Walgreens, to see if they could mitigate some of the architectural things that these chain stores do, et cetera.

So we try to facilitate these issues. One of my aides got on the phone, called Walgreens, said, "Hey, can one of your people come to the office? Maybe we can get a dialogue going. The neighbors are having a hard time getting your attention." And they just didn't have time. They said, "Gee, you know, we don't have time to send anybody to talk to you." And I said, "I don't think you understand. I'm a member of the Board of

Supervisors. I represent this district. A lot of pissed-off people live in that area, and they really want to talk to you.” And they said, “Gee, you know, maybe we can make ourselves available for a conference call.” And I said, “Listen, guys, you know what? I got a lot of things I’m working on. This is really not on my radar screen. But you’re starting to make me really think about this.” [Some in audience laugh.] “And I don’t think that this is going to inure to your benefit.” And that’s how it went.

So we started looking at the issue of what we can do with chain stores. I want to lay a picture for what happens in our cities, what happens in a city like Berkeley or San Francisco. I mean, you’ve got a certain discrete charm in neighborhood commercial districts. Then you have the arrival of the chain. You have a store that moves in. It’s got certain components to it, a standardized service. It’s got architecture features that are uniform; the décor is uniform. You know the routine. And they move into a neighborhood, and you get essentially folks who support these retailers saying, “What’s wrong with it? They have good services. They have good prices. Let the consumer decide. Let the consumer decide with their wallet.”

And yet, while this argument at first glance appears to be compelling, what we know is that, as consumers, we’re often going to act in a very selfish way. I mean, if you need that aspirin, you’re going to go into the Walgreens, whether you believe in chains or not. You’re not going to act collectively, by and large. And this illusion that, oh, just let the consumer and the wallets decide—this idea that the marketplace is going to result in justice for you, of course, is an illusion. It’s not till after the store is there, that they’re paying low minimum-wage jobs, that they’re essentially driving up rents that the independent neighborhood-serving retail cannot afford—it’s not until those impacts have

been felt that consumers suddenly say, Hey, where are the independent stores I used to go to? And, of course, by then you're there, trying to find ways to do what? To reverse something that's already happened. And frankly it's too late.

The homogenizing effect of these chain stores isn't limited to zoning matters or retail businesses. We've seen it in the increase in media consolidation around the country. When you think about radio stations that are all owned by the same entities, where you have not decentralized decision making as you once had but you've got centralized decision making, so you can't even hear Hank Williams over the radio in Texas; you can't hear the Neville Brothers in New Orleans or the MC5 in Detroit. You can't even get local news coverage over your local radio stations.

What we started to do was we started to say: Is there a way that we can, through zoning laws, which obviously a municipality has a lot of control over, try to regulate businesses that have these standardized architectural and service components? And what we decided to do was we decided to create a sort of three-tiered approach. We amended our planning code to essentially, first off, require that in any neighborhood commercial district, a store that fit our definition of formula retail, that had at least twelve establishments anywhere in the United States, would have to notify neighbors within 150 feet of the establishment that they wanted to move into.

For districts that wanted a heightened opportunity for scrutiny, we created two possibilities: the opportunity to have a conditional use permitting process before the planning commission, which would require these retailers to appear before the commission; it would allow neighbors to be heard and would allow negotiations over mitigations, and frankly a discussion over whether or not this particular store was

necessary to the furtherment [sic] of the neighborhood commercial district. It would allow that discussion to take place.

And finally we allowed that certain neighborhood commercial districts could simply decide altogether to ban or prohibit these formula retail establishments by simply declaring, through an ordinance, subject to a mayoral veto, that they did not want these establishments in place.

Now, San Francisco was the largest city or is the largest city to have ever enacted such a statute, and it just took effect just a couple of weeks ago, maybe even less time than that. Some of these small cities in California have adopted similar protections. Arcada has certain prohibitions; the City of Coronado has a similar protection. And in the case of Coronado, the Court of Appeal took up the matter of whether or not this was going to be essentially interference with interstate commerce, and they concluded that it was not discriminatory because it did not impose different regulations on interstate as opposed to intrastate businesses, nor did it distinguish between those businesses that are locally owned and those that are owned by out-of-state interests. Its regulations were essentially even handed.

And so I present to you one of really the most radical pieces of legislation to emerge in American cities, that essentially is trying to stave off what is becoming a commonplace in corporate America, the idea of the proliferation of these stores that takes away from neighborhood character and that changes really where local dollars end up. A study in Austin, Texas, where two different parts of the commercial district, one that had chain stores and one that did not, were examined carefully. Local merchants spent a much larger portion of total revenue on local labor to run their enterprise and to sell

merchandise. Local merchants keep their modest profits in the local economy. These were the conclusions. Local merchants provide strong support for local artists and authors, creating further local economic impact.

Modest changes in consumer spending habits can generate substantial local economic impact, so for every hundred dollars in consumer spending at Borders, the total local economic impact was found to be only thirteen dollars. The same amount spent with a local merchant yielded more than three times that amount. If each household in Travis County simply redirected just a hundred dollars of planned holiday spending from chain stores to locally owned merchants, the local economic impact would reach approximately \$10 million.

The final example of what I think a municipality to do, to give you an anecdotal sense of what can be accomplished, is something that I'm working on right now.

[End Tape 1, Side A. Begin Tape 1, Side B.]

GONZALES: —that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general law. City charters [recording or dubbing glitch; unknown number of words missing]—vision, as this is known as, permits charter cities to exercise plenary powers over municipal affairs, subject only to constitutional limitations.

One of the issues that we're working on now is trying to expand the right to vote in San Francisco to non-citizens. Now, the state constitution grants the right to vote to

citizens and those who are over the age of eighteen. It's our contention that this is essentially a right that a municipality cannot take away from you. If you're eighteen or older, if you're a citizen of the United States, you have the right to vote. However, we believe that a municipality has the right to expand that rule. We could grant the right to vote to non-citizens, we could lower the voting age beneath eighteen, if there was a public will to do so.

Now, some will argue that this doesn't make any sense at all, but I would simply remind you to think back on the history of the United States. It's actually quite unusual that voting is tied to citizenship. Voting at one time was tied to property and the ownership of property. It was tied to gender at one time. William Carey Jones, writing in 1913 about the municipal affairs power, the home rule provision, basically argues that it was designed to serve a broad purpose. Quote, "It was to enable municipalities to conduct their own businesses and control their own affairs to the fullest possible extent, in their own way. It was enacted upon the principle that the municipality, itself, knew better what it wanted and needed than did the state at large, and to give that municipality the exclusive privilege and right to enact direct legislation which would carry out and satisfy its wants and needs."

I would posit to you, using the minimum wage example, that there is no reason why a state minimum wage that applies in Stockton, California, should apply to San Francisco, California, where you have a higher standard of living, where everything costs more. Likewise, if you have a city like San Francisco that has a legitimate interest in fostering a more representative, responsive local school board that will take into account the needs of its large immigrant student population when making important educational

policy decisions, then why shouldn't that municipality, under this doctrine, be allowed to expand the right to vote to try to address these concerns?

Interestingly enough, we would not be the first city to do so. The state of Maryland has six different communities, including Tacoma Park, which is often linked to sort of the equivalent of our Santa Monica, California, in terms of its radicalism—these cities have granted resident non-citizens the right to vote in all local elections, not just school board elections, elections across the board. The state of Illinois, in response to Chicago's deteriorating public school system, in 1988 granted non-citizens the right to vote in school board elections, where parents could show that they had children in the public schools. The state of New York, since 1970 until last year, when their [WHOSE?] very unique local school boards were disbanded by the new mayor there [WHERE?], allowed non-citizen parents to vote in those elections. And [in] the state of Massachusetts, the cities of Amherst and Cambridge have passed local legislation enfranchising non-citizens to vote. In Massachusetts, however, unlike these other states and unlike California, there isn't a home rule doctrine, and so those cities are awaiting the state legislature to essentially pass laws enabling that local legislation.

I think that taking some of these ideas and putting them together, all of it happening in the wake of extreme conservative tendencies in the United States, all of it happening at a time when I think the progressive communities are feeling that we never win anything, I hope that I'm helping to demonstrate some of the possibilities that can happen in a city council. And, to use my own example, I was elected in a single district of San Francisco. In order to win election, I probably had to get ten or twelve thousand votes. I spent forty or fifty thousand dollars to win a city council race. So imagine how

you can spark progressive change by simply raising that small amount of money and getting elected in a single council victory.

I also want to counsel or sort or put out the warning here that just as progressives can take advantage of this sort of home rule doctrine in municipal affairs, so too can conservatives. They can argue that we shouldn't have majority elections, that we should just have plurality victories in mayors' races; we shouldn't have an elected school board, we should have the school board appointed by the mayor, who runs city wide and has to raise more money than a candidate might have to raise in running in a small district, so it might favor the interests that support that candidate.

I think some of the progressive advancement that was made, not just the ones I've spoken about but some of the ones I also alluded to earlier, are going to withstand the test of time because of two things, in San Francisco. One is, frankly, the phenomena [sic; phenomenon] of jury nullification, the centuries-old doctrine that was first articulated in the late seventeenth century in the bushels case, where you had Quakers being tried for unlawful assembly and for preaching against the Church of England, and jurors essentially deciding that they were empowered to decide what the facts were and to ignore the facts that they so desired because they knew the law was so oppressive.

When you have a municipality engaging in certain activity as it relates to medical marijuana, gay marriage and some of these advancements, it's very unlikely in the contest between that municipality and the federal government, that the federal government will really want to test its authority, because ultimately they have to do it in the courtrooms of that community, and even if you take Ed Rosenthal's recent verdict in the medical marijuana case that was tried in San Francisco, it's true: he was convicted in

a community that favors medical marijuana, but as soon as the jurors learned that the judge had withheld what they felt was important evidence of his involvement in medical marijuana activities, they all appeared at a press conference with the attorneys in the case and with the defendant, who was awaiting sentencing, to denounce the judge's decisions.

The other phenomena [sic; phenomenon] that I think works in favor of keeping much of the progressive possibilities in San Francisco in place is the phenomena [sic; phenomenon] that we have in the city as relates to planning decisions. In San Francisco you can divide the east versus the west. The east is more progressive; the west is more conservative. The east progressives have adopted the idea of greater density in building. As one of the values of the progressive movement, we see articulation moving away from suburban sprawl. In exchange for the greater density, we of course look for mitigations to improve public transportation, to allow amenities like public parks, et cetera. But at its core, it is essentially creating housing in the most progressive areas of San Francisco, which means the populations in those districts will increase over time, which means that the voting strengths in the east will continue to be stronger and stronger until eventually the west is frankly outnumbered.

I want to just say—as you all know, I lost the mayor's race recently. Enrique Pierce who's in the back there, ran the campaign. He was the campaign manager. And in the long tradition of radical politics, I guess he wasn't going to school here at Boalt while he was running the campaign. But I look back at that race and I say that, you know, we really ran the most progressive campaign for the position of mayor in the history of San Francisco. I don't believe that you can find any other candidate, whoever reached a runoff for that position, that articulated core progressive values the way we did: frankly,

principles of the redistribution of wealth, progressive taxation, expansion of voting rights, values related to immigrant rights, working-class rights, diversity.

And once we got into that runoff, we did not moderate our views to try to win over the right or the middle. And I think that this is really what will be the long-standing accomplishment of that campaign because, as the left holds its ground, if we can articulate and gain support among the electorate, then it essentially signals to the winner in a close contest, it marks the place where the center has to move to, and I think that, more than anything, is what we accomplished.

When I ran for city council president about a year and a half ago, I was told that I it could not be done, that a Green Party member could not win a leadership vote in a council that had a super-majority of Democrats, that it simply wasn't going to happen, and yet when I left that chamber, I had won by the narrowest of margins, a 6-5 vote. It had not been since the 1930s, when Frank [Havinore?] was elected board president in San Francisco that a third party had won that contest. And Havinore was a member of the Progressive Party and a disciple of Hiram Johnson, who was one of the leading reformers of his time.

The advances that I've spoken about, sometimes winning, sometimes losing, really, I think stand as victories toward the path of progressive reform, and certainly I think that they stand as meaningful possibilities that are taking place in the context of what you can do in a single city. I tried to liken it to the idea of creating these cracks in these walls that look monolithic and extremely conservative. Frankly, voters often feel, I think mistakenly, powerless to make change, even in a city as progressive as San Francisco.

I leave you really with that, that much can be accomplished. But do not set your sights simply on the notion of the international conflict or the national conflict. I mean, when I get invited to speak at a peace rally in Civic Center there, in front of City Hall, I go there and I stand on a podium and I see thousands of people, and they're progressive and they're radical, and they oppose the war, or they're thinking people. But how hard is it to mobilize twenty people on a weekend to walk precincts in a school board race? And that is our challenge, that we have to win those local races. We have to elect Matt Gonzales and Chris Daleys and Tom Ammianos so that they can be at the burrito place late at night and stumble across a very simple concept and say, Let's do something about it. Or they can be on the telephone with that representative from Walgreens and say, "Really? Is that how you want it to be?"

And so, thank you. [Sustained applause.]

FRAMPTON: Our speaker has graciously agreed to take some questions, so we're happy to take a few questions if you have them now.

JONATHAN SIMON: [Too low to be transcribed.]

GONZALES: Yes, the question is I've made a strong and compelling argument for how you can effectuate change on a local level and so why am I leaving the position I have. There are a lot of considerations, I think, when seeking a second term. In San Francisco, if I don't serve out the entire four years, if I leave early because I've won some other post or decide I can't fulfill that commitment for some reason, then the mayor gets to name

my replacement. Incumbency being what it is, would favor even a moderate in such a progressive district as the one I represent. A moderate would probably be able to hang onto that seat, possibly as long as eight years if they serve two terms, and so as I look at that, I very much was not prepared to commit to the four years. I knew that it was a safe seat if I let somebody else run for it and get it, and already four or five extremely progressive candidates have emerged that all make me look, frankly, quite moderate, so I think it's going to be fine.

Q: [Too low to be transcribed.]

GONZALES: That's interesting. It's a question about the commercial sale of biodiesel being made illegal in the state of California and whether or not something in the home rule doctrine would allow us to circumvent that. I don't believe that doctrine would allow us to do it. It would be interesting—I'm not familiar with that law, and it's interesting that you mention it because we have been promoting biodiesel within our own municipal transportation fleet, but I'd love to—

Q: [Too low to be transcribed.]

GONZALES: Does it give specifications on what the percentage of the additive versus fuel is?

Q: I'll have to go check that.

GONZALES: Yes, yes, yes.

Q: As a member of the Green Party, what is your position on [unintelligible]?

GONZALES: I like to look at the end result of things. I mean, I have supported many Democrats who have run for office, and I don't automatically support a third-party candidate simply because they're in the race. On the other hand, I found that much of the Democratic rhetoric around my own campaign was rather thin. We've been hearing over and over again, as a party, the idea that the Greens should not be running somebody on a national level, that we should be focused on local races, and yet when you have a Green Party candidate running a vibrant race for mayor in San Francisco, why, then, are the Democrats so interested in trying to stop that and trying to ensure that that victory doesn't take place?

I think the better approach the Democrats should have taken is frankly to have said: Hey, it's okay if he wins. We share a lot of the values that he has, and hopefully he'll urge his party to stay out of a national race they can't win. You know? Something like that. We were confronted with a very stark reality once we landed in a runoff, that many of the traditional and historical progressive groups were not on board, because they started to believe that we could not win. [Gavin] Newsome, who was elected, of course, had 42 percent of the vote going into the runoff; I had 19 percent of the vote. The battle cry had turned from "anybody but Newsome" to "Matt can't win," so the rule didn't apply anymore, and many labor unions in particular had decided to stay on the sideline.

They weren't going to support Newsome, but they were sending the olive branch to him to say: We're willing to stay out of it if you take care of us later, or consider that.

Of course, as the election day got closer and closer and it became apparent that this was a very tight race, many of those groups privately expressed regret over that decision because it was made by much of the leadership in labor. Of course, when you consider that at the time this election was taking place, we had just won what his the highest minimum wage, strongest minimum wage law in the country and that the chief sponsor of it is not able to get labor behind him, there's some pretty strong ironies there.

Q: [Too low to be transcribed.]

GONZALES: The question is about, when I got into private practice, whether or not I'll be working on environmental matters, justice issues related to communities of color. In San Francisco there's been a fight that's been going on for seven or eight decades, really, as relates to the public power plants and Bayview Hunters Point, and it is one of the things I said when I first got into office, that I would measure my tenure in office as to whether or not we had been successful in breaking that down, and we haven't. And so it's something that kind of weighs heavy [sic; heavily] on me. I do think that we have failed in that regard, and I'm committed to the issue. I don't think I'll be practicing a particular kind of law that will be involved in that, but I hope to raise money for all the efforts that keep trying to get that victory. I do think we'll get it eventually. I mean, the length of time in years is reminiscent of how long it took to dismantle the PRI

[pronounced pree] [Institutional Revolutionary Party] in Mexico. You know, it was seven or eight decades.

In the very back there.

Q: [Too low to be transcribed.]

GONZALES: My assessment of Newsome. [unintelligible] Newsome and I—obviously, we served together in the Board of Supervisors. We were not close friends. We were usually arguing over—you know, everything he and I were doing. [Audience chuckles.] His administration really—he is sort of surrounded by folks that are governing, in large part, by press release. I think they very immediately wanted to try to deal with the phenomena [sic; phenomenon], which was that he had won this election. He spent so much money to do so that there was a certain—I don't know, there was a sense in the city that there was a lack of legitimacy, to a certain extent.

The gay marriage proposal, I think, really served him quite well, to win over the sensibilities of some of the progressives. Personally, being someone that [sic; who] supports gay marriage in that issue, I really can only welcome it. I look at the issue as something I support, and so how we get there doesn't matter. If somebody is grandstanding or if they believe in it 100 percent or if they started out grandstanding and now they believe in it, it doesn't really matter. If we get there, then we are helping to move that progressive dialogue, and I think that that's something I certainly want to be supportive of.

In San Francisco, though, and it's probably true of other Bay Area communities, the left and right of the political spectrum is not defined by the social issues. Willie Brown was a fantastic champion of gay rights and other matters related to racial equality, gender equality, et cetera, but when you look at the economic disparities, when you looked at things like minimum wages and whether or not you're going to serve downtown interests, et cetera, these are candidates of the right on that economic spectrum in San Francisco.

Two examples come to mind. The chain store ordinance. Newsome wanted to veto, but we had eight votes, enough to override the veto, and so he just did not sign the law, but he didn't want to go through the public battle of vetoing it and having it overridden. The other major ordinance that's come from the board was we passed something by a veto-proof majority of eight related to demolitions. Chris Daley brought forward a measure. Because of the state law in California, rent control only applies to apartments or housing units that were built before June of 1978, so every new construction out there is not subject to rent control. In San Francisco, we're seeing a phenomena [sic; phenomenon] where sound buildings are being demolished for more dense buildings that aren't subject to rent control, and so we're trying to legislate around this, to try to stop that phenomena [sic; phenomenon], where there was a clearly sound building.

Newsome very much did not want this measure to pass, and he was able to turn one of the votes on the board so that we only had seven votes, and we fell one vote shy of overriding the veto. That did not get a lot of press. His opposition to the chain store measure did not get a lot of press.

Q: Thank you for a very inspiring [unintelligible]. I just had a question: [Too low to be transcribed.]

GONZALES: I think it's a good point. One city that comes to mind is Madison, Wisconsin, but, of course, it's a radical city. But they recently just passed a minimum wage there. New Orleans passed a minimum wage. I forget what the number was. It's quite low. And that's being challenged in court right now. So I think with issues related to economic justice, certainly directly on a wage issue, I think that battle can be fought by initiative process or in certain councils.

One thing that I have found is that I don't think it's so much whether or not all your colleagues are progressive or not. I think it's whether or not you force them to take a position on something. And oftentimes one of the reasons you can't get anything to happen is people can avoid it. You try to get them to sponsor something; you try to get them to bring something forward. They won't do it. But when you put it front of them and say, "Okay, now you have to demonstrate who you are, what side are you on," they often vote the right way.

The chain store legislation is, I think, really catching on, though, because we've gotten a lot of calls from larger cities who [sic; which] now want to try to implement something similar to that. And, of course, it's a decentralized decision making. In a neighborhood that wants chain stores, you don't ask for the heightened protections and you get notified and you don't worry about it; you let the chain store move in. In the

parts of the city that want protection, well, then, they've got it to fight the chains. I think that's why it's ultimately going to be successful in other cities.

FRAMPTON: So I think we'll continue this—I know that there are many more questions, but I think we'll continue the conversation up in the Goldberg Room. Please come and have some wine or soft drinks and continue the discussion with Matt Gonzales. [Applause.] And let's also continue the discussion tomorrow morning in Room 100 at eight forty-five.

[End of lecture.]