

Testimony of  
**Mr. Michael A. Carvin**

Partner  
Jones Day  
November 16, 2006

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
STATEMENT OF MICHAEL CARVIN

Chairman Spector, members of the Committee, thank you for the opportunity to comment on the Justice Department's civil rights enforcement efforts.

I would like to specifically respond to a series of articles in the Washington Post and elsewhere which have alleged that the Civil Rights Division's leadership has "twisted the law" and engaged in "undue political influence" by overriding the recommendations of the career attorneys in the voting rights section, in order to achieve partisan ends. While this portrayal of neutral civil servants having their dispassionate legal analysis rejected by ideological and politically-motivated Presidential appointees provides for juicy sound-bites, the reality is quite different and, if anything, the polar opposite of what has been suggested. In truth, for the past 15 years, the career lawyers of the voting rights section have consistently advanced an ideologically-driven, expansive view of the Voting Rights Act which directly resulted in the grotesque racial gerrymanders of the 1990's and which has been consistently rejected by the Supreme Court. Consequently, any supervising attorney who neutrally adhered to the rule of law, and the binding Supreme Court precedent which severely circumscribed the Department's now-discredited view of its sweeping Section 5 authority, would be at odds with the voting rights section's effort to nonetheless continue its racial "maximization" agenda. At worst, any disagreement between the career voting rights staff and their superiors reflects an honest disagreement about two different approaches to the law.

In short, the notion that the voting rights section's positions somehow reflect a view of the law or facts free from ideology, while the Presidential appointees are driven by politics, is plainly untrue under any fair-minded analysis.

Moreover, contrary to the revisionist history offered by the Department's career attorneys, any current tensions between liberal career lawyers and the Division's leadership in a Republican administration are simply par for the course. In this instance, it reflects nothing more than the career attorneys' refusal to accept that elections have consequences and that the election of a Republican President will lead to a Justice Department with a different, less "result-oriented" approach to the law, particularly where, as here, the Supreme Court has repeatedly rejected the Division's prior expansive view of Section 5 and the Voting Rights Act. That being so, it is quite unfair, and just silly, to portray career voting rights lawyers as noble "whistleblowers" exposing the corruption of politically motivated appointees, simply because the Division leadership sometimes disagrees with the section's skewed view of the law and facts.

Worse still, giving media and congressional support and attention to these disgruntled employees in the voting rights section endorses and encourages their wholly unprofessional behavior. It is

plainly impermissible, under any canon of legal ethics or rule of government confidentiality, to publicly disclose internal deliberative memoranda on sensitive legal issues, as was done by some members of the voting rights section to the Washington Post. To reward this behavior by portraying these unethical lawyers as "truth-telling" heroes whose selective leaking justifies examination by the Senate Judiciary Committee can only further undermine the Justice Department's institutional ability to properly perform its important law enforcement functions. Thank you. I would be happy to answer any questions.