manner or showed disregard or disrespect for the law, which is the more serious charge that grows out of this litigation.

But what hasn't further been discussed is the ultimate outcome of that case, and that outcome was a determination that it was in fact the court itself which had exceeded its jurisdiction in attempting to impose those guidelines. So we have there a case where what really happens is that there is a conflict over what is the proper role of the judiciary and the executive which is ultimately resolved for the executive, but a great deal of bitterness, which is turned into a kind of personal vendetta against the judge and which is largely unjustified.

Thank you.

Senator SIMON [presiding]. We thank you, Professor Broadus.

Professor Ellison.

STATEMENT OF JAMES ELLISON

Mr. ELLISON. Mr. Chairman, I would like to thank you for giving me the opportunity to state my reasons for supporting the confirmation of Judge Clarence Thomas as an Associate Justice of the U.S. Supreme Court.

My name is W. James Ellison. I am a professor of law at the Cumberland School of Law, Samford University, Birmingham, AL. I am also cochairman of Alabama Citizens Committee to Confirm Clarence Thomas and of Alabama Attorneys to Confirm Clarence Thomas.

I would like to limit my remarks to a brief statement in support of Clarence Thomas' concerns about affirmative action policies which permit and encourage race-norming tests and gender and race-based preferences and quotas.

As currently engaged in, race-norming tests and gender and race-based preferences and quotas have three incontrovertible characteristics. The first of these is that they discriminate against white males in favor of ethnically identifiable minorities and in favor of white females who have had themselves legislatively declared a disadvantaged class.

It seems to me that the same constitutional standards which prohibit discrimination against African-Americans solely because of the color of their skin prohibit similar discrimination against white American males.

Today, racially discriminatory attitudes and practices cause much pain and suffering, but we cannot end discrimination against one class of Americans by discriminating against another class of Americans. Instead of gender or race-based remedies, corporate and individual wrongdoers should be held accountable for their discriminatory conduct under existing traditional civil law remedies. After proving discrimination in a court of law, a plaintiff should be awarded actual damages, attorney fees, and significant punitive damages. Each individual plaintiff would, in essence, act as a private attorney general.

Second, race-norming tests and gender and race-based preferences and quotas are premised on the proposition that their beneficiaries are intellectually inferior to white males or are otherwise

unqualified to succeed on their own merit. Nothing could be further from the truth.

Race-norming tests and gender and race-based preference and quota policies are at odds with the original intent of African-American civil rights movement. For hundreds of years, we African-Americans had never asked for or demanded anything that had the effect of making us appear less than equal to any man or any woman.

The original civil rights movement never asked for special treatment from the State or the private sector. What we demanded was the right to educate ourselves and our children, to work at jobs commensurate with our skills and talents, to market our ideas, to practice our faith, to vote, to live in decent housing without interference from the State. We wanted the right to dream.

The thought of entering America's marketplace and institutions predicated on race-norming tests and gender and race-based preferences and quotas were then and are now repugnant concepts which have no place in a free society. The original intent and goals of the African-American civil rights movement was a demand for equality of opportunity. We demanded an even playing field where we could compete as equals.

In Rock Hill, SC, where I grew up, we were taught from a very young age that we had to be twice as smart as our white counterparts in order to get a good job. We never doubted our ability to compete. The idea that we needed special dispensation on tests, that we needed special preferences and quotas because we were intellectually inferior or could not otherwise compete were concepts unknown to our psyches.

Third, policies supporting and promoting race-norming tests and gender and race-based preferences and quotas require a perpetual class of victims and a perpetual class of villains. Too many Americans have become psychologically and emotionally dependent on these policies. This, in turn, has promoted their intellectual decline and their will to take responsibility for their own successes or failures. These policies have promoted and aggregated the ethnic and gender tensions they were intended to eradicate.

Civil rights groups should be applauding instead of criticizing Clarence Thomas for his opposition to race-norming tests and race and gender-based preferences and quotas. Thomas should be praised for his effort to return African America to the original goals and intent of our civil rights movement.

Clarence Thomas' life personifies the very best that America has to offer—his hard work, intellectual competence, and independence are what raised him from the cotton fields of a segregated Georgia to a seat on the U.S. court of appeals, and hopefully will elevate him to the U.S. Supreme Court.

Mr. Chairman, that concludes my prepared remarks. May I submit an extended statement for the record?

Senator SIMON. The full statements will be entered in the record, and I appreciate your abbreviating your remarks to try and stay within the 5-minute rule.

[The prepared statement of Mr. Ellison follows:]