American Studies agenda proper. Pointing to the enormous spread of corporate mergers at century's end – and their tremendous impact in most walks of American life – he argues for the inclusion of corporate legal theory, informed by the theoretical concerns of cultural materialism, at the vital center of American Studies programs, seeing the unwillingness, or incapability, of Americanists to do so as a sort of cop-out. Guthey claims that a dramatic change in the justification of the legitimacy of the business corporation has taken place over the last thirty years, replacing the 'real entity' concept of the corporation – as a natural person before the law, dominant since the late 19th century – with a new theory of the corporation as a nexus of contracts, argued by Michael Jensen and William Meckling, among others. Guthey offers media mogul Ted Turner as the symbol of the new corporate leader, 'a figure of raw male energy and entrepreneurial aggression.' In conclusion, Guthey admonishes American Studies scholars to look to law and business journals for inspiration in their efforts to attune themselves better to the basic tenors of American life, quoting Thomas Streeter's description of law as 'a lived set of social relations.'

In the final chapter, Michael Böss adds an international comparative perspective to the book by analyzing the impact of American constitutional law on the legal reforms of Ireland, 1937-1997, using Mary Robinson – a catalyst of this development – as a central case in point. Böss shows the influence of American constitutionalism on the Irish Constitution of 1937, but equally significantly, the impact of the role of the US Supreme Court of the Warren era on the subsequent development of the Irish judicial system, both as a modern judiciary and as part of a changing political system. He also demonstrates that this trend is not limited to the Emerald Isle but has had similar ramifications in several European countries in the postwar years.

I have allotted so much space to the various contributions to this anthology in order to demonstrate the broad sweep of this book of essays. I think Porsdam and her fellow scholars at the Lisbon EAAS Conference have succeeded in illustrating the value of law as a viable additive to many fields within traditional American Studies. And I venture the conclusion that, as a volume of 'conference papers,' the result is an unusually coherent attempt, aptly bridging the traditional gaps between the fields of law, history, and other social sciences, on one hand, and the arenas of literature and film studies, on the other. Although the work has its share of blemishes (such as some heavyhanded verbosity in some passages), its merits far outweigh whatever flaws are found in the balance.

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Ole Moen, *Race, Color, and Partial Blindness: Affirmative Action under the Law*. Oslo: Solum Forlag, 2001. 303 pages; NOK320 $32, paper (ISBN: 9-788256-013234).

In a recent article in the *National Black Law Journal*, law professor Kimberle Cren-

shaw discusses the forces arranged in favour of and against affirmative action. 'From the anti-affirmative action initiatives in Washington and California to the Hopwood decision in Texas and the pending suit against the University of Michigan,' she writes, 'the message is clear that the corpus of affirmative action policies is in crisis... Fear that the outcome is somehow inevitable seems widespread; most seem to believe that it's only a matter of time before the plug is pulled and affirmative action as we know it will exist no more.' Those who support affirmative action should not concede defeat just yet, though, suggests Crenshaw. 'By questioning this sense of inevitability,' she continues, 'I don't mean to underestimate the crisis facing us because the threat is formidable, but we should not confuse a grave situation with a hopeless one.'[11]

In *Race, Color, and Partial Blindness*, Ole Moen tells the story of the growth and decline of affirmative action as a legal and political concept. He takes care not to confuse a grave situation with a hopeless one. 'Right now,' he argues toward the end of the book, 'the nation seems to experience a general reform fatigue, but with this nation you never can tell' (257). Moen positions himself on the pro-side of the affirmative action debate, and he agrees with Kimberle Crenshaw that it does matter to keep up the good fight. He reminds us of the importance of race in American life, and it is no coincidence that he starts off with a quote from that other Scandinavian observer of American dilemmas, Gunnar Myrdal. Beyond offering a description of the concept of affirmative action in a constitutional perspective, Moen participates in a wider, Myrdalian dialogue on race and American culture and history. 'The rhetoric of "color-blindness" and equal opportunity,' he concludes,

> simply represents a basically escapist dismissal of the significance of race in American culture.... That is the central dilemma in a nation based on the ideal of equality, an *American Dilemma*, to quote Gunnar Myrdal, who saw that truth more than half a century ago. ... The concept of race is a central constituent of the American cultural tradition, in a broad sense. In fact, American culture is obsessed with race, and that very truth cannot for long be swept under the carpet, however strong the preference for make believe over harsh reality might be in the nation (255).

The main emphasis of Moen's book is on the period 1961 to 1995 – a period demarcated by President Kennedy's Executive Order 10925 (1961) and the US Supreme Court decision in *Adarand v. Pena* (1995). 'Affirmative action' was not much talked about by the general public until the late 1960s, but as Moen reminds us, it was Franklin D. Roosevelt who first used the term in the 1930s. In the National Labor Relations Act of 1935 it was used to address the problem of discriminatory practices against union members by employers. It next appeared in an Executive Order in 1941 which was the harbinger of a whole series of executive orders in the years to come that introduced race-conscious measures of various kinds. It was Lyn-

1. Kimberle Crenshaw, 'Playing Race Cards: Constructing a Pro-Active Defense of Affirmative Action,' *National Black Law Journal,* 16, 2 (1999/2000), 196-97.

don B. Johnson's Civil Rights Act of 1964, however, that provided the statutory basis for affirmative action as we know it today. Title VI forbade discrimination on the basis of race, nationality and religion in educational programs receiving federal financial support, and Title VII proscribed employment discrimination on the basis of race, nationality, religion and sex. The Civil Rights Act not only started the general process of extending substantive equal rights to African Americans; it also provided a legislative platform for the process of including other minority groups into the American mainstream.

At this point, affirmative action was viewed as a neutral, 'color-blind' measure. Within the next ten years or so, this was to change. Many have blamed the US Supreme Court for transforming the concept from a neutral measure into 'preferences,' 'quotas,' and 'reverse discrimination,' but according to Moen 'the Executive Branch was an active agent in launching and implementing the principles of affirmative action' (25). Various factors were at play in this transformation. Moen points to the general development in racial relations in the 1960s, but also to the Vietnam conflict, to the liberation of African colonies, and to the Soviet Union charging the US with having one standard abroad and quite another at home when it came to the issue of race. For a while, Congress would continue its supervisory role with regard to the development of affirmative action, but from the early 1970s on 'the ball was with increasing frequency played into the court of the Court, in a manner of speaking' (33).

Moen devotes ten chapters to the Supreme Court's handling of affirmative action during the last quarter of the century. The subtitle of these ten chapters might read: From *DeFunis* to *Adarand*. What we get is an exploration of legal issues that is truly impressive. Moen provides us with a close reading of all Supreme Court opinions (both majority, concurrent, and dissenting opinions) in the area of affirmative action between 1974 and 1995. He even includes analyses of court cases in other, related fields of civil rights which further an understanding of the concept as a legal-political tool. To anyone with an extensive interest in the role of law in American history and politics, *Race, Color, and Partial Blindness* will offer a welcome opportunity to become reacquainted with the main arguments for and against the use of affirmative action. To the average American Studies reader who may have a more modest interest in legal issues, however, these chapters may at times be hard going. What saves such a reader are the book's closing chapters, which put all the legalese into a political and cultural context. Moen is kind enough to provide in his very last chapter a user-friendly 'summary and synthesis.' He is also kind enough to provide a list of legal terms, a chronology of affirmative action, and a brief profile of the US Supreme Court.

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