This is not Civil Rights: Discovering Rights Talk in 1939 America. By George I. Lovell. Chicago and London, UK: University of Chicago Press, 2012. 280 pp. $27.50 paper.

Reviewed by Christopher W. Schmidt, Chicago-Kent College of Law, Illinois Institute of Technology, and American Bar Foundation

Among the many rewards of reading George Lovell's *This is Not Civil Rights* is to see how much this skilled political scientist does with a study that appears, on the surface, distinctly modest. The book revolves around a collection of letters, written by Americans from all walks of life—men and women, old and young, black and white, economically comfortable and destitute, incarcerated and free—and sent to various federal government officials from 1939 to 1941. Each of the 879 letter writers in Lovell's sample asked their government for something, ranging from recovering cash stolen by corrupt policemen to replacing a lost job to overturning a wrongful conviction. The requests eventually reached lawyers in the Justice Department's newly created Civil Rights Section. These lawyers almost invariably responded that they lacked the power to help. And this is pretty much where Lovell's story ends: a plea and a rejection.

Out of this, Lovell constructs a fascinating study of how a generation of ordinary Americans formulated claims on their government, and the disappointing responses they received. Despite the lack of formal legal training on the part of most of these claimants, despite the fact that their requests frequently failed to identify legally cognizable claims, despite their inability to persuade the government lawyers to help, Lovell makes a persuasive case that these self-narrated glimpses into the hopes and frustrations of past lives merit close attention. They illuminate "how deeply talk of law and rights is woven into everyday political activity and engagement" (pp. 180–81). Especially of interest to Lovell is the "gap between citizens' expansive ideas of rights and the narrower understanding of responding government officials" (p. 3).

Lovell identifies several provocative findings. One is that while existing law of the period generally did not accept the kinds of arguments found in the letters, their "creative" and "extravagant" claims often spoke to the future. Development in constitutional doctrine and the expansion of national authority in the coming years would move the legal capacity of the federal government appreciably closer to what these claimants envisioned. Another involves the government response. The federal lawyers, while expressing sympathy for the letter writers' situations, typically explained that legal constraints prevented them from helping. Yet

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in litigation, speeches, and writings, these same lawyers were demanding the loosening of these same constraints. The lawyers "not only hid the information that citizens needed to evaluate the department's decision, they also hid the broader political conflicts that were constraining federal responses to civil rights violations" (p. 68). This was an opportunity lost, Lovell suggests.

Alongside these and other important findings Lovell considers, there is a noteworthy story whose significance Lovell overlooks. Although some of the letter writers' legal claims spoke to the future, others looked in the opposite direction, toward a rights tradition the courts were leaving behind. Many of claimants in Lovell's study were demanding protection against government economic regulation. They challenged policy that infringed what they saw as their right to pursue their chosen profession or that limited their property rights. These libertarian-inflected claims were not particularly novel. They drew from a rich if highly controversial tradition of rights claiming, one the Supreme Court articulated most famously in *Lochner v. New York* (1905). This is a fascinating finding: even as the New Deal redefined the responsibility of government for the social welfare of its citizens, even as the Supreme Court was turning away from judicial protection of economic liberty, citizens still regularly framed their claims on government in a language more resonant of *Lochner* than of Franklin Roosevelt or Earl Warren. Lovell's assumption of New Deal/Warren Court liberalism as his baseline for evaluating rights claims leads him to miss this important point.

Lovell might also be critiqued for overselling the novelty of his findings. He frames the book as correcting the view, which he characterizes as dominant among scholars, that "legal discourses inevitably distort politics, mask injustice and lead to compliance or acquiescence" (p. xi). Lovell's claim has the merit of being absolutely correct, of course. Non-elite legal discourses and rights claiming have often proven deeply empowering. But then the obvious question arises: does any serious scholar believe that drawing on "legal discourses" necessarily transforms citizens into subjects? Considering Lovell's ability for nuanced analysis and his thorough knowledge of the relevant scholarship, it is puzzling why he chose to frame his book against such a blunt, even indefensible version of rights critique. (Similarly overdone is his extended demonstration of how the letter writers understood that rights were not "absolute" or "unconditional.")

Sociolegal scholars have long recognized the benefits as well as costs of relying on legal categories and rights claims. This book is best read as a valuable reinforcement and amplification of established scholarship on the complicated, multivalent ways in which ordinary people call upon the law. If not quite the bold revisionist

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account Lovell claims, *This Is Not Civil Rights* is nonetheless a fascinating and important contribution.

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Self-sufficiency of Law: A Critical-Institutional Theory of Social Order. By Mariano Croce. Heidelberg: Springer, 2012. 245 pp. $129.00 cloth.

Reviewed by Seán Patrick Donlan, University of Limerick

This is an important book by a significant young scholar. In it, Mariano Croce draws on a wide array of thinkers and disciplines to create a work deeply engaged with contemporary debates about legal philosophy and legal pluralism. The book is novel, too, in its sources, reminding us of sophisticated analyses of which many Anglophones are not aware. In it, the author "tackle[s] four main issues: the nature of law, the nature of normativity, the relation between law and society, [and] the borders between legal and non-legal normativity" (p. xvii). To achieve this modest aim, the book has three movements: an engagement with the work of H. L. A. Hart, a review of different types of legal pluralism, and the analysis of "law as a special practice." Croce's overview of Hart is a preliminary step to his wider discussion of legal pluralism and legal institutionalism. Hart remains, of course, the most influential Anglophone legal philosopher of the last century. Croce both critiques the limits of Hart's rule-centered thought and reveals its openness to a more pluralist interpretation. In doing so, he is following a number of modern jurisprudes—Brian Tamanaha, William Twining, and Detlef von Daniels, among others—who have sought to bring legal positivists and legal pluralists into a closer dialogue.

In the second part of the book, Croce notes the difficulty identifying the thread that unites the various advocates of (so-called) legal pluralism. He considers several varieties of legal pluralist thought. Eugen Ehrlich and Santi Romano, for example, both described law as an organization preceding or beyond the state. Roles and functions, rather than rules, are central. A second pluralism—Croce discusses Sally Falk Moore and Marc Galanter—emphasizes the "artificial character of law," its historicity and contested character. A third pluralism, here associated with Sally Engle Merry and Tamanaha, threatens to dissolve legal pluralism entirely.

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