C.J. de Bruijn, *Latent defect or excessive price? Exploring early modern legal approach to remedying defects in goods exchanged for money*. GVO, Ede 2018. XVIII + 548 p.

The book under review offers the published version of a PhD thesis successfully defended by Niels de Bruijn at the Free University of Amsterdam on 26 October 2018. Following recent trends in the field of the history of private law, it takes as its starting point a specific regulatory problem (*Regulierungsproblem*) rather than particular juridical institutions or dogmatic concepts (*Dogmengeschichte*). The author examines historical legal texts and court cases, with a focus on the early modern period, that highlight the ways in which jurists and theologians have tried to come to grips with the problem of a buyer who received goods that turn out not to meet the quality standards that he expected. Summarizing his impressive reading of hundreds of legal texts from late Antiquity until the present, the author explains that this challenge has been addressed by applying either remedies available to protect buyers against latent defects (mainly the *actio redhibitioria*, *actio quanti minoris* and *actio empti*) or a flexible notion of justice in exchange (covering both the Roman law remedy of *laesio enormis* and Aristotelian-Thomistic notions of commutative justice). The dual nature of the responses given to the *Regulierungsproblem* at hand over the course of the centuries is expressed in the first part of the title of the work under review ('Latent defect or excessive price?'). The second part of the title highlights the need to delimitate the chronological framework of a research project that is nevertheless more ambitious, going far beyond the chronological scope announced in the title.

Through seven successive chapters the reader is offered a detailed account of the evolution of the intricacies of the legal debates on remedies against defective goods in different schools that have shaped the European legal tradition: the late medieval *ius commune*, early modern Castilian law, the School of Salamanca, legal humanism, early modern Dutch law, German and French natural law, codifications and contemporary legal systems, including the Proposal for a Common European Sales Law of 2011. Investigating just one of these schools' sophisticated discussions on remedying defects would have been worthy of a solid doctorate on its own, but the author has shown great rigor and energy in studying the development of the debate over a period of no less than fifteen centuries. To a large extent, that development is tantamount to the history of the interpretation of texts from Justinian's Digest and Code, most notably C. 4,44,2 and several provisions in C. 4,58, D. 19,1, D. 19,2 and D. 21,1. But as far as the early modern Spanish world is concerned, the author has also studied hitherto unexamined court records from the Royal Chancery of Valladolid, requiring advanced paleographical skills. Moreover, he

 | DOI:10.1163/15718190-08834P07

offers a comparative legal analysis of the regulation of legal problems arising from defective goods in the *Allgemeine Landrecht für die Preussischen Staaten* (*ALR*), the French *Code Civil*, the Dutch *Burgerlijk Wetboek*, the Austrian *BGB* (*ABGB*), the German *BGB*, and the Spanish *Código civil*. One of the reasons that De Bruijn focusses on the early modern developments is that they contribute to a better understanding of the evolution between the Roman law and the codifications, especially through the impact of natural lawyers.

Interestingly, the author has found that plaintiffs in the Royal Chancery of Valladolid rarely used the aedilitian and civil remedies from Roman law in trying to obtain relief for a defective good, appealing to the doctrine of lesion beyond moiety instead. He submits that scholastic views on commutative justice, which heavily influenced Castilian legal thought and practice in the early modern period, may have contributed to this shift in framing the problem in legal practice. By the same token, early modern natural lawyers' reliance on the early modern scholastic traditions seems to have freed themselves from the impossible task of reconciling the contradictory texts of the *Corpus iuris civilis*, e.g. on the topic of the seller's liability for encumbrances on immovables. Hugo Grotius simply framed that issue in terms of unjust enrichment and mistake, much like the early modern scholastics. De Bruijn also shows that this natural law tradition persisted in the *ALR* and *ABGB*, while Christian Thomasius's rejection of the doctrine of lesion beyond moiety left its imprint on the Dutch *BW*, the Spanish *Código civil* and the German *BGB*. It remains difficult, though, to draw general lessons from the fragmented development of legal and theological engagements with the *Regulierungsproblem* concerning defective goods, especially since, as the author acknowledges, that development is non-linear and fragmented. The authors deserves full credit, then, for having tried to present the ocean of opinions formulated throughout the European legal tradition in a clear and structured way. It is not a coincidence, however, that the books ends with three successive attempts at formulating concluding remarks (9.1. For the last time; 9.2. Summary; 9.3. Concluding remarks).

Wim Decock
Leuven – Liège
wim.decock@kuleuven.be