

X-1.-408

# Natural Law and Laws of Nature in Early Modern Europe

Jurisprudence, Theology, Moral and Natural Philosophy

Edited by

LORRAINE DASTON and MICHAEL STOLLEIS

*Max Planck Institute for History of Science, Berlin*

*Max Planck Institute for European Legal History, Frankfurt-am-Main*

ASHGATE

© Lorraine Daston and Michael Stolleis 2008

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publisher.

Lorraine Daston and Michael Stolleis have asserted their moral right under the Copyright, Designs and Patents Act, 1988, to be identified as the editors of this work.

Published by

Ashgate Publishing Limited  
Wey Court East  
Union Road  
Farnham  
Surrey GU9 7PT  
England

Ashgate Publishing Company  
Suite 420  
101 Cherry Street  
Burlington, VT 05401-4405  
USA

Ashgate website: <http://www.ashgate.com>

#### British Library Cataloguing in Publication Data

Natural law and laws of nature in early modern Europe :

jurisprudence, theology, moral and natural philosophy

1. Natural law – History 2. Jurisprudence – Europe – History

3. Science – Europe – Philosophy – History

I. Daston, Lorraine, 1951– II. Stolleis, Michael, 1941–

340.1'12'094

#### Library of Congress Cataloging-in-Publication Data

Natural law and laws of nature in early modern Europe : jurisprudence, theology, moral and natural philosophy / edited by Lorraine Daston and Michael Stolleis.

p. cm.

Includes bibliographical references.

ISBN 978-0-7546-5761-3 (alk. paper)

1. Natural law—History. 2. Law and ethics—History. 3. Science and law—Europe—History. 4. Religion and law—Europe—History. 5. Law—Europe—Philosophy—History. I. Daston, Lorraine, 1951– II. Stolleis, Michael, 1941–

K455.N36 2006

340'.112—dc22

2006002164

ISBN: 978 0 7546 5761 3



**Mixed Sources**

Product group from well-managed  
forests and other controlled sources  
[www.fsc.org](http://www.fsc.org) Cert no. SA-COC-1565  
© 1996 Forest Stewardship Council

Printed and bound in Great Britain by  
MPG Books Ltd, Bodmin, Cornwall.

## Contents

<i>Preface and Acknowledgements</i>	vii
<i>Notes on the Contributors</i>	ix
Introduction: Nature, Law and Natural Law in Early Modern Europe <i>Lorraine Daston and Michael Stolleis</i>	1
1 From Limits to Laws: The Construction of the Nomological Image of Nature in Early Modern Philosophy <i>Catherine Wilson</i>	13
2 Expressing Nature's Regularities and their Determinations in the Late Renaissance <i>Ian Maclean</i>	29
3 The Legitimation of Law through God, Tradition, Will, Nature and Constitution <i>Michael Stolleis</i>	45
4 The Concept of (Natural) Law in the Doctrine of Law and Natural Law of the Early Modern Era <i>Jan Schröder</i>	57
5 'Lex certa' and 'ius certum': The Search for Legal Certainty and Security <i>Heinz Mohnhaupt</i>	73
6 Crimen contra naturam <i>Andreas Roth</i>	89
7 Nature's Regularity in Some Protestant Natural Philosophy Textbooks 1530–1630 <i>Sachiko Kusakawa</i>	105
8 Natural Order and Divine Salvation: Protestant Conceptions in Early Modern Germany (1550–1750) <i>Anne-Charlott Trepp</i>	123
9 Natural Law and Celestial Regularities from Copernicus to Kepler <i>Gerd Graßhoff</i>	143

vi	<i>Natural Law and Laws of Nature in Early Modern Europe</i>	
10	The Approach to a Physical Concept of Law in the Early Modern Period: A Comparison between Matthias Bernegger and Richard Cumberland <i>Hubert Treiber</i>	163
11	Leibniz's Concept of jus naturale and lex naturalis – defined 'with geometric certainty' <i>Klaus Luig</i>	183
12	Controversies on Nature as Universal Legality (1680–1710) <i>Sophie Roux</i>	199
13	From Principles to Regularities: Tracing 'Laws of Nature' in Early Modern France and England <i>Friedrich Steinle</i>	215
14	Unruly Weather: Natural Law Confronts Natural Variability <i>Lorraine Daston</i>	233
15	In Search of the Newton of the Moral World: The Intelligibility of Society and the Naturalist Model of Law from the End of the Seventeenth Century to the Middle of the Eighteenth Century <i>Catherine Larrère</i>	249
16	Deus legislator <i>Jean-Robert Armogathe</i>	265
	<i>Bibliography</i>	279
	<i>Index</i>	327

## Preface and Acknowledgements

This volume is the result of an interdisciplinary and international collaboration stretching over several years. The authors met twice (and, in some cases, three times) in order to discuss the themes of the book and drafts of individual papers together and then modified their essays in light of these discussions. The density of the internal cross-references within the volume bear witness to these spirited and stimulated discussions, which took place in a friendly Babel of French, German, and English, with some Latin thrown in for good measure.

We are deeply grateful to the institutions whose support and hospitality made these discussions possible: the Deutsche Forschungsgemeinschaft, the Stiftung zur Förderung der wissenschaftlichen Forschung an der Universität Bern, the Schweizerische Akademie der Geistes und Sozialwissenschaften, the Universität Bern (Switzerland), the Werner-Reimers-Stiftung (Bad Homburg, Germany), the Max Planck Institute for European Legal History (Frankfurt-am-Main, Germany), and the Max Planck Institute for the History of Science (Berlin, Germany). Dr Josephine Fenger at the Max Planck Institute for the History of Science prepared the final manuscript with intelligence and care. We thank all most heartily for their generosity, patience, and assistance.