

**European Constitutional History**  
or  
**The Origin and Development**  
**of the Governments of**  
**Modern Europe**  
from the  
**Fall of the Western Roman Empire to the**  
**Close of the Nineteenth Century**

by Nelson Case

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## INTRODUCTION.

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SOCIETY and government are living organizations which have grown into what they now are. They never could have been constructed by a mechanic. It is only through the development of a living principle that they could have reached the perfection they to-day enjoy.

Scattered along the pathways which society and government have traveled are piles of facts which now seem dead, but which once were replete with life. To make these dead facts again live is to write history. These facts were all, to a greater or less extent, related. They were all given a being by some force whose operation was directed by law. The department of science which has to do with the laws presiding over and controlling the life and growth of these institutions has been called historical physiology. Facts are the body of history, and their knowledge and description are properly called historical anatomy. If one can so present these facts as to enable others to see their physiognomy in the various stages of their growth and development into the institutions which now surround us, he is entitled to the designation of

historian. But no work can properly be called a history which does not make the reader see a living organization. If possible, it is desirable that this organized body should be clothed in a manner which will make it appear, if not lovely, at least attractive. But the clear outline, the distinct features, the force and activity of the organization, ought never to be sacrificed for beauty of drapery. Fine rhetorical phrases and other literary embellishments are desirable only as they are the expression of clear thought and a correct theory of the period or events to be described.

It should be understood that, on many questions connected with the early history of most countries, there is a difference of opinion among historians as to what the real facts are. Of course, many things are well attested; but on many others we can only conjecture, and the most that can be safely said when speaking of these subjects is, that a certain conclusion is probable. I have not thought necessary to say every time, when treating of such questions, that in reference to this matter there is doubt: I give the conclusion which, to my mind, seems the most probable and the best authenticated.

Whether a people have a definitely framed and written fundamental law, formed, prepared, and promulgated at one time, or whether such principle in government is to be gathered from numerous acts and documents, oral or written, extending through centuries, makes little difference; for constitutional law always has been, and necessarily must be, a matter of growth. Even though a writ-

ten constitution be not changed, the varying needs of a people as they arise under an advancing civilization and development, are constantly asserting themselves, and find expression through legislative enactment, executive order, judicial decision; in a hundred ways they make their appearance in the life of the people, and, before one is aware of it, the constitution has been as effectively changed as though a formal amendment had been proposed and accepted by a direct vote of the people.

He who would study constitutional law must look through the whole history of a people. Sometimes changes in a constitution are written by gleaming bayonets amid the flashes of musketry, and are promulgated by the deafening roar of artillery; but more frequently they are to be sought in the gradual uplift of the toiling millions, or in the steady expansion of commerce and increase of manufacture through the exertions of enterprising merchants and bold adventurers, or in the new development of the forces of nature under the genius of the inventor and the penetrating mind of the scientist. However brought about, they enter into the life and customs and laws of the people, and become the fundamental standard by which individual conduct, and legislative enactment, and official action are to be judged.

Not one of the nations of Europe started with a written constitution. In the course of their history many of them have found it advisable to adopt that mode of expressing their fundamental law. Still, the study of their constitutional history is not thereby rendered materially

different from what it would be had they never taken that course. The entire national life of a people forms a part of its constitution, and is necessary to be understood in order to be able correctly to interpret and construe the constitution, however that instrument may be expressed.

In the work here presented I have aimed to use only such portions of the history of any country as, in some way, bear on its Constitution or Government. I have no doubt but that many matters have been omitted which might with propriety and profit have been inserted. But no one work can contain everything, and each author must decide what to use and what to omit.

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