

## Voltaire cont. from page 29

tion to a person released from custody on the basis of innocence. That 1766 statute stated in part, "If a person ... has been released from custody, and in the course of time his complete innocence is established, he shall have not only complete costs restored to him, but also a sum of money as just indemnity, according to the circumstances of the case, ... so that the innocent person may be compensated for the injuries he has suffered." 7

One of Voltaire's lasting legacies was demonstrating the power of public opinion to move public officials (even in a monarchical society) to act in a way they otherwise would not. In his 1906 biography of Voltaire, Gustave Lanson wrote, "He accustomed public common sense to regard itself as competent in all matters, and he turned public opinion into one of the controlling forces in public affairs." 8

Voltaire was 83 when he died on May 30, 1778. He was such a prolific writer that his plays, poetry, novels, essays, pamphlets, historical and scientific works, and more than 20,000 letters, fill 70 volumes. His personal library of over 21,000 books remains intact at the Russian National Library in St. Petersburg.

Considering the multiple times Voltaire was imprisoned, exiled, or forced to flee to safety due to something he wrote or said, it is understandable that he is credited with the well-known quote, "I disapprove of what you say, but I will defend to the death your right to say it."

Voltaire shrewdly invested the considerable money he made from his writing, and he was somewhat of an anomaly for his time — a self-made wealthy man.

### Endnotes:

1 Voltaire is an anagram of the latinized spelling of his surname "Arouet" and the first letters of the sobriquet "le Jeune" (the younger).

2 Voltaire, *Encyclopedia of World Biography*, 2nd Ed. 17 Vols. Gale Research, 1998.

3 *Id.*

4 Voltaire Biography, *Notable Biographies*, <http://www.notablebiographies.com/Tu-We/Voltaire.html>

5 Voltaire *Almighty: A Life in Pursuit of Freedom* by Roger Pearson, Bloomsbury, 2005, p. 288.

6 *Id.* at 290. Eight ounces (a mark) of gold was worth 740 livres. See, "French livre" in Wikipedia.com.

7 Decree of January 15, 1766, from the Prussian Staatsarchiv, cited in, "European Systems of State Indemnity For Errors Of Criminal Justice," Edwin M. Borchard, *Am. Inst. Crim. L. & Criminology*, 684 May 1912 to March 1913, at 689.

8 Gustave Lanson, *Voltaire* (1906; Trans. 1966).



## Biased Judges Condemned Jean Calas

By Matthew Surridge

Francois-Marie Arouet was an eighteenth-century French intellectual who wrote under the pen name "Voltaire." He became internationally famous for his works of poetry, drama, and philosophy that reflected his hatred of injustice and intolerance, especially religious intolerance, and his belief in the improvement of humanity through the development of reason. Voltaire was a strong-willed man whose unconventional beliefs, cutting wit, and argumentative personality often alienated those around him, although he maintained several friends at the court of King Louis XV.

Despite Voltaire's influential connections, the French king was personally offended when, in 1750, at the age of fifty-five, Voltaire left France to spend three years in Prussia at the court of King Frederick II. When Voltaire attempted to return to France, King Louis refused to allow him to approach Paris. At first Voltaire settled in Geneva, Switzerland, and then, in 1758, he moved to a manor named Ferney on the Swiss border. From Ferney, Voltaire maintained his friendships with acquaintances throughout Europe by becoming a prolific letter writer. Many of his letters, circulated widely by his friends, became celebrated for their wit and style.

In March of 1762, Voltaire made a sarcastic reference in one of these letters to a recent murder in Toulouse, in the south of France. Jean Calas, a Huguenot, or French Protestant, had been accused by the Parlement de Toulouse of killing his son Marc-Antoine to prevent him from converting to Catholicism, the faith of the majority in France. Calas had been tortured and executed for the crime on March 10. Voltaire was appalled that a father would kill his son for wanting to convert to a different religion.

A day or two later, Voltaire spoke with an acquaintance from Marseilles who knew the Calas family and believed that Jean Calas was innocent and had only been convicted due to religious prejudice on the part of the Catholic investigators. Voltaire decided to look further into the case. He was outraged by the idea that an innocent man might have been tortured and killed.

Voltaire sent letters to various acquaintances, whom he believed might be familiar with the case, asking for more information about the murder and for their opinions of the trial.

None of Voltaire's correspondents was able to settle the question of Jean Calas's guilt, but Voltaire learned that one of Calas's surviving sons, Donat Calas, was in Geneva, and he decided to speak to the boy.



Jean Calas

Although Donat had not been present on the night of the supposed murder, the description he gave of his father and his family convinced Voltaire that Jean Calas had not killed Marc-Antoine.

Convinced that the Parlement de Toulouse — made up of several dozen Catholic magistrates — had wrongly executed Calas, Voltaire decided to dedicate himself to clearing the name of Jean Calas and the Calas family. He wrote to a friend: "You will ask me, perhaps, why I interest myself so strongly in this Calas who was broken on the wheel? It is because I am a man, because I see that all foreigners are indignant at a country which breaks a man on the wheel without any proof."

Voltaire sent letters to the Parlement de Toulouse asking for copies of the trial records, but he did not receive a reply. Voltaire suspected that members of the Parlement would try to cover up any evidence of possible malfeasance on their part. Voltaire decided to approach a higher authority. The King's Council in Paris had the power to open an investigation into the Parlement's actions, but Voltaire knew that the chancellor of France, Guillaume de Lamoignon — the man who had the power to bring the matter before the Council — was reluctant to get involved in the matter.

To change de Lamoignon's mind, Voltaire used two tactics: he asked his aristocratic friends for support, and he also tried the then-novel tactic of seeking support from common people by publicizing his suspicions of official wrongdoing. Voltaire believed that the injustice done to Jean Calas was so shameful that if it became widely known, public outrage across France and the rest of Europe would force French authorities to reopen the case. In a letter explaining his idea to a friend, he observed: "If there is anything which can stop the frenzy of fanaticism, it is publicity."

In April of 1762, Voltaire wrote up a summary of what had happened the night Marc-Antoine Calas was killed, according to witnesses. On October 13, 1761, Jean Calas and his wife, Anne-Rose, had had dinner in their home above their shop with their sons Marc-Antoine and Pierre, their Catholic servant Jeanne Viguere, and Pierre's friend Gaubert

**Calas cont. on page 31**

## Calas cont. from page 30

Lavaysse. No other family members were present. Donat, the youngest son, was then serving an apprenticeship in Nîmes, 150 miles away, and the Calases' two daughters, Rosine and Nanette, were also away from home. Their third son, Louis, had become estranged from the family due to his conversion to Catholicism several years before.

According to everyone who had been present at the meal, Marc-Antoine excused himself after dinner, saying that he was going for a walk. The others remained behind, talking, until Lavaysse decided to leave. Pierre accompanied his friend, and as they left, they discovered Marc-Antoine's body hanging from a doorframe in his father's shop — clearly a suicide.

Two magistrates were summoned, and a crowd began to gather around the house. The Calas family knew that Marc-Antoine had been depressed since his Protestantism had led to the rejection of his application to join the French Bar. Unable to find another means of making a living, he had committed suicide. But as the magistrates were removing Marc-Antoine's body, someone shouted out: "Marc-Antoine has been murdered by his father because he intended to become a Catholic!" One of the magistrates, David de Beaudrigue, then arrested the Calas family on suspicion of having murdered Marc-Antoine.

After a five-month-long investigation that inflamed local Catholics against the Calas family, the judges investigating the case had Jean Calas tortured. Calas did not incriminate himself or his family while under duress, but the judges pronounced him guilty all the same and sentenced him to death. The Parlement de Toulouse commanded that Pierre Calas be banished while Anne-Rose Calas, Gaubert Lavaysse, and Jeanne Viguere were released without an official verdict. The two Calas daughters were taken into custody and placed in two different convents.

Voltaire, after reviewing these facts, claimed that it was impossible for Jean Calas, a man in his sixties, to have physically overpowered his healthy twenty-nine-year-old son. A conspiracy was unlikely, as the Catholic servant Jeanne Viguere would almost certainly have had to be included in the plot. Further, Louis Calas had already converted to Catholicism without any threats of violence from his family, and Viguere, who had been responsible for Louis's conversion, had continued to be employed by the family. Voltaire also noted that of thirteen judges overseeing the trial, five had consistently declared their belief that Calas was innocent but were outvoted. Final-



Jean Calas on the rack

ly, no hard evidence was ever brought against Jean Calas during the course of his trial.

The Parlement de Toulouse continued to refuse to release to Voltaire any documents about the case.

Voltaire wrote to Anne-Rose Calas, urging her to write down her story and then go to Paris, to seek justice for her family. Madame Calas agreed to write an account of the night of her son's death, but she was afraid to go to Paris. She believed that the authorities in Toulouse would convince those in Paris to have her arrested. Voltaire understood her fears, but he believed that it was necessary for her to go to Paris so that she could personally spread the story of the injustice done to her husband and her family. Voltaire thought that Parisians were more likely to sympathize with her cause if she spoke directly to them.

To assist Madame Calas, whose property and money had been confiscated, Voltaire promised to support her financially. He found lodgings for her in Paris, and he wrote to his friends the Count and Countess d'Argental, urging them to protect "the most virtuous and unhappy woman in the world" from any attempts by the Parlement de Toulouse to have her arrested. Madame Calas agreed to go to Paris only after Voltaire promised to do all he could to free her daughters from the convents where they were confined.

When Madame Calas arrived, Voltaire wrote numerous letters of introduction to prominent Parisians and appointed two celebrated lawyers to represent her. Her presence in the city attracted some attention to the widow's plight, but Voltaire knew that a greater outcry would have to be raised before the authorities would take action. He decided to publish Madame Calas's account of the night of her son's death. Voltaire wrote an essay in which he laid out the known facts and details of the death of Marc-Antoine Calas and the subsequent prosecution of Jean Calas. He decided to publish these two documents together in a pamphlet.

The pamphlet, *Pieces Originales* [Original Documents], was published in July of 1762.

It criticized many aspects of the French judicial system, especially its secrecy. The public response was immediate and positive. Influential courtiers began to believe that Jean Calas had been the victim of injustice.

In July, Pierre Calas joined his brother Donat in Geneva. After speaking with both of them, Voltaire composed a *Memoire* (Memorandum) that he attributed to Donat and a Declaration ostensibly by Pierre. Voltaire published both of these documents to further publicize the Calas case.

The Parlement de Toulouse continued to refuse to release any documents having to do with the trial of Jean Calas. Although the public was beginning to openly question Calas's conviction, neither the Parlement de Toulouse nor the government of France showed any sign of reacting to the pressure.

Voltaire, however, refused to give up the fight. "What horror is this," he wrote in a letter, "a secret judgment, and a condemnation without explanations! Is there a more execrable tyranny than that of spilling blood on a whim, without giving the least reason? In any case, it is not just [Madame Calas] who interests me, it is the public, and it is humanity. It is important for everybody that such decisions should be publicly justified."

Although some of the king's ministers had begun by the end of July to support Voltaire and Madame Calas, there was no sign that the King's Council would open an investigation into Jean Calas's trial, a necessary first step towards his exoneration. Accordingly, in August, Voltaire published another pamphlet, *Histoire d'Elizabeth Canning et de Jean Calas* [The History of Elizabeth Canning and of Jean Calas]. Elizabeth Canning was an Englishwoman who had committed perjury to secure the execution of an innocent man. Voltaire presented her story as a sarcastic counterpoint to the Calas affair, which he presented in a more sober style.

The dark wit of the pamphlet caught the attention of his readers and successfully raised public interest in what Voltaire presented as an ongoing miscarriage of justice.

Demands for an investigation into the Calas affair grew more numerous and insistent. The King's mistress, Madame de Pompadour, observed in a letter to the King's minister, the Duc de Choiseul, that "all France cries out for vengeance." In August of 1762, Chancellor de Lamoignon, moved by the widespread support in Paris for Madame Calas, called for the trial records to be released. The request was unofficial, and the Parlement de Tou-

**Calas cont. on page 32**

## Calas cont. from page 31

louse ignored it, but it was a sign that Voltaire's strategy of raising a "public outcry" was meeting with some success.

In September Voltaire and Madame Calas' lawyers published a series of Memoires that stressed the weakness of the case against Jean Calas and the importance of maintaining the integrity of the French judicial system. One of the Memoires was endorsed by fifteen of Paris's most prominent lawyers, further increasing support for the Calas family.

By this time, the Pieces Originates had been translated into English, German, and Dutch, and interest in the case had been raised outside of France. Queen Charlotte of England, Empress Catherine the Great of Russia, and King August III of Poland all supported Voltaire's efforts. The Calas affair had become an international concern.

In response to growing pressure, Chancellor de Lamoignon informally agreed to bring the Calas affair before the King's Council, but before this could take place Voltaire received a letter from the King's minister, the Duc de Choiseul. The Duc stated that Voltaire should not expect the Calas decision to be overturned, and complained that Voltaire had gone too far in a letter published in England where he had attacked King Louis XV.

The Duc was referring to a letter that Voltaire had written to his friend Jean D'Alembert in Paris months before, and that had since been published in the English newspaper, the Saint James Chronicle. In the letter, Voltaire had expressed his outrage over the injustice that had been done to the Calas family, but the letter as published in the English newspaper had been altered. Someone had added several forged passages that attacked King Louis XV, laying full responsibility for the Calas scandal on the monarch, instead of on the Parlement de Toulouse. The uproar caused by the publication of the letter threatened to discredit the cause of Jean Calas, as well as threatening to personally disgrace Voltaire.

Voltaire wrote to D'Alembert, to whom he had sent the original copy - of the controversial letter. Luckily, D'Alembert still had the letter. He returned it to Voltaire, who sent it to the Duc de Choiseul to prove that the version published in England was a forgery. The duke circulated the original letter; and the furor over the English version of the letter faded. As the letter had also been widely passed around when it had first been written, it was impossible to prove who had produced the altered version. Voltaire suspected that it

had been created by opponents of his campaign to reverse the verdict against Jean Calas.

Shortly after the affair of the forged letter, the Parlement de Toulouse seized copies of the Memoires that Voltaire and his lawyers had written, and forbade their further distribution in the area of Toulouse. Voltaire wrote letters protesting this action, but to no avail. The power of the Parlement in its own district could not be challenged.

In December of 1762, one of Voltaire's friends, a duchess whom he had convinced to help Madame Calas, secured the release of Calas's daughters from the convents in which they had been imprisoned. Upon their release, they went to Paris to stay with their mother and help in her campaign for justice. One of the nuns at the convent where Nanette Calas had been held had written a letter supporting the family. Nanette brought the letter with her to Paris, and copies were widely circulated in the city. The nun was the sister of the president of the King's Council, and as a result her letter caused a sensation, keeping the Calas case before the public.



Imprisoned Calas family told of Jean's acquittal

On March 1, 1763, the King's Council met and referred the Calas affair to the king's Great Council, which included Louis XV's chief councilors, secretaries, ministers, and bishops, all presided over by Chancellor de Lamoignon.

On March 6, Madame Calas and her daughters traveled from Paris to Versailles, the capital of France and the meeting place of the Great Council. She was warmly received. The next day she formally gave herself up as a prisoner, a legal formality that was necessary for her case to be heard by the Great Council. The jailer allowed her to sit in a comfortable armchair and served her hot chocolate. The Council met soon afterward and listened for more than three hours while Voltaire's lawyers made their cases. Chancellor de Lamoignon then formally decreed that the evidence in the case of Jean Calas should be re-examined, and that Madame Calas should be released. He ordered that the Parlement de Toulouse send a copy of the trial record to Madame Calas.

At his manor on the Swiss border, Voltaire was overjoyed to learn of this outcome, and he sent out triumphant letters stating: "The reign of humanity is announced. . . Here is one of those occasions when the voice of the people is the voice of God." His campaign to raise public opinion in aid of the Calas family had succeeded.

In Toulouse, news of the Great Council's decision was met with outrage. The Parlement was slow to produce the trial records, and demanded a large fee to cover the costs of copying the documents. Voltaire donated some of the fee from his own pocket and raised the remainder by soliciting donations from his supporters. The copies of the documents arrived in Paris in July of 1763.

On June 4, 1764, the Great Council formally annulled the judgments made by the Parlement de Toulouse. A new trial was ordered in Paris, in the Court of Petitions. On February 28, 1765, just before the new trial began, the Calas family was arrested as a matter of form. Over the next several days, the tribunal held five six-hour meetings and one eight-hour session as they reviewed the case. Voltaire and the Calas family waited nervously for the result. Finally, on March 9, three years to the day after the Parlement de Toulouse had reached the original guilty verdict, Jean Calas and the Calas family were acquitted of all the charges against them. The death of Marc-Antoine Calas was officially ruled to be suicide. "This is an event," wrote Voltaire, "that seems to allow one to hope for universal tolerance."

The Calas family was freed. The king of France granted the family a total of thirty-six thousand livres as compensation. An engraving was made of the Calas family and prints were sold to raise more money to help support Madame Calas.

Voltaire went on to fight against other miscarriages of justice, continuing to use his technique of raising what he called a "public outcry." His use of the technique in the Calas affair is considered to mark the first time that public opinion was purposefully engaged to remedy official injustice.

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