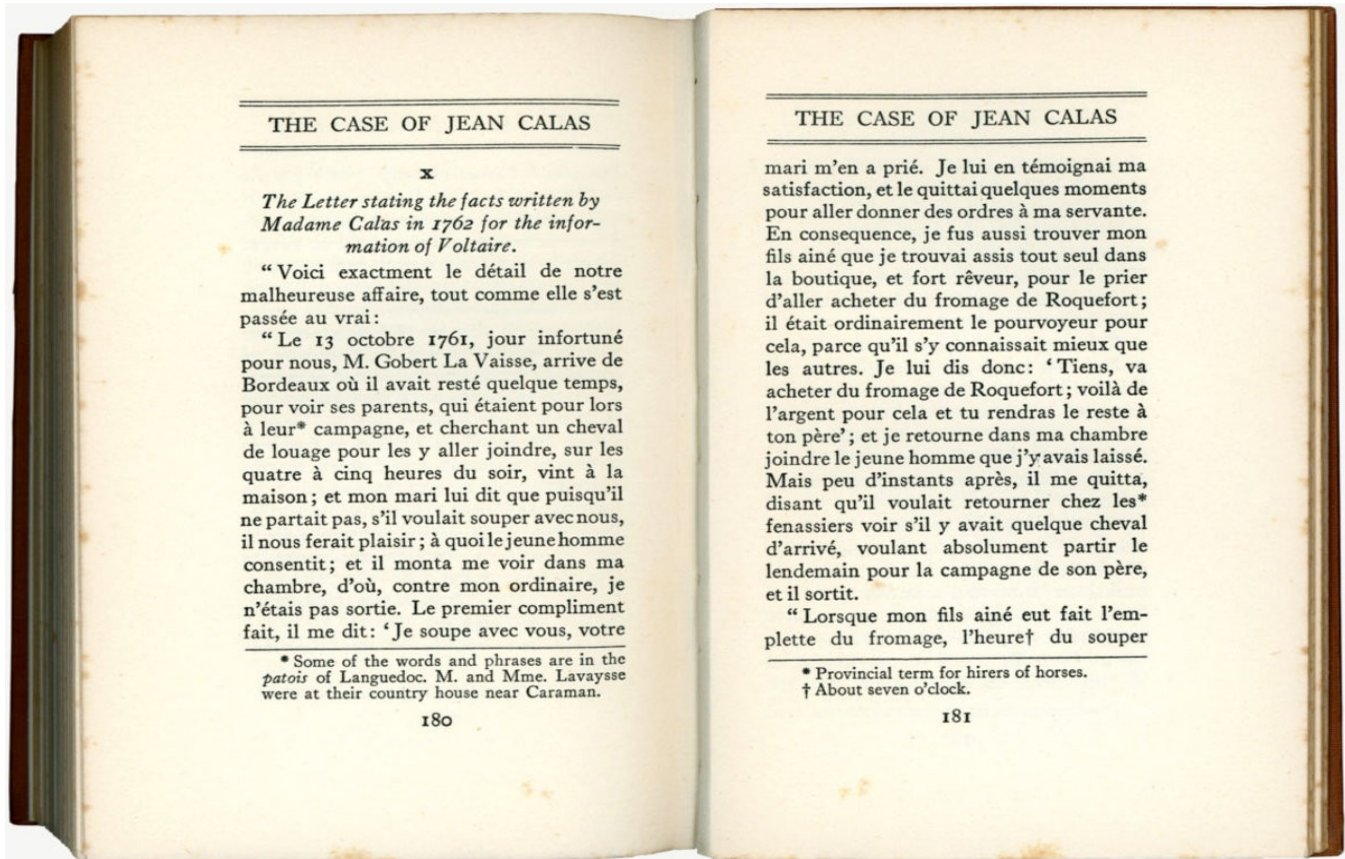


# Broken on the Wheel

The gruesome 18th Century legal case that turned a famed philosopher into a crusader for the innocent.



from "The Case of Jean Calas," a book written by Frederic Herbert Maugham, a British lawyer and judge, in 1928.

By [Ken Armstrong](#)

*Looking Back at the stories about, and excerpts from, the history of criminal justice.*

On the night of Oct. 13, 1761, cries rang from the shop of Jean Calas, a cloth merchant who lived and worked in the commercial heart of Toulouse, in the south of France. The eldest of Calas's six children, Marc-Antoine, a moody, handsome man who was fond of billiards and gambling, had just been found dead. The family said he had been murdered – perhaps stuck with a sword by someone who slipped into the darkened boutique from the cobblestoned street.

A crowd gathered outside the front door as investigators were summoned. A doctor and two surgeons, called to examine the body, found only a “livid mark on the neck.” They signed a report refuting the family’s account of some intruder with a blade, concluding that Marc-Antoine, 29, had been “hanged whilst alive, by himself or by others.”<sup>1</sup>

Those last five words, *by himself or by others*, began an enduring mystery and a true *cause célèbre*, one that might have been the “crime of the century” for the 1700s had the cliché been in use back then. Voltaire, the philosopher, dramatist and propagandist – “the greatest amuser of his age”<sup>2</sup> and the greatest polemicist – became obsessed with the case, and for years worked to eradicate what he considered to be a stain on his country, church and courts.



Finally, a panel of 40 judges sat in Paris to hear the case against Calas once again. The verdict they issued, 250 years ago this week, “echoed and re-echoed”<sup>3</sup> in Europe and beyond. Voltaire, by appealing directly to the people, helped established the power of public opinion as a tool to fight injustice. To some legal scholars, the infamous case also marked the first stirrings of the global movement to end capital punishment.

#### Chapter 1: Two French doors, half opened

Because France’s justice system in the 18th Century offered few, if any, safeguards for criminal suspects, a whisper could be as deadly as the plague. And in the crowd outside Jean Calas’s shop, the whispers began.

*Jean Calas* [ravachol.net](http://ravachol.net)

In the fall of 1761, Calas was 63 years old, a father to four sons and two daughters, with a wife who was distantly related to the philosopher Montesquieu. His shop, which specialized in cotton prints, “gaily printed muslins and calicoes,”<sup>4</sup> did well enough. The family, those still at home, lived on the two floors above it.

Calas was a Huguenot, or French Protestant. His country was decidedly, and unforgivingly, Catholic. French law forbade Protestant worship services and imposed restrictions on members of the faith, from what property they could sell to which professions they could enter. Medicine and the law were off-limits without a certificate of catholicity, which was sometimes contingent on proof of confession. Marc-Antoine had little interest in his father’s business. He had obtained a law degree, but then refused to convert or compromise his faith, and was turned away from practice.

A couple of hours before he was found dead, Marc-Antoine had dined in the house with five people: his father and mother; his brother Pierre; a visitor; and the family's Catholic servant. The story the family told – at least at first – was that after Marc-Antoine had taken his leave, Pierre and the visitor had come down the stairs and found him on the shop floor, the victim of some mysterious intruder.

But murmurs in the crowd suggested the killer had come from within. Suspicion turned to Marc-Antoine's family, fueled by a rumor that Marc-Antoine planned to abandon his faith, and that his father, to prevent the apostasy, must have conspired to kill him. Jean Calas and the four others were arrested that night.

Thirty-six hours later, Calas and the others, imprisoned in a dungeon, changed their story. Now they said Marc-Antoine had killed himself – and had been found hanging. The father said he had insisted upon the tale of murder for fear of the truth's consequences. In France, the body of anyone committing suicide could be stripped naked and dragged through the streets.

Now there were two competing versions of what had happened, with neither easy to credit. Either the father and mother (and brother ... and visitor ... and Catholic servant!) had worked together to strangle Marc-Antoine, whose body evidenced no sign of struggle; or he had committed suicide through means difficult to fathom.

The family said Marc-Antoine had hung himself from a wooden rod placed across the tops of two French doors, half opened.

This scenario would be analyzed for centuries to come. Doubters would say: Surely the rod would have rolled off, or Marc-Antoine, thrashing, would have kicked wide the doors. Believers would counter: The rod was flat on one side, and both doors sagged, dragging and then resting upon the floor. Frederic Herbert Maugham, a British judge who became Lord High Chancellor under Neville Chamberlain, epitomized Europe's enduring obsession with Marc-Antoine's exit. He would carry a piece of string in his pocket, and, in spare moments, tie it round a pencil, reconstructing the scaffold.<sup>5</sup> (In his 1928 book on the case, Maugham sided with the believers, concluding: Suicide.)

Marc-Antoine's mental makeup would also be debated. He had just told a friend how excited he was about a new blue suit. Would a man contemplating suicide say that? To which, there was this rejoinder: Here was a man, pushing 30, denied entry to his field of study, clerking for his father in a shop he loathed, forever brooding over Hamlet's soliloquies, who, that very evening, had been reduced to fetching Roquefort to go with the evening's pigeon, with money handed him by his mother. No matter the century, that does not a happy portrait paint.

## Chapter 2: The question extraordinaire

In Toulouse, David de Beaudrigue, the titular *Capitou*, was sort of the police detective, prosecutor and magistrate, all in one. A "brutal and hasty man," in one author's words, David had bought his office, "which was held for life and carried patents of nobility."<sup>6</sup>

David arrested Calas and the others without the necessary warrants. Then the call went out for witnesses – with the threat of excommunication for anyone reluctant to come forward, and with an explicit demand for hearsay, embraced as evidence by the French courts. Although more than 100 witnesses surfaced, the investigation failed to turn up a confessor for Marc-Antoine or any other proof of his plans to convert. Instead, the testimony produced convoluted chains of what a tailor told a hosier told a baker’s assistant told a barber’s wife, turning a capital proceeding into a childhood game of Chinese whispers (or “telephone,” take your pick), with predictable results. One writer captured the absurdity with this example:

“One Massaleng, a widow, gave evidence that her daughter had told her that le sieur Pagès had told her that M. Soulié had told him that la demoiselle Guichardet had told him that la demoiselle Journu had made a statement to her from which she (Journu) had inferred that *le père Lerraut*, a Jesuit, had been the confessor of Marc-Antoine Calas. When the reverend father Lerraut was summoned he showed that the whole of this was without foundation.”<sup>7</sup>

The evidence was mostly rubbish – but there was a lot of the rubbish, and in France at the time, even evidence deemed “half-complete” or “imperfect” could convict, by adding fractions of a proof to make a whole. The church also threw in, putting its stamp on the prosecution’s conjecture. Despite the lack of evidence of any conversion, Marc-Antoine received a Catholic funeral, with thousands turning out for the services.

The case against Jean Calas went before Toulouse’s *Parlement*, an appellate court that reviewed evidence and deliberated in private. On March 9, 1762, the *Parlement* voted 8-5 to convict and condemn. (And it wasn’t really that close: Only one of the five voted for outright acquittal.) The sentence called for Calas to be questioned while tortured in two ways, then broken on the wheel, then burned. The assumption was that in the throes of agony, Calas would confess and implicate the four others, in addition to any other conspirators yet unknown.

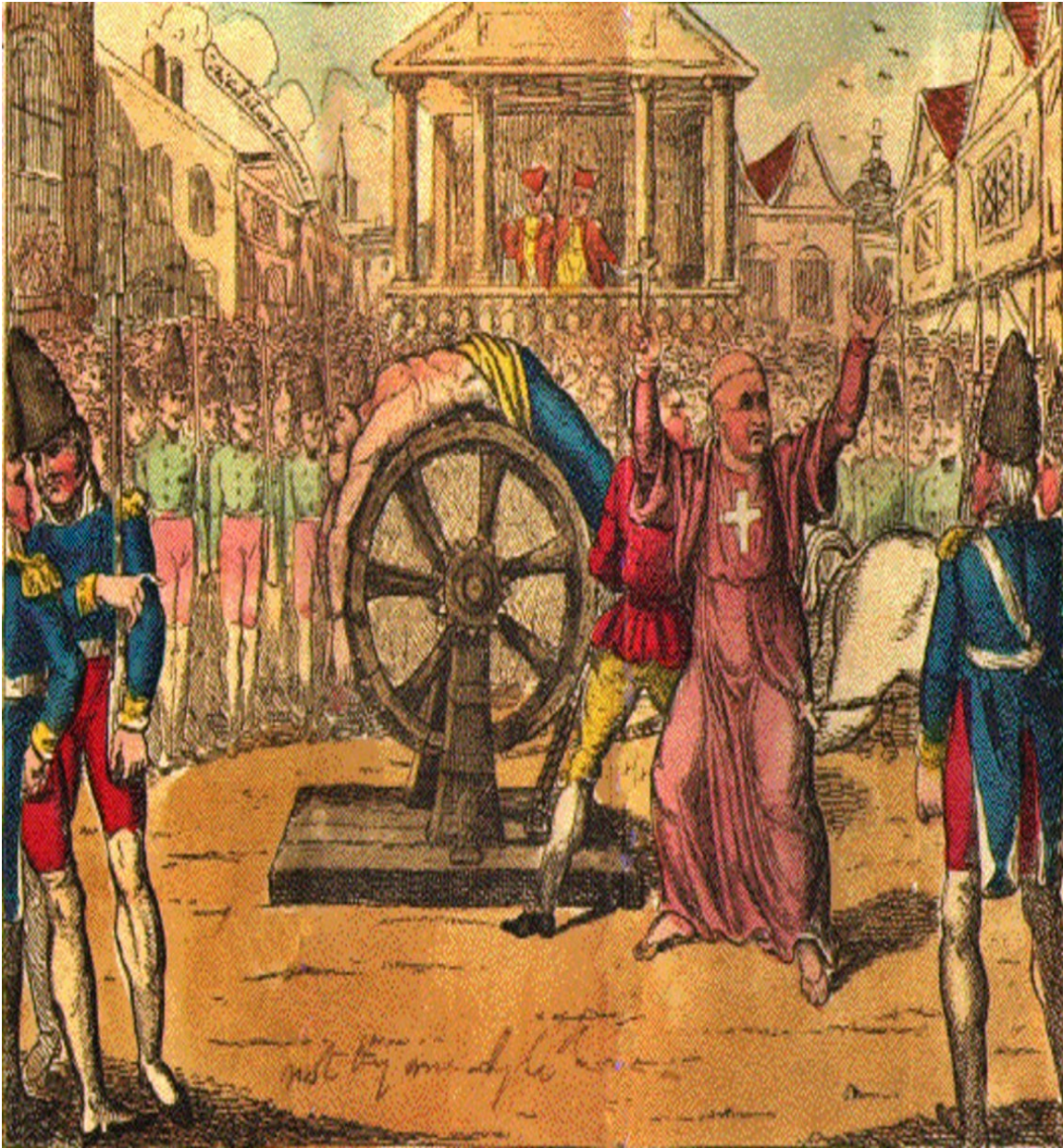
The following day, the sentence was carried out. The proceedings began in the torture chamber, with David conducting the interrogation. His initial round of questions preceded the torture – and a record was kept of all that was asked and answered.

**INTERROGATED** if he has other accomplices than those who have been designated in the trial

**REPLIES** that being innocent he has no accomplices

**EXHORTED** further to tell the truth he says he has told it.<sup>8</sup>





*The Death of John Calas depicted in an English chapbook.*

And so it went, on and on. With no concession, the torture commenced. The first form – “The Question Ordinaire,” as it was labeled – called for an elaborate pulling of limbs: “With his wrists tied tightly to a bar behind him, Calas was stretched by a system of cranks and pulleys that steadily drew his arms up while an iron weight kept his feet in place.”<sup>9</sup> But Calas did not confess.

The second form – or, “The Question Extraordinaire” – might sound familiar, having been much in the news in recent years. Calas’s mouth was forced open with two sticks. Then came the water, pitcher after pitcher. “His head was held low and a cloth placed over his mouth and on the cloth a funnel,” is how one author described this torture. “His nose was pinched, but from time to time released, then water was slowly poured through the funnel on to the cloth which was sucked in by the suffocating

man.”<sup>10</sup> Still, Calas did not confess.

For David, this had not gone as planned. But there were opportunities left, as the proceedings shifted from private chamber to public spectacle. Calas was taken through the streets to the city’s main square, then led up to a scaffold and tied to an X-shaped cross. Whereupon an executioner, iron rod in hand, crushed Calas’s bones, two blows apiece to the upper and lower arms, two to the upper and lower legs, three to the midsection. Calas, his body broken, was then tied to a wheel, face to the sky, where, for two hours, he refused to convert and refused to confess.

“I die innocent,” he said.

Afterward, he was strangled and his body thrown on a pyre.

The effect was not what David had hoped for. Not only was he deprived of evidence against the others, but Calas’s final hours had made a stirring impression, eliciting sympathy. Calas met his fate, one man later wrote, with “majestic perseverance.”<sup>11</sup>

A week later, to David’s consternation, the judges in Toulouse elected not to condemn any of the others. All were released – although Pierre, Marc-Antoine’s brother, was banished.

Chapter 3: “I write in order to act”

In 1762, Voltaire, who had been run out of Paris, had an estate in Ferney, in the east of France, close to the Swiss border. He was in his late 60s, famous throughout Europe for his wit, ego and sometimes quarrelsome nature. Twice in his youth he had served time in the Bastille – “for being generally annoying,” as one writer [memorably phrased it](#). He was rich – not by inheritance, but by investment, for he was a whiz at high finance, once [gaming the French lottery](#) – and even now, as his eyesight dimmed, he worked crazy long hours, fueled, perhaps, by his reputed daily intake of [up to 50 cups](#) of coffee.

His writings tended to wind up in fires or on the papal Index of Forbidden Books, and he was forever spoiling for a fight. When Jean-Jacques Rousseau published “The Social Contract,” contemplating how society corrupts, Voltaire wrote the author: “One longs, in reading your book, to walk on all fours.” Voltaire quipped of his rival: “Jean-Jacques writes only to write and I write in order to act.”<sup>12</sup>





A 1821 print depicting the writer Voltaire. [National Gallery of Art](https://www.nga.gov)

Less than two weeks after Calas's execution, news of the affair reached Voltaire. Writing a friend, he assumed the truth of the charge and penned a snide throwaway: "We may not be worth much, but the Huguenots are worse."<sup>13</sup> But in the days and weeks to come, as Voltaire learned more, his mood shifted from condescension to concern to outrage.

Voltaire met with Calas's youngest son, Donat, who had been away when Marc-Antoine died. Expecting a "roustabout, such as you sometimes find the country," Voltaire was instead struck by Donat's gentle disposition and tearful defense of his parents' character. Won over, Voltaire launched what would become a three-year crusade.

After convincing Calas's widow to appeal the verdict, Voltaire organized and helped finance the fight. He ghost-wrote legal documents; enlisted eminent lawyers; tapped his vast network of aristocratic acquaintances for support; and dispatched a young merchant to Toulouse, to investigate.

Voltaire became steeped in the country's rules of criminal procedure, a labyrinth he found appalling: "As there are half-proofs, that is to say, half-truths, it is clear that there are half-innocent and half-guilty persons. So we start by giving them a half-death, after which we go to lunch."<sup>14</sup> He fretted at how France appeared to other nations – "Do they not say that we know how to break a man on the wheel but do not know how to fight?"<sup>15</sup> – and steamed at the judicial system's secrecy, which allowed Toulouse's *Parlement* to keep to itself the evidence used to convict.

In 1763, Voltaire broke through: The French government re-opened the case. It also ordered the trial records forwarded to Paris, breaking the seal of secrecy. (In a move emulated by some public agencies to this day, the Toulouse authorities, feeling put upon, demanded an exorbitant sum to copy the file. If you can't deny, make it cost.)

A high-ranking government official advised Voltaire to back off – "let the world wag its own way,"<sup>16</sup> he wrote – but Voltaire refused. In typically unsparing fashion, he called David a "scoundrel"<sup>17</sup> and the judges "barbarous Druids"<sup>18</sup> and "*assassins en robe noire*."<sup>19</sup> He produced pamphlets and other writings in French, English, German and Dutch. To Maugham – the British author who came to share Voltaire's belief in Calas's innocence – this propaganda campaign was "energetic, widespread, persistent and, it must be said, unscrupulous. Voltaire did not hesitate to colour or distort the facts in favour of Jean Calas ..."<sup>20</sup> (Voltaire, for example, added five years to Calas's age, a benefit in mocking the scenario of an old man overpowering his adult son.)

The same year the case was re-opened, Voltaire published his "Treatise on Tolerance," a transcendent work that used the Calas affair to argue for conciliation among faiths.

In 1764, Voltaire's campaign saw its second breakthrough: The French government threw out Calas's conviction and ordered a new trial, to be conducted in Paris. The momentum was such that the outcome seemed inevitable. Voltaire, from afar, continued to work the case, corresponding with the lawyers and helping prepare the last arguments. But months passed without word. For Voltaire, a playwright, here



was a drama he had staged, but, for the final act, could not attend.

Then, on March 9, 1765, three years to the day since Jean Calas was convicted, a panel of 40 judges,



LA MALHEUREUSE FAMILLE CALAS.

*La Mere, les deux Filles, avec Jeanne Viguiere, leur bonne Servante, le Fils et son ami, le jeune Lavayffe.*

Qualibus in tenebris vita quantisque periculis  
Degitur hoc avi quodcumque est.

*Avec Privilège du Roi.*

To raise money for the Calas family, prints were sold in Europe depicting the case. In this scene, Gaubert Lavaysse, a visitor at the Calas house the night Marc-Antoine died, reads aloud a defense document as Pierre Calas looks over his shoulder and Jean Calas's servant, daughters and wife listen. [National Gallery of Art](https://www.nationalgallery.org/learn/objects/la-malheureuse-famille-calas)

called Masters of Requests, announced its unanimous verdict: Jean Calas was acquitted. Unable to restore his life, the court restored his good name.

## Epilogue: “The affair was, and remains, a mystery”

“My tragedies are not so tragic,” Voltaire wrote early on of the Calas affair.<sup>21</sup> And in one way at least, the story’s closing did push the bounds of theater. David, the *Capitoul* who so vigorously pursued Calas, was removed from office and thereafter lost his mind. He committed suicide, throwing himself out a window. (He made the attempt twice: The first time, he survived.)

For Voltaire, the Calas case was but the beginning of his life’s last chapter. In his twilight years he became an 18th Century version of the Innocence Project, taking on, and prevailing in, one case after another. For so long a darling of high society, he became a champion of the people. In time, his influence extended beyond Europe to America, where he was read and revered by Benjamin Franklin and Thomas Jefferson, who shared Voltaire’s zeal for separating church and state.

In 1778, Voltaire was welcomed back to Paris, where people hailed him as *l’homme aux Calas*, the man of Calas. There, he met Benjamin Franklin – creating quite the scene, according to John Adams, who was there. The assembled crowd roared as the “two aged actors upon this great theatre of philosophy and frivolity” hugged, then kissed each other’s cheeks. “And then the tumult subsided, and the cry immediately spread through the whole kingdom, and I suppose, all over Europe, ‘Qu’il etait charmant de voir embrasser Solon et Sophocle!’”<sup>22</sup> [“How charming to have seen Solon and Sophocles embrace!”] Voltaire died later that year, at the age of 83.

As for the Calas case, the trial records were not only made public, they were preserved, providing scholars with ample opportunity to revisit and re-argue how Marc-Antoine died. “Frustrating though it may be, the affair was, and remains, a mystery,” David B. Bien, a longtime history professor at the University of Michigan, wrote in 1960.<sup>23</sup>

One writer on capital punishment described this case as “the beginning of the abolition movement.”<sup>24</sup> With its formal finding of a wrongful execution, the case became exhibit No. 1 in what has emerged as a key argument against the death penalty – that sometimes, we misfire. The British philosopher Jeremy Bentham made that argument as far back as 1775, citing “the melancholy affair of Calas.” The interrogation and execution of the Toulouse shopkeeper also helped galvanize opposition to torture, as chronicled in historian Lynn Hunt’s book, “Inventing Human Rights.”

In all of this, of course, there is some danger in looking back and looking abroad with an air of superiority. Waterboarding has not gone away. What has changed is the euphemism, from question extraordinaire to enhanced interrogation. And as the Calas case shows, France in the 1700s had one form of redress that the American Bar Association only wishes we had now. Last year the ABA passed a resolution calling on our federal government – and every state with the death penalty – to create a forum in which claims of wrongful execution can be heard.

That [resolution](#) has been ignored.

1 F.H. Maugham, *The Case of Jean Calas* (London: William Heinemann Ltd., 1928), 19.

2 Nancy Mitford, *Voltaire in Love* (New York: 1st Carroll & Graf ed., 1999), 24.

- 3 Edna Nixon, *Voltaire and the Calas Case* (New York: Vanguard, 1961), 216.
- 4 *Ibid.*, 27.
- 5 Maugham, *The Case of Jean Calas*, vii.
- 6 Nixon, *Voltaire and the Calas Case*, 97.
- 7 Maugham, *The Case of Jean Calas*, 87.
- 8 Nixon, *Voltaire and the Calas Case*, 104.
- 9 Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton & Company, 2007), 70.
- 10 Nixon, *The Case of Jean Calas*, 99.
- 11 Hunt, *Inventing Human Rights: A History*, 99.
- 12 Theodore Besterman, *Voltaire* (New York: Harcourt, Brace & World, 1969), 296.
- 13 Ian Davidson, *Voltaire: A Life* (New York: Pegasus, 2010), 316.
- 14 Peter Gay, *Voltaire's Politics: The Poet as Realist* (New York: Vintage Books, 1965), 305.
- 15 Nixon, *The Case of Jean Calas*, 153.
- 16 *Ibid.*, 159.
- 17 *Ibid.*, 195.
- 18 David B. Bien, *The Calas Affair: Persecution, Toleration, and Heresy in Eighteenth-Century Toulouse* (Westport, Conn.: Greenwood Press, 1960), 92.
- 19 Nixon, *The Case of Jean Calas*, 168.
- 20 Maugham, *The Case of Jean Calas*, 128-29.
- 21 Gay, *Voltaire's Politics: The Poet as Realist*, 275.
- 22 Mary-Margaret H. Barr, *Voltaire in America: 1744-1800* (Baltimore: The Johns Hopkins Press, 1941), 102.
- 23 Bien, *The Calas Affair: Persecution, Toleration, and Heresy in Eighteenth-Century Toulouse*, 109.
- 24 James Avery Joyce, *Capital Punishment: A World View* (Edinburgh: Thomas Nelson & Sons, 1961),