

**LUCIDUM INTERVALLUM AND CRIMINAL RESPONSIBILITY:  
ASSESSING MENTAL DISORDER IN A CRIMINAL CASE IN DEBRECEN, 1768-1769**

**András Biczó (PhD)<sup>1</sup>**

University of Debrecen, Faculty of Law, Department of Legal History (Hungary)

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**Abstract**

This study in the history of criminal law examines a homicide case from the eighteenth-century legal practice of the Free Royal City of Debrecen that has not yet been explored in detail. Drawing on archival documents relating to the criminal proceedings initiated before the city's magistracy in 1768, the study reviews the main phases of the process, reconstructs the arguments of the prosecution and the defence, and analyses how the defendant's criminal responsibility was assessed in light of evidence indicating that he suffered from a mental disorder. Beyond clarifying the significance of the defendant's mental state from a criminal law perspective, the case also provides an opportunity to explore the contemporary concept of *lucidum intervallum* in greater depth and to highlight evidentiary challenges associated with proving it in eighteenth-century criminal proceedings.

**Keywords:** *lucidum intervallum*, mental disorders, criminal responsibility, history of Hungarian criminal law, legal practice, Debrecen, eighteenth century, early modern period, legal history

**Disciplines:** law

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<sup>1</sup> Biczó András (PhD), University of Debrecen, Faculty of Law, Department of Legal History (Hungary), E-mail: [biczo.andras@law.unideb.hu](mailto:biczo.andras@law.unideb.hu) ORCID: <https://orcid.org/0000-0003-3833-9088>

**Absztrakt****LUCIDUM INTERVALLUM ÉS BÜNTETŐJOGI FELELŐSSÉG: MENTÁLIS ZAVAR ÉRTÉKELÉSE EGY DEBRECENI BÜNTETŐÜGYBEN, 1768-1769-BEN**

A büntetőjogtörténeti tanulmány egy a Debrecen szabad királyi város 18. századi joggyakorlatában eddig még részletesen nem vizsgált emberölési ügyet állít az elemzés középpontjába. Az 1768-ban Debrecen szabad királyi város magisztrátusa előtt indult büntetőeljárás levéltári iratanyagát feldolgozva a tanulmány egyrészt áttekinti az eljárás főbb mozzanatait, másrészt az esetet arra tekintettel mutatja be, hogy az eljárásban a büntetőjogi felelősségrevonás szempontjából hogyan értékelték azt, hogy a terhelt bizonyíthatóan valamilyen mentális zavarral küzdött. A jogeset alaposabb feldolgozása azon túl, hogy szemléletes betekintést enged abba, hogy büntetőjogi szempontból milyen relevanciája volt a terhelt elmeállapotának, konkrétan a *lucidum intervallum* fogalmának alaposabb vizsgálatára és az annak bizonyításával járó nehézségek megvilágítására is alkalmat kínál.

**Kulcsszavak:** *lucidum intervallum*, mentális betegségek, büntetőjogi felelősség, magyar büntetőjog-történet, joggyakorlat, Debrecen, 18. század, koraujkor, jogtörténet

**Diszciplína:** jogtudomány

**Introduction: An Assessment of Mental Disorder under Eighteenth-Century Hungarian Law, with Particular Focus on Criminal Responsibility**

Within the realm of private law, the *Tripartitum*, recognised as the principal manual of Hungarian customary law compiled by Werbőczy István, included special provisions for individuals with various mental disorders. It delineated four categories: the raving mad (*furiosus*), the senseless (*amens*), the deranged (*mente captus*), and the lunatics (*lunaticus*) (M. Bak et al., 1517/2005; cf. Márkus, 1900). However, the *Tripartitum* did not define the characteristics of these mental disorders or differentiate among them. Individuals classified within these categories were not permitted to be released from paternal power and were required to remain under guardianship even after attaining lawful age (M. Bak et al., 1517/2005; Prileszky, 1743; Both 1963; cf. Degré, 1936; Quadripartitum, 1798). Notably, prior to the compilation of the *Tripartitum* in 1514, Article 374 of the *Buda Law Book* (*Ofner Stadtrecht*), drafted between 1403-1404 and 1421, stipulated that no feeble-minded, foolish, or mentally challenged person should be judged in any

matter, as God does not hold them responsible for the sins they have committed (Michnay & Lichner, 1845; Relković, 1905; Blazovich & Schmidt, 2001; Pauler, 1869).

Regarding criminal responsibility, the *Praxis Criminalis* warrants particular attention, as it was incorporated into Hungarian criminal law as customary law in the early decades of the eighteenth century and became an important source for contemporary domestic legal practice. The *Praxis Criminalis* was originally issued in German by Ferdinand III on 30 December 1656 for Lower Austria (*Neue peinliche Landgerichts-Ordnung in Oesterreich unter der Enns*), providing a set of regulations for criminal courts, detailing procedures for the administration of criminal justice. This *Landgerichtsordnung* was translated into Latin in 1687 and appended to the *Corpus Juris Hungarici*, a non-official compilation of Hungarian laws, in 1697. As an appendix to the *Corpus Juris Hungarici*, the *Praxis Criminalis* gained wide recognition and application in Hungarian courts (László, 2022).

In consideration of establishing criminal responsibility, the *Praxis Criminalis* explicitly addressed cases involving offenders suffering from some kind

of mental disorder. For instance, it regarded melancholy or profound sadness (*Praxis Criminalis*, 1697, p. 22. “*magna tristitia*”) prior to or during the commission of a crime as a mitigating circumstance (*Landgerichtsordnung*, 1657; *Praxis Criminalis*, 1697). Similarly, in his renowned work entitled *Jurisprudentia Criminalis secundum praxim & constitutiones Hungaricas in partes duas divisa*, Bodó Mátyás classified “sickness of the soul,” (*morbus animi*) or melancholy, as a mitigating factor. He also referred to a particular case in which he defended a nobleman accused of adultery; the magistracy of Hont County acquitted the defendant on the grounds of melancholy – a judgment later approved by Charles III (Bodó, 1751).

The *Praxis Criminalis* also mentioned mania and complete insanity (*Praxis Criminalis*, 1697, 22. “*plenè amens*”) among the listed mitigating circumstances. If it could be proven that a crime was committed in such a state, the perpetrator was exempt from punishment. These forms of mental disorder thus constituted grounds for exclusion from criminal liability. The sole exception was where the act was proven to have been committed during a moment of lucidity (*lucidum intervallum*) (Bónis, 1962; Both, 1963). However, if the judge harboured doubts as to whether the crime was perpetrated during such a lucid interval, the *Praxis Criminalis* prescribed that the more lenient interpretation should prevail (*Landgerichtsordnung*, 1657; *Praxis Criminalis*, 1697; Pauler, 1869).

A similar position appears in Gochetz Gábor’s *Systema praxis criminalis inchoati Regni Hungariae, Partiumque eidem adnexarum*, which was probably strongly influenced by the *Praxis Criminalis*.

Gochetz stated that those suffering from insanity, dementia, or mania – being deprived of all reason – could not be punished, even with a lesser penalty than death. Yet, consistent with Section 4, Article 44 of the *Praxis Criminalis*, he also held that if a crime were committed during a lucid interval, when the mind was free from insanity or mania,

and if this could be proven in court, the defendant could be held criminally responsible. Still, if any doubt remained as to whether the crime was committed in such a lucid state, the defendant was to receive the more lenient judgment (Gochetz, 1746).

According to Gochetz’s interpretation, if perpetrators suffering from multiple types of mental disorder acted during their lucid intervals – when their minds were temporarily clear – they could be held fully criminally responsible. Actions performed during lucid intervals were therefore judged in the same manner as those of sane persons. Contemporary authors further concluded that an individual in such a state could, for example, serve as a witness (Prileszky, 1743; Huszty, 1745; Bodó, 1751), appoint a plenipotentiary (Szegedy, 1736; Huszty, 1745), or make a will (Prileszky, 1743; Huszty, 1745).

Further research is required to determine the extent to which, following the gradual reception of the *Praxis Criminalis* in the eighteenth-century Hungarian legal practice, various mental disorders were treated as grounds for exclusion from punishment or as mitigating circumstances. A prominent Hungarian legal historian, Bónis György, who examined the judicial practice of the free royal cities of Buda and Pest between 1686 and 1708, concluded that there were few examples of this phenomenon in the legal practice of the two cities (Bónis, 1962; Both, 1963).

The present study seeks to expand the number of those eighteenth-century criminal cases in which a defendant’s mental disorder was regarded as either excluding criminal responsibility or mitigating punishment. It focuses on a homicide case (*Causa Fisci Magistratualis*, 1768) tried before the magistracy of the free royal city of Debrecen in 1768. Drawing on archival materials preserved in excellent condition in the Hungarian National Archives Hajdú-Bihar County Archives, the study reconstructs how the defendant’s mental state was

assessed during the criminal proceedings and how the prosecutor, defence counsel, and the city magistracy (i.e., the judicial body of Debrecen) sought to establish the presence or absence of a lucid interval. The case offers a vivid snapshot of how mental disorder was assessed in relation to criminal responsibility before a Hungarian court in the second half of the eighteenth century.

### The Indictment: Case Facts and the Prosecutor's Proposed Sentence

On 1 October 1768, Szombati István, the prosecutor of Debrecen, before the city magistracy against István Kajtor, a thirty-six-year-old local resident. Kajtor was accused of murdering Vásárhelyi János, a fourteen-year-old boy from Debrecen. According to the facts reconstructed by the prosecutor, on the night of 2 September 1768 the defendant, without any apparent reason, began a quarrel with Vásárhelyi at the threshing floor of Anyok János in Pac. Kajtor bonked the boy on the head with his large club and broke the skull, legs, and other members. During the altercation, Kajtor struck the boy on the head with a large club, fracturing his skull, legs, and other limbs. The following day, around four o'clock in the afternoon, the victim died after a long and painful agony resulting from the lethal injuries inflicted during what the prosecutor described as a "*beating or intentional murder*" [verés vagy szántfszándékos gyilkosság] (Causa Fisci Magistrualis, 1768, n.p., [The prosecutor's indictment]).

According to Szombati, these facts were undeniably supported by the victim's testimony, the defendant's confession, and the medical report. Since such homicide was punishable by death under Hungarian law – specifically, Chapter 15 of Part I of the *Tripartitum* (M. Bak et al., 1517/2005) and Article 19 of 1495 (Márkus, 1899) – the prosecutor moved that the defendant be sentenced to capital punishment aggravated by various pains.

### Arguments of the Prosecution and the Defence

After the prosecutor presented the indictment, the defendant stated, "*I really beat him, I don't care what you do.*" [bizony meg ütöttem én, nem bánom akar mit csinálnak] (Causa Fisci Magistrualis, 1768, n.p., [I. in vinculis personaliter adfians respondet]). The city magistracy then appointed Hatvani Mihály (Hatvani Mihály Senator és Colegii Curator életrajza, ca. 1800), the younger brother of the renowned polyhistor Hatvani István, to represent Kajtor in his defence during the next phase of the criminal proceedings. In his response to the indictment, the defence counsel observed that, had the prosecutor brought such an indictment in a different case and against a different individual, the defendant might have raised legal objections in his defence. However, since both the commission of the act and its fatal outcome were undeniable, there was no basis for denying the crime itself. Accordingly, the defence argument focused solely on the foundation of the prosecutor's claims.

Hatvani identified the first problematic assertion in the indictment as the allegation that the defendant had acted intentionally. While the defence did not dispute the causal link between the defendant's blows and the victim's death, it argued that it could not reasonably be maintained that the defendant struck the victim with the specific intention of killing him. Hatvani contended that even intelligent individuals may, in moments of human frailty and passion, lose control over the number or force of their blows – sometimes with fatal consequences. Although the defence counsel acknowledged that the defendant's actions were not "without fault or any sin" [hiba és minden véték nélkül] (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the first time.]), he maintained that they did not amount to intentional or premeditated homicide, since such a charge presupposes prior advice to act, undying hatred, mortal hostility, or other provable

circumstances. In the present case, however, no such circumstances existed. On the contrary, until the quarrel over food arose, the defendant and the victim had been on good terms. The defendant's anger was provoked by the victim's verbal insults, and he beat the child – an assault that unfortunately resulted in death.

However, according to legal scholars, when adjudicating crimes, one must examine not only their outcomes but also the perpetrator's anger, intent, and purpose. This principle follows equally from domestic law (Márkus, 1899), the *Praxis Criminalis* (Landgerichtsordnung, 1657; *Praxis Criminalis*, 1697), and the *Practica nova imperialis Saxonica rerum criminalium*, the Saxon seventeenth-century authority, Benedikt II Carpzov's extremely influential work (Carpzov, 1677b). If these factors were not taken into account in adjudicating an act, then, in the opinion of the defence counsel, every homicide resulting from misadventure or even the causing of a major fire, would necessarily have to be punished by death.

Hatvani explained that if involuntary manslaughter (*homicidium causale*) (see, e.g., Bodó, 1751) is considered without regard to the emotions of the perpetrator at the time of the act, the case might also be classified as intentional homicide. Conversely, if intent is taken into account in adjudicating the act, it becomes possible to draw clear distinctions among different categories of crimes. According to the defence counsel, the prosecutor must likewise acknowledge the principle that, in investigating crimes, particular attention should be paid to the perpetrator's will and intent (*Causa Fisci Magistratualis*, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the first time.], “*principaliter animus & intentio delinquentis spectari debeant*”). On this basis, the defendant's mental state and emotions should also be examined in the present case.

The defence counsel further argued that the defendant is to be regarded as unfortunate not only

because a child died as a result of his beating but also pitiable, inasmuch as he is a mentally deranged person who is not in control of his own actions. Hatvani acknowledged that the prosecutor might contend that the defendant at times experiences lucid intervals and occasionally behaves rationally; however, in Hatvani's view, this question should be addressed at a later stage of the criminal proceedings.

Hatvani concluded by requesting that the court summon and examine the defendant's employers from the previous year; specifically, that Diószegi Mihály should appear as a witness before the court, together with all the members of his household and his neighbours. At the request of the defence, these residents were to testify regarding the defendant's conduct during the previous year and thereafter – what he said, and what foolish or irrational acts he committed. In addition, the witnesses were to report on the defendant's nocturnal wanderings in forests, fields, and other alarming places, as well as on his abandonment or burial of clothing and other foolish acts that disturbed those around him. According to the prosecutor, the defence's argument rested on two main points: first, that Kajtor did not commit the murder with deliberate and determined intent; and second, that he was mentally disturbed and irrational. In reply to the first point, the prosecutor contended that the intentional nature of the crime was evident both from the defendant's own confession and from the victim's testimony during interrogation, which described repeated, cruel, and ultimately fatal blows (Carpzov, 1677a; cf. Carpzov, 1635, 1739/2000). As Carpzov observed, intent to kill is not always required for the punishment of homicide (*Causa Fisci Magistratualis*, 1768, n.p., [The prosecutor submitted a reply to the defence counsel for the first time.], “*ad infligendam homicidij poenam non semper requirit[...]* animus occidendi;” cf. Carpzov, 1677a, p. 18; Carpzov, 1635, 1739/2000, p. 30.). The prosecutor further cited twelve additional passages

from Carpzov's *Practica* in support of the view that homicide committed with a weapon likely to cause death must be punished capitally, even in the absence of express intent to kill, since the use of such an instrument necessarily implies homicidal intent (*Causa Fisci Magistratualis*, 1768, n.p., [The prosecutor submitted a reply to the defence counsel for the first time.], "*Homicidium armis ad occidendum verifimiliter aptis perpetratum, morte punitur, esto NB animus occidendi de sit. In ordine autem instrumentor[...], seu armor[...], ad occidendum aptor[...], unde dolus occisoris psumeret[...]*;" Carpzov, 1677a, pp. 16-17; Carpzov, 1635, 1739/2000, pp. 27-29). On this basis, the prosecutor contended that the club presented in court as material evidence – a club with a large, heavy head – qualified as a lethal weapon capable of taking another person's life.

With regard to the second part of the defence's argument, Szombati maintained that the defendant's alleged insanity had not been demonstrated. In his view, no one would employ a truly insane person to work on a threshing floor, even for a short period. Furthermore, even if even if the defendant were to be considered insane (*furiosus*), his own confession indicated that he experienced lucid intervals; therefore, according to Carpzov (Carpzov, 1677b), he could not be exempted from the ordinary punishment prescribed for homicide. On the strength of these arguments, Szombati concluded that the defence's position had been fully refuted and requested that the city magistracy impose upon the defendant the punishment specified in the indictment.

In response to the prosecutor's argument, Hatvani – again citing Carpzov – contended that mental instability is difficult to establish and that, in Carpzov's view, a medical examination (*Causa Fisci Magistratualis*, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the second time.], "*Physicum examen*") would therefore be required (Carpzov, 1677b). The defence counsel also requested that the witnesses be examined before

the court concerning the circumstances of the case. Accordingly, on 18 February 1769, the city magistracy ordered the witnesses to appear in court on 23 February for the purpose of being heard concerning the defendant.

According to the subsequent entry in the criminal trial record, the defence counsel noted that although several reputable residents of the city had been summoned to testify on the defendant's behalf, they could not be questioned at that time owing to other obligations. However, on 22 April 1769, Anyok Mihály, Anyok János, Czecei János, and Szappanos Nagy Mihály, who could testify in favour of the defendant, were present; accordingly, Hatvani requested that the court hear their testimony.

After the court heard the witnesses under oath concerning the defendant's irrational actions and words, the defence counsel argued that, on the basis of these testimonies – also attached to the case file – the city magistracy could clearly conclude that Kajtor had lost his reason, even if he occasionally experienced lucid intervals. Referring once more to Carpzov (*Causa Fisci Magistratualis*, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the third time.], "*Furiosus ex delicto suo nec obligatur nec poena aliqua tenetur [...] referantur amentes, infani & mente capti &c.*;" cf. Carpzov, 1677b, pp. 367-368.), the defence maintained that the punishment sought by the prosecutor in the indictment could not be imposed on the deranged defendant.

Hatvani further acknowledged that it could not be denied that Kajtor was not at all times irrational or insane; nevertheless, in his view, the defendant was not of sound mind when he committed the homicide. On this basis, and once again invoking Carpzov (Carpzov, 1677b), the defence argued that the prosecutor was required to prove that Kajtor had committed the homicide during a lucid interval, since, in Hatvani's opinion, had been driven to the act described in the indictment by madness

(*furor*). The defence counsel concluded by requesting that the court exempt the defendant from the ordinary punishment prescribed for homicide, on the grounds he had set forth.

In reply to the defence's argument, the prosecutor maintained that the opinions of Carpzov (Carpzov, 1677b) cited by the defence were not applicable to the present case. According to the prosecutor, these passages from the *Practica* referred to madmen who were in such a state of insanity that they were deprived of all reason by the continual agitation of their minds (Causa Fisci Magistratualis, 1768, n.p., [The prosecutor submitted a reply to the defence counsel for the second time.], "*qui in eo Furore sunt, ut continua mentis alienatione, omni intellectu carent*"). The prosecutor argued that it was evident from both the defendant's confession and the defence's own reasoning that Kajtor was not invariably a raving madman or fool. Citing several opinions of Carpzov (Carpzov, 1677b), he concluded that the defendant should not be exempted from the ordinary capital punishment for homicide. Szombati sought to reinforce his argument by invoking Scripture, employing a *a minore ad maius* line of reasoning. In his interpretation, if the Scriptures command that even irrational animals that kill human beings must be put to death (Bible, New King James Version, 1982, Genesis 9:5; Bible, New King James Version, 1982, Exodus 21:28-29), then, *a fortiori*, a rational human being who commits such an act must likewise be punished by death. The prosecutor further argued that the defendant's flight from the scene of the crime demonstrated that he acted during a lucid interval, since he clearly understood the gravity of his actions and feared their consequences.

Szombati also referred to the words the defendant had spoken to the innkeeper, Munkácsi István, when he was apprehended and bound. According to the prosecutor, the defendant confessed his guilt and stated that he had found no peace since the act, being constantly fearful

wherever he went. From this, Szombati concluded that the defendant had lucid intervals not only on 2 September 1768, when the crime was committed, but also on 5 September, when he confessed to it upon arrest. In the prosecutor's view, had the defendant not been in a lucid interval, he would not have been able to describe his act to the innkeeper in such a coherent and detailed manner – a confession, Szombati added, that would have been sufficient even from the most intelligent of men. On this basis, the prosecutor maintained that the defendant was not an irrational fool and that he had indeed experienced lucid intervals. Accordingly, he once more requested that the court impose the punishment specified in the indictment.

In reply, the defence counsel sought to refute Szombati's arguments. Hatvani first emphasised that although the defendant spoke openly about his actions to the innkeeper, he did so while in a state of mental disturbance and madness (Causa Fisci Magistratualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the third time.], "*in statu mentis perturbato atque furore*"). In Hatvani's view, Kajtor's declaration in court, delivered after the reading of the indictment and in which he admitted the act without expressing remorse (Causa Fisci Magistratualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], "*That is to say: he really beat him, but he hasn't repented*" [Hogy tudniillik: bizony megütötte ő, de ő nem bánnya]), should be accorded greater evidentiary weight than the report recorded by the innkeeper of Árokrét upon Kajtor's arrest on 5 September 1768, which contained the defendant's statements at that time. Nevertheless, Hatvani maintained that even this declaration, and still less the innkeeper's report, failed to prove that the defendant recalled beating the child to death because he left the scene of the crime to avoid arrest; that is, that he acted during a lucid interval (Causa Fisci Magistratualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for

the fourth time.], “*in ipso actu patrati homicidij lucidum intervalluma vól?*”).

Finally, Hatvani contended that, on the basis of the defendant’s answer to the final question during interrogation (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], “*I didn’t pity him, so why didn’t he pity me when he attacked me with the knife*” [Bizony nem szántam én, hát ő mért nem szánt engemet mikor á késsel nekem jött]), declaration in court, delivered after the reading of the indictment, and his confession explaining why he had beaten the child (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], “*I hurt him: because he said that I will be hung like a counterweight of a shadoof, and NB he cut off my spring*” [Azért /:bántottam:/ mert azt mondotta hogy Kút koloncznak kötnek, és NB a Forráfomat el vágja]), it was evident that Kajtor remained irrational, as he was incapable of pitying the victim or of regretting his actions. According to Hatvani, if the defendant behaved in this manner after committing the act, then, *a fortiori*, he must have been still more irrational in the sudden rage (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], “*in furore & [...] iracundiæ*”) that drove him to commit it. In the defence counsel’s view, this was demonstrated by the fact that the defendant was unable to restrain himself in the particularly cruel manner of the assault and in the number of blows he inflicted, showing no mercy during the perpetration of the crime.

The defence further argued that the defendant’s partial return to his senses after committing the act and his flight from the scene of the crime did not necessarily indicate the existence of a clear and deliberate malicious intent to commit homicide (Causa Fisci Magistrualis, 1768, n.p., [The defen-

ce counsel submitted a reply to the prosecutor for the fourth time.], “*positiva és definitiva ad patrandum homicidium malitiæ*”). Hatvani reasoned that even irrational animals often leave the scene after a fit of madness (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], “*post furorem*”), as though out of fear of punishment, even though it is well known that such animals lack reason.

In response to the prosecutor’s biblical argument, the defence counsel maintained that the scriptural passages cited – which referred to irrational animals that kill humans – could not be applied to the present case of homicide. According to legal scholars, an animal cannot commit the crime of homicide, since the grammatical and legal interpretation of the term *homicidium* denotes the killing of a human being by another human being (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.], “*Homicidium; est hominis per hominem facta interemptio*”). By contrast, an act committed by an animal constitutes “*damni illatio*” or “*pauperies*” (Causa Fisci Magistrualis, 1768, n.p., [The defence counsel submitted a reply to the prosecutor for the fourth time.]) – that is, the infliction of damage or loss.

In his final reply to the defence’s arguments, the prosecutor sought to demonstrate, by referring to certain statements (Causa Fisci Magistrualis, 1768, n.p., [The prosecutor submitted a reply to the defence counsel for the third time.], “*I didn’t pity him, so why didn’t he pity me etc. I really beat him, but I hasn’t not repented*” [Bizony nem szántam én, hát ő miért nem szánt engemet etc. Bizony meg ütöttem, de én nem bánom]) made by the defendant, that these words did not reflect mental agitation but rather, on the contrary, indicated a mind steeped in malice – which not only failed to mitigate but, in fact, aggravated the adjudication of his crime.



### Medical Findings – Examination of the Victim’s Corpse and the Defendant’s Mental State

Among the documents contained in criminal case files, the medical expert opinions prepared to determine the cause of death and to examine the mental state of the defendant were of particular importance. To ensure a more accurate and thorough examination and deliberation of homicide cases, the Hungarian Royal Locotenential Council (*Consilium Regium Locumtenentiale Hungaricum*) issued an intimation (*intimatum*) on 4 February 1726, transmitting the rescript of Charles III dated 28 January 1726. This intimation stipulated that the noble counties and free royal cities were obliged to initiate an investigation immediately upon the occurrence of a homicide within their jurisdictions. The bodies of the murdered persons were to be thoroughly examined by competent surgeons according to specific criteria, and criminal proceedings were to be initiated against the perpetrator of such crimes to ascertain the facts of the act. When examining the bodies, the surgeons were first required to determine the nature of the blow or wound inflicted on the victim, and whether death resulted from this injury or from some other unexpected cause (Linzbauer, 1852; Prothocolon, 1726).

According to the thirteenth point of the instruction issued by the Chief Judge and Senate of the Free Royal City of Debrecen to the city physicians, Weszprémi István and Csapó József (Herpay, 1925), on 4 April 1768, city doctors were required to examine corpses, wounds, patients, and any infirm persons whenever instructed to do so by the magistracy. They were also obliged to respond to medical questions addressed to them, and to provide their opinions conscientiously and with proper reasoning. These opinions had to be submitted in writing and presented in the appropriate form to the city magistracy (Szodoray, 1960).

According to the report summarising the medical examination of the corpse (*visum repertum*) dated 4 September 1768 (Meznerics, 1933), the city’s physician, Csapó József (Herpay, 1925), together with the surgeons Czenky Dániel and Nyilas István (Herpay, 1925), examined the body in the presence of Senator Timáry György (Herpay, 1925). The Hungarian-language report addressed to the city magistracy clearly states that the victim’s death was caused by extremely severe injuries, primarily to the skull (*Causa Fisci Magistratualis*, 1768, n.p., [Post-mortem examination report by Csapó József, Czenky Dániel and Nyilas István]).

Since the city magistracy concluded, based on the investigation and the case files, that Kajtor István did not always possess sound judgment, it requested the opinion of two city physicians concerning his current mental state, specifically whether he was of sound mind or suffering from a mental disorder. Accordingly, the city physician, Csapó József, reported to the city magistracy in a document dated 25 July 1769 that he had visited on multiple occasions and engaged in extended conversations with him. Csapó noted that Kajtor sometimes provided coherent responses, but at other times answered inconsistently. From this, the physician concluded that the defendant experienced intermittent agitation and periods of delirium (*Causa Fisci Magistratualis*, 1768, n.p., [Csapó József’s opinion on the defendant’s mental state], “*delirium periodicum*”).

Hatvani István provided a more detailed account of his examination of the defendant’s mental state in an opinion (*Causa Fisci Magistratualis*, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti casum. Responsum Medicum]) written in Latin, dated 28 July 1769. Hatvani visited the defendant at regular intervals, examining him twice alone and once together with the city’s physician, Csapó József.

According to Hatvani’s report, he merely observed Kajtor during the first examination; however,

on the second occasion, he was able to make more detailed observations. As he put it, the defendant did not appear to be of sound mind, and yet, after about an hour of conversation, Kajtor twice made remarks whose tone could not be clearly determined – whether they were uttered in jest or stemmed from his crude, uneducated, and insolent disposition. When Hatvani asked him what had happened to the boy with whom he had threshed the previous autumn, Kajtor replied, “*I beat [him] into his branches*” [Le veregettem az ágaiba] (Causa Fisci Magistratualis, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum]). He then stated that he had fractured the boy’s arms and legs. On another occasion, the defendant asserted that he had acted correctly in beating the boy, whom he claimed had insulted him and attempted to stab him with a knife. He repeated this statement a second and third time during his final interrogation. When Hatvani reproached him on 28 July 1769 that it was a sign of evil thing when a man felt no remorse for such a cruel act, the defendant replied, “*I have already sufficiently repented, but no one gave me six oxen*” [Már eleget bankodtam én maszszoris, de azért fenki sem adott hat ökröt] (Causa Fisci Magistratualis, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum]). Hatvani responded by adding that one should not seek forgiveness in expectation of reward – such as receiving an ox or anything else – but because sinners receive mercy from God. The defendant then answered, “*But even if I repent: he won’t resurrect*” [De azért ha bankodomis: azzal fel nem tamad] (Causa Fisci Magistratualis, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum]).

During the second examination, Hatvani first observed Kajtor alone, but about half an hour later, as previously arranged, Doctor Csapó unexpectedly arrived. While Hatvani was speaking with him

privately, the defendant did not say anything to suggest mental disturbance. However, when Doctor Csapó entered, Kajtor appeared somewhat startled; yet as long as Hatvani continued to speak with him, he seemed calmer. Nevertheless, even when displaying occasional signs of lucidity, he did not remain consistently calm. He repeatedly asserted that there was no reason for him to concern himself with any decisions regarding his fate. He expressed a desire to be released from captivity, stating that he would willingly serve those capable of securing his release, as he wished to work.

Finally, on the morning of 28 July 1769, Hatvani spoke alone with the defendant, though two Hajduks, who had been present at prior examinations, remained in the room. When the conversation concerned matters unrelated to Kajtor personally, he remained composed. However, when Hatvani addressed issues directly concerning the defendant, he became visibly confused and extremely restless. He initially exhibited signs of despair typical of a frightened individual, but after a brief period, he displayed behaviours consistent with a calmer and more rational state.

Drawing on these observations, Hatvani compared his examination with the preliminary examination conducted by the city officers. He concluded that Kajtor’s mental state prior to the homicide required further assessment to form a sound judgment. In any case, he believed that the results of his thorough examination raised the question of whether the defendant had been subject, at least intermittently, to mania or delirium (Causa Fisci Magistratualis, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum]), “*vel Maniacus, vel Delirus*”) prior to committing the crime. He also suggested investigating whether Kajtor had committed any prior offences, as such an incident could have disturbed his conscience – a possibility supported by the testimonies of Diószegi Mihály and others. Hatvani further noted that an individual would

rarely exhibit persistent fear of arrest and imprisonment unless they had committed a serious crime. If both of these circumstances – a manic or delirious state and a previous crime – were indeed present, it would not be surprising that a disturbed man, in a recurring fit of illness, regarded the boy's life as scarcely more valuable than that of a hissing goose or growling dog.

However, Hatvani argued that, if Kajtor had been of sound mind not only prior to the crime but also during the previous summer and autumn, any faults of the soul (*Causa Fisci Magistrualis*, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum], “*errores animi*”) arising at the time of the crime would not, in his view, constitute grounds for exoneration. He further noted that it was unsurprising that awareness of one's crime and fear of punishment could cloud right reason (*Causa Fisci Magistrualis*, 1768, n.p., [Ad Stephani Kajtor captivi, tamquam homicidae in carcere detenti cafum. Responfum Medicum], “*rectam rationem*”).

### The Judgment of the City Magistracy

Almost a year after the crime, on 12 August 1769, the court rendered its judgment in the case of István Kajtor (*Causa Fisci Magistrualis*, 1768, n.p., [In Caa Fisci Magr contra Stephanum Kajtor I.]). The city magistracy's protocol book, do not contain the text of the judgment, it merely indicates that it is appended to the case file (*Protocollum iuridicum et criminale*, 1769, n.p., [Die 12<sup>a</sup> Aug In Senatu], “*Sententiam finalem contra Stephanum Kajtor inde in Processu*”) The judgment is reported to be detailed, in that the court carefully considered whether the defendant had committed the crime during a lucid interval.

In establishing the facts of the case, the court primarily relied on the victim's and the defendant's statements. Vásárhelyi János was questioned on 3 September 1768, shortly before his death, by Timáry György, a senator deputed by the city

magistracy this purpose. According to the victim's deposition, on 2 September 1768 he had been left alone with Kajtor at the threshing floor of Anyok János in Pac, as the farmer had taken the old coachman to bring grain into the city. Towards evening, Vásárhelyi informed the defendant that he was preparing meat. After cooking, he invited Kajtor to eat, but the latter refused and prevented him from eating as well, cursing him and saying, “*There's the gooseberry too, you damned!*” [Ott az egrefes ebadta] (*Causa Fisci Magistrualis*, 1768, n.p., [In Caa Fisci Magr contra Stephanum Kajtor I.]). The boy stated that he nevertheless intended to eat one piece of meat and reached for it, whereupon Kajtor struck him on the head with a large club and continued beating him for nearly two hours, inflicting severe injuries to his head and legs and causing intense pain. Afterward, Kajtor reportedly shouted at the birds in the threshing floor before leaving the injured boy alone.

Kajtor's interrogation was conducted on 6 September 1768 by Fáy Ferenc, the deputy clerk. According to the interrogation record, on 2 September some food had been brought to the threshing floor, and Anyok János, before leaving for the city, instructed Kajtor and Vásárhelyi, who were to remain there, to cook it and keep it for his return at midnight. While the defendant went into the forest to gather wild pears, the boy ate some of the food. Upon his return and observing this, Kajtor told him to stop, but the boy continued eating. The defendant then became angry and struck him with a large club. He first delivered a blow to the victim's head; when the boy stood up, Kajtor struck him again. The victim then drew a knife and attempted to attack him, whereupon Kajtor struck a third time, after which the boy collapsed and did not rise.

As he lay on the ground, the child reportedly cursed loudly and said to Kajtor, “*well, just wait, because tomorrow you will be hung like a counterweight of a shadoof for this!*” [no várj meg, mert bizony ezért

hólnap kút koloncznak kötnek] (Causa Fisci Magistrualis, 1768, n.p., [In Caa Fisci Magr contra Stephanum Kajtor I.]) enraged again and resumed the assault. After inflicting fractures to the boy's head and legs, Kajtor left the scene and went into the forest of Nagycsere. However, he returned at midnight to see whether the child was dead; the victim merely looked at him, holding his head up but remaining silent. The defendant then departed again, heading toward Árokrét. He wandered in the forest of Nagycsere for three days before being apprehended at the inn of Árokrét.

The court examined Kajtor's defence as presented in his confession, according to which he had beaten the boy because the latter disobeyed him, ate the food despite his warning, and cursed and threatened him, saying, "*tomorrow he will be hung like a counterweight of a shadoof*" [hólnap kút koloncznak kötök] (Causa Fisci Magistrualis, 1768, n.p., [In Caa Fisci Magr contra Stephanum Kajtor I.]). After Kajtor struck him a second time with the large club, the victim reportedly rose and attempted to attack him with a knife. Prior to the incident, the victim and several companions had allegedly mocked and ridiculed Kajtor. In the court's judgment, however, such slight provocations – including the child's mocking of him, confirmed by the testimony of Anyok János, on whose threshing floor the victim and the defendant and the boy's disobedience in eating the food – did not justify Kajtor's striking the victim on the head with a club and inflicting fatal injuries. The court further concluded that the defendant had not sufficiently demonstrated that the child had insulted, threatened, or attacked him with a knife.

Even if these circumstances had been proven, the court held that they could not be regarded as mitigating factors warranting a lower assessment of his culpability. The alleged insults and threats – particularly if they occurred during the beating, as the defendant himself admitted – did not constitute grounds for continuing the assault. If the victim

drew his knife after the second blow, he did so in self-defence, perceiving that Kajtor was about to beat him to death. In the court's opinion, the defendant could have protected himself against the knife-wielding child, who was physically weaker than he, without resorting to a fatal beating.

The city magistracy duly examined the defence counsel's argument that the defendant had not acted with a sound mind when committing the crime, but had assaulted the victim in a state of rage (*furor*) and mental disturbance. In assessing the defendant's mental condition, the court emphasized that his former employers had testified under oath during the criminal proceedings that they had on numerous occasions observed him behaving irrationally. He frequently rambled incoherently, alleging that Hajduks were pursuing him. Out of fear, he sometimes hid on the roof, in the granary, or even inside the soap-making oven, where he might have suffocated had he not emerged in time. While working at the threshing floor of the farmer Anyok János, both the farmer and his coachman, Nagy András, testified that the defendant regarded the rustling of trees as a sign of superstition and consequently felled three or four of them with an axe, which then had to be hidden from him to prevent further damage. At night he cried out that people were surrounding the threshing floor and attempting to capture him. On another occasion, he expressed a wish to discover "*who were the wives of the Saints*" [kik voltak a Szentek feleségei] (Causa Fisci Magistrualis, 1768, n.p., [In Caa Fisci Magr contra Stephanum Kajtor I.]) believing that such knowledge would bring him peace. On the day of the crime, he again uttered incoherent statements, asserting that the poplar trees were bewitched and that they were casting a spell upon him.

From this evidence, the court concluded that the defendant suffered from a form of mental disorder, though he had not entirely lost his reason. It determined that prior to the crime he had not succumbed to madness or mania but instead exhibited

intermittent irrational and delusional ideas arising from a kind of melancholic disposition. However, on many other occasions he appeared entirely sane, as demonstrated by his conduct and speech. Although he sometimes behaved foolishly in prison after his arrest, during his interrogations before the court he was able to recount his actions and the surrounding circumstances several times with consistency, indicating that he was not delirious at the time.

In its judgment, the court emphasised several circumstances from which it concluded that Kajtor had been of sound mind at the time of the crime. The defendant was able to recount his actions in detail and to provide specific reasons for his anger toward the child. Furthermore, as he stated that he had left the scene after committing the act but later returned at midnight to ascertain whether the victim had died, the court inferred that he was aware he had committed a prohibited act. Upon his return, he inflicted no further harm upon the boy, who merely stared at him in silence. Thereafter, Kajtor fled the scene and concealed himself in a stack of straw. According to the testimony of the innkeeper Munkácsi István, when he apprehended the defendant, the latter reportedly confessed, stating that since the assault he had been unable to find peace and lived in constant fear wherever he went.

Prior to these events, Kajtor had never exhibited violent tendencies or injured anyone. On the contrary, when reproved for improper words or behaviour, he would immediately desist. Following his arrest, he was examined several times by physicians at the instruction of the city magistracy. During these examinations, he occasionally spoke incoherently, though primarily when the doctors mentioned the deceased victim; otherwise, his responses were coherent and rational.

Despite these findings, the court ultimately held that credible witness testimonies indicated that the defendant had long displayed signs of mental

instability, including during his employment at Anyok János's threshing floor, and that he had spoken incoherently on the day of the crime.

Although the victim had previously taunted him on several occasions, the defendant bore him no grudge. The court therefore found it more plausible that Kajtor was not of sound mind when he committed the act, but rather that he became enraged and suddenly fell into a state of madness (*furor*), as is characteristic of individuals afflicted by mental derangement. The court further noted that the defendant's behaviour after the act – specifically, shouting at birds – demonstrated that he had acted without reason.

Based on all these considerations, the court ruled that the defendant could not be subjected to the ordinary punishment for homicide, but should instead receive two hundred lashes, to be administered weekly over a period of four weeks, after which he was to be banished from the city.

Another noteworthy aspect of the judgment is that, following the establishment of the facts, numerous corrections and additions appear throughout the text. A close reading suggests that the court initially concluded that the defendant had committed the crime during a moment of clarity. This interpretation arises from the fact that the considerations which, in the court's view, made it probable that the defendant acted during a lucid interval are included in the main body of the judgment, whereas the circumstances indicating that Kajtor was not of sound mind at the time of the act appear only as later additions on the left half of the sheet folded in half lengthwise. It therefore seems that the court faced a genuine dilemma in determining whether the defendant had committed the act during a lucid interval.

The numerous additions and corrections suggest that the court at first held that the defendant had acted while of sound mind, but then reversed its position immediately after enumerating the factors supporting that conclusion. This interpretation is

reinforced by the fact that, after listing the circumstances implying that the defendant perpetrated the act in a lucid interval, the main text of the judgment states that, since the defendant was not insane when he committed the crime, he was therefore to be sentenced to death as an intentional murderer, according to the laws of God and the “Homeland” (*Causa Fisci Magistratualis*, 1768, n.p., [In *Caa Fisci Magr contra Stephanum Kajtor I.*]) – that is, the Kingdom of Hungary. However, this paragraph is crossed out with a vertical line and followed only by the final paragraph prescribing a more lenient sentence, consistent with the later additions in which the court enumerated the grounds for concluding that the defendant did not commit the act during a lucid interval.

### Conclusion

From the corrections and additions in the text of the judgment, it appears that the city magistracy confronted the same dilemma noted in *Praxis Criminalis*, Gochetz’s *Systema*, and Carpzov’s *Practica* – the latter work being frequently cited by both the prosecutor and the counsel during the criminal proceedings. Specifically, it was difficult to determine whether the defendant had committed the crime during a lucid interval: where, precisely, does one draw the line between insanity and lucidity? According to Carpzov, once an individual is declared insane (*furiosus*), they must be presumed to remain so, since their previous mental condition is presumed to persist. Thus, even if an individual suffering from mental disorder experiences occasional moments of lucidity, in cases of doubt it must be presumed that the act was committed in a state of continuous insanity. Consequently, anyone asserting that an individual acted lucidly bears the burden of proving beyond reasonable doubt that the act occurred during a lucid interval (Carpzov 1677b).

The judgment suggests that the city magistracy difficulty in taking a clear position on whether the

defendant committed the crime during a moment of clarity, given the circumstances of the case. Certain additions to the judgment, as well as the sentence imposed, indicate that the court, *in dubio*, adopted the solution more favourable to the defendant: treating mental disorder as a mitigating circumstance, it imposed corporal punishment and banishment on Kajtor.

The concept of *lucidum intervallum* persisted in Hungarian jurisprudence and legal practice for a considerable period, even though the emerging science of modern psychiatry had already surpassed the early modern legal understanding on which the concept was based. As the eminent psychiatrist Ernő Emil Moravcsik observed at the turn of the nineteenth and twentieth centuries, mental illness is a continuous process, with a beginning, a developed stage, and an end. Either the illness has been cured – rendering discussion of lucid intervals unnecessary – or it has not, in which case, even if the intensity of pathological symptoms diminishes and consciousness becomes clearer, the signs of illness remain recognisable, and the individual continues to be influenced by the pathological process in the brain (Moravcsik, 1914).

Nevertheless, the conclusions drawn from this case study not only highlight the potential for further research in legal history but also invite a broader socio-historical inquiry into how eighteenth-century Hungarian society treated individuals suffering from mental disorders.

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