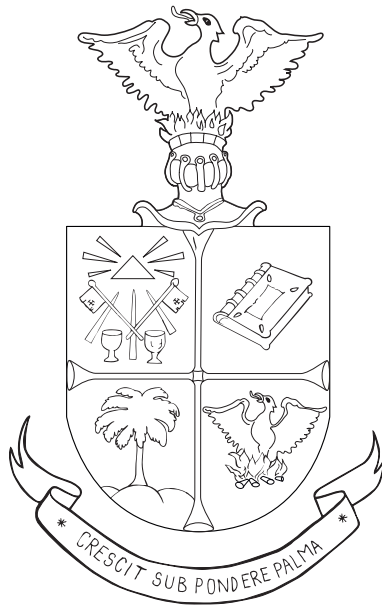


Glossa Iuridica

VII. évfolyam, 3-4. szám

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CRIME AND PUNISHMENT IN HUNGARY AND ENGLAND OF THE EARLY 19TH CENTURY

A historical comparison based on the travel diaries of a world famous physician, Richard Bright

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Introduction. Richard Bright, ‘father of nephrology’

Richard Bright (September 28, 1789 – December 16, 1858), widely considered as one of the most prominent European physicians of the 19th century, was an English scholar and early pioneer in the research of diagnosis and treatment of kidney disease. For his eminent work in this field, and particularly for the early description of the features of an inflammatory kidney illness, glomerulonephritis (still widely called Bright’s disease in the clinical community), he is also revered as the ‘father of nephrology’ by many authorities of the discipline.¹

Born into a well-off Unitarian banker and merchant family in Bristol, Gloucestershire, England, Bright embarked on his graduate studies of economics, mathematics and philosophy at the University of Edinburgh in 1808, subsequently switching to medicine at Guy’s Hospital in London in the fall of 1810.² He ultimately graduated in 1813 at the University of Edinburgh. His doctoral thesis, *De erysipilate contagioso*, dealt with infectious erysipelas, a disease clearly extremely prevalent in Bright’s time.

After receiving his medical degree, Bright was initially appointed assistant physician at Guy’s Hospital in London in 1820, where he fulfilled the duties of an academic physician by teaching medical students, providing clinical care to patients, and performing research. The quality of medical research and care at Guy’s Hospital is easily demonstrated by the fact that Thomas Addison, Thomas Hodgkin, and Richard Bright, all world-known physicians, worked there at the same time. This triumvirate ended up lending their names to a whole host of important diseases, such as Addison’s disease (adrenal insufficiency), Hodgkin’s disease (a

1 VENITA, Jay: Richard Bright--physician extraordinaire. *Archives of Pathology and Laboratory Medicine*, 2000, 124 (9), 1262-1263.

2 MACKENZIE, J. Campbell: Dr Richard Bright – a man of many parts. His bicentenary year—1789-1858. *Bristol Medico-Chirurgical Journal*, 1989, 104 (3), 63-67.

frequent lymphoma), and Bright's disease (an umbrella term for inflammatory diseases of the kidney). Bright was elected Fellow of the Royal Society in 1821.

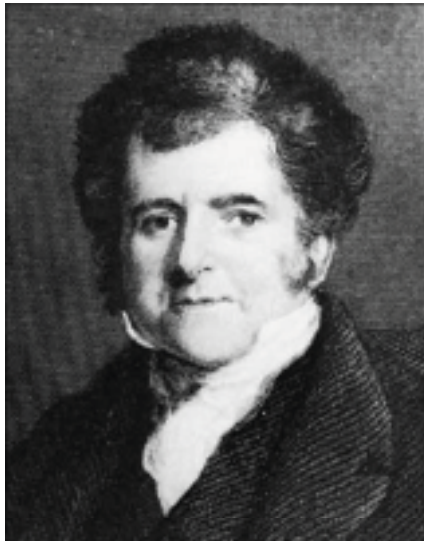


Figure 1. Richard Bright³

He described the clinical entity that is now widely referred to as Bright's disease in 1827. Within a few years of the publication of his findings, the term Bright's disease became essentially synonymous with kidney illness worldwide.⁴ It is important to emphasize though, that he also discovered numerous other medical diseases, the review of which is clearly beyond the scope of this paper. Still, it needs to be pointed out here that, beyond kidney disease, his scientific work spanned essentially the entire field of medicine, and he contributed significantly to the diagnosis and treatment of various other fields of medicine, such as gastroenterology, oncology, and neurology. The wide scope of his scientific interest is described in more details elsewhere.⁵ Due to his essential contributions to the science of medicine, Richard Bright achieved worldwide fame and, among others, the honour of being appointed as physician to the Queen.⁶

He died in 1858. A well-known painting depicting him adorns the walls of numerous university departments of nephrology ever since (Figure 1).

3 NAGY Judit – SONKODI Sándor: Richard Bright in Hungary: A Reevaluation. *American Journal of Nephrology*, 1997, 17(3-4), 387-391.

4 NAGY–SONKODI op. cit. 388.

5 MACKENZIE J. C. op. cit. 66.

6 VENITA op. cit. 1262.

1. Travel to Hungary

In addition to having been one of the most celebrated physicians of his time, Richard Bright had a keen interest in a whole host of other fields including travels in foreign countries. In 1810, he accompanied the famous geologist MacKenzie on a rather exotic journey to Iceland. Many of Bright's drawings depicting Icelandic flora and fauna as well as working fishermen and shepherds were published in MacKenzie's book *Travels in the island of Iceland, during the summer of the year 1810*.⁷

After his graduation in 1813 from the University of Edinburgh, Bright spent some time in Cambridge, but soon he decided to embark on another foreign trip that led him to Germany, Austria and Hungary. In the capital of the Habsburg Monarchy that hosted the Congress of Vienna in 1814, Bright witnessed the deal-making of the Congress and used the opportunity to meet numerous leading political and medical authorities of the era,⁸ among others the son of Napoleon whom he interviewed personally.

Still, for Richard Bright, the most important portion of this Central European trip was the extensive journey to Hungary. In fact, it has been noted that Bright was profoundly fascinated by Hungary.⁹ He started out on his journey through Hungary in April, 1815, with a long stay at Festetich Castle in Keszthely,¹⁰ armed with a letter of recommendation from László Festetich whom he originally met in Vienna.¹¹ Returning back to England, Bright reported about his extended stay in Hungary in a fascinating 796-page (including Appendices and Index) book entitled *Travels from Vienna through Lower Hungary*¹² that was ultimately published in 1818. This publication counts as one of the most outstanding travel books of the early 19th century.

7 MACKENZIE, George Stuart: *Travels in the island of Iceland, during the summer of the year 1810*. Kessinger Publishing, LLC, 2010, 538 pages.

8 ROONEY, Patrick – SZEBENI Béla – BÁLINT Géza: Richard Bright's 'Travels from Vienna through Lower Hungary': A glimpse of medicine and health care in the early nineteenth century. *Canadian Bulletin of Medical History*, 1993, 10 (1), 87-96.

9 MACKENZIE J. C. op. cit. 66.

10 KURUCZ, György: *"Kedves Hazámfiak, mozdulni kell..." – Georgikoni peregrinatio oeconomica a 19. század elején*. Budapest, Corvina Kiadó – Ráday Gyűjtemény, 2020, 303 pages.

11 ROONEY – SZEBENI – BÁLINT op. cit. 90.

12 Bright, Richard: *Travels from Vienna through Lower Hungary with some remarks on the state of Vienna during the Congress, in the year 1814*. Edinburgh, Archibald Constable and Company, 1818, 796 pages.

In this review, we focus on Bright's experience of the segments of the Hungarian legal system he was exposed to. In his travel book, he makes valuable observations about crime, the death penalty, as well as prevailing prison conditions. He also draws some parallels with legal conditions in contemporary England that deserve a closer look.

2. Remarks on the state of crime and punishment in Hungary as compared to England

2.1. Robberies, factors conducive to crime

Although there are allusions to the state of law in Hungary throughout the report *Travels from Vienna through Lower Hungary*, Chapter IX is the segment that mostly deals with this topic. Bright starts out by reporting of a dinner enjoyed in the company of his host. The host had just received a summons from the next county requesting him to appear and give testimony in the case of a robber apprehended who very well may have been the one who also stole the host's pigs. However, the host decides to send one of his peasants "who had likewise been robbed, and who had nothing else to do", to appear before the neighboring county's authorities. Here, instead of dwelling on the delegation of responsibility by the host, Bright starts to concentrate on the societal element that, according to his dinner companions, is mostly responsible for crimes like robbery: "[...] every one lamented the unrestrained wickedness of the peasants, to which class most of the banditti belonged; and I understood, that even those who seemed to live honestly, were often more or less connected with these marauders [...]"¹³

Bright comments that it is not difficult to perceive how this phenomenon arises from the circumstances the peasants have to live in. He points out that even if the father of a peasant family is capable of making a decent living out of his allotted land, his children are essentially without any livelihood during their father's life. "The father of a family has the portion of land allotted to a peasant, but the son, during his father's lifetime, has no property, nor does he easily find employment even when industriously inclined [...] the sons, therefore, finding it difficult to obtain work [...] if temptation come, whether it be to steal cattle, to rob a traveller, or to plunder a dwelling-house, they too often yield."¹⁴

13 BRIGHT op. cit. 434.

14 Ibid. 434.

Another factor behind crime, as Bright is eager to point out, is the “miserable want of education” that serves as a “powerful accessory”. The lack of adequate education is duly demonstrated by the fact that “[e]ducation seldom proceeds beyond the first elements of reading and writing”. In addition to naming the lack of appropriate economic means and the low level of education (many times bordering on illiteracy among peasants) as factors conducive to crime, Bright also feels that the decentralized nature of Hungarian police force and the lack of procedural cooperation further weaken police efforts having to cope with formidable geopolitical obstacles in the first place: “Another cause of the frequency of robberies may be found in a bad police. The difficulty of establishing an efficient police is great, where extensive forests exist, but is still increased where they belong to different counties or separate lords, who rarely act in unison [...]” Later, Bright transmits the abysmal opinion of his dinner companions about their own employees, the herdsman: “The herdsmen are usually mere thieves, stealing cattle when they are able; but if a good opportunity of plundering a traveller offers itself, they seldom suffer it to pass.”¹⁵

Interestingly, at this point, Bright does not draw a direct comparison to the prevalence of crime in England of his time. This may have been due to the fact that, by the time Bright entered adulthood, the genre of crime in England, highway robbery, so similar to the robberies he described in Hungary (performed by ‘betyárs’ or outlaws of the time), essentially ceased to exist. These robberies were committed by the ‘highwaymen’ in England whose golden age span the decades from the Restoration in 1660 up until the end of the late 18th century.¹⁶ These highwaymen, initially soldiers of armed conflicts such as the English Civil War or the French wars frequently held up stagecoaches, many times in rural areas.¹⁷

Frederick North, 2nd Earl of Guilford and, more importantly, Prime Minister of England should be named among the most famous victims of the highwaymen. As he testified of the event: “I was robbed last night as I expected, our loss was not great, but as the postillion did not stop immediately one of the two highwaymen fired at him – It was at the end of Gunnersbury Lane.”¹⁸

15 Ibid. 435.

16 GRAY, Drew: *Crime, Police and Punishment in England, 1660-1914*. London, Bloomsbury Academic, 2016, 393 pages.

17 BEATTIE, John Maurice: *Crime and the Courts in England, 1660-1800*. Clarendon Press, 1986, 149-158.

18 DAY, Malcolm: *Voices from the World of Jane Austen*. London, David & Charles, 2006, 22.

This remarkable hold-up occurred in 1774, a merely 15 years before the birth of Richard Bright. The frequency of armed robberies swiftly declined afterwards and starting around 1815, they were recorded rarely. In fact, the last documented robbery by a highwayman in England occurred in 1831.¹⁹

From the above, it is fair to extrapolate that when describing highway robberies in Hungary of the early 19th century, Bright did not dwell into a comparison with England due to the lack of personal experience in this area because of rapidly declining frequency of highway hold-ups in his home country of the time.

2.2. Death penalty

When bringing up the issue of capital punishment, Bright acknowledges the fact that his knowledge about the frequency of this most severe sanction in Hungary is not extensive enough to speak with authority: “There seem to be occasions upon which the Herren Stuhl takes to itself the right, if it be not granted by law, of inflicting even capital punishment immediately, but of this I am uncertain, though some instances of speedy execution which came to my knowledge, left that impression upon my mind.” Bright, on the other hand, notes that from the information he gathered about death penalty in Hungary, it seems to be a rather infrequent event: “Capital punishment, however, is rarely inflicted in Hungary, and Professor Ludwig Fabrici, writing on this subject, from Croatia in 1807, observes, that, in the preceding year, no capital punishment had taken place” in several Hungarian counties and that “this is far from being an uncommon circumstance in most of the counties of Hungary and Croatia.”²⁰

At this point again, Bright does not draw a comparison with the state of death penalty in England of the time. However, in the case of highway robberies it is obvious that Bright (who was born in 1789) could not have had significant first-hand experience of this crime committed so frequently in England of the 17th and 18th century. On the other hand, he certainly could have shared his opinion of the state of death penalty in his home country at the dawn of the 19th century. Whether he dodged the comparison deliberately is unclear. It is certain, however, that the issue of death penalty would have been a topic where the *status quo* in England could not necessarily have been compared favorably with the experience and information Bright collected in Hungary. In fact, in the early 19th century, crimes potentially conducive to the death

19 MCLYNN, Frank: *Crime and punishment in eighteenth-century England*. New York, Routledge, 1989, 81-82.

20 BRIGHT op. cit. 440.

penalty in England included offenses as minor as shoplifting, stealing sheep, cattle, and horses. In other words, before the abolition of the death penalty for theft “English law was notorious for prescribing the death penalty for a vast range of offences as slight as the theft of goods valued at twelve pence.”²¹

The Bloody Code of England, containing statutes introduced between 1688 and 1815 (the year Bright visited Hungary), made pick-pocketing and shoplifting, as well as more than 200 other petty crimes punishable by death. This way, Solicitor General Samuel Romily, when speaking of capital punishment to the House of Common in 1810, justifiably stated that there is “[...] no country on the face of the earth in which there [have] been so many different offences according to law to be punished with death as in England”.²² In fact, it took some time before capital punishment for cattle stealing and other minor offenses was abolished in 1837. Interestingly, in the next decades, literary authorities such as Dickens and Thackeray started to militate against the ‘brutalizing’ effects of public hanging. Public executions finally stopped in 1868, but capital punishment was ultimately abolished not earlier than 1969 in England.

In 1843, less than 30 years after Bright’s journey, death penalty would have been abolished in Hungary according to the Reform Proposal for a new Criminal Code. Unfortunately, the proposal did not pass because of the resistance of the conservative majority in the legislation. Consequently, death penalty remained a possible although rarely utilized criminal punishment in Hungary.

2.3. Hungarian prisons as witnessed by Richard Bright

In his report, Bright is particularly critical of prison conditions in Hungary as witnessed by him during the journey. To underline his impressions, he includes his drawing of a Hungarian prison in the *Travels from Vienna through Lower Hungary* (Figure 2). He describes his impressions of the room prisoners spent their daytime as follows: “[...] I entered by a door well barred and bolted. Instantly seventeen figures, all in the long Hungarian cloak, rose from the ground on which they were sitting. Besides themselves, the room, which was not above twelve feet square, presented no one object: no table, bed, or chair. It was ventilated and lighted by several small grated windows, high up in the side of the walls.” Later on, descending into the dungeon where prisoners spent their nights, he is abhorred by the thought that some of the convicted

21 MANTA, Irina D.: *The puzzle of criminal sanctions for intellectual property infringement. Harvard Journal of Law and Technology*, 2011, 24 (2), 474.

22 *Parliamentary Debates, House of Commons. February 9, 1810. Col. 366-374.*

criminals would have to spend years of their life under these conditions: “[...] a door opened into the dungeon, the usual sleeping-place of all the male prisoners. It was a small oblong vaulted cave, in which the only furniture was two straw mattresses. A few ragged articles of dress lay near the place where each prisoner was accustomed to rest upon the naked floor [...]. It was painful to reflect, that in this state some of these wretches had already passed their nights during seven years.”²³ Drawing a conclusion from the attitude of the Hungarian noblemen towards the prison conditions described, Bright widens his hitherto mainly descriptive horizon and shares some philosophical thoughts with his readers. “In conversation with foreigners, how many things do we hear respecting our own customs, of which, at first, we are almost inclined to question the existence; and how unconsciously may the eyes of an Hungarian nobleman be closed, with respect to many important circumstances in the situation of the great mass of the inhabitants of his country, from whom, under a change of system, that country might derive additional security and happiness, and the proprietor an enormous increase of power and wealth.”²⁴

It is important to point out, that at the time of Bright’s travels in Hungary, prison reform in England was only *in statu nascendi*. At the end of the 18th century in England, there has been a realization of the abysmal conditions prevalent in local prisons. The leading protagonist of prison reform, John Howard published a detailed report on prison conditions in 1777.²⁵ In this seminal work he pointed out, among others, that male and female prisoners were not separated by gender or type of crime, jail employees were often corrupt, prevalence and incidence of various illnesses and diseases were alarmingly high, a proper diet and other necessities for prisoners were lacking to a significant degree. His thoughts and suggestions were reflected in legislation a half of a century later, in the Gaols [Jail’s] Act of 1823.

Howard’s work exerted major influence on Bright’s approach to prison affairs and he included several sections from Howard’s works in his travelogue to more vividly describe the conditions witnessed in the English prison system. It is of note that prisoners from England were routinely sent to Australia up until 1868, as well as to North America until the conclusion of the War of Independence leading to the creation of the United States of

23 BRIGHT op. cit. 440-441.

24 Ibid. 442.

25 HOWARD, John: *The state of the prisons in England and Wales, with preliminary observations, and an account of some foreign prisons*. Gale ECCO, Print Editions, 2010, 528 pages.

America. Despite of this fact, prisons in England were overcrowded as testified by Howard and quoted by Bright in his work: "The number of prisoners for felonies is usually so great, that they are necessarily crowded together by night, to such a degree, as to excite surprise that they should escape suffocation. In one room, the pit, which is a vaulted cellar, of about fourteen feet square, by about eight feet high to the crown of the arch – in this dismal place, where scarcely a ray of light enters, and where the ventilation is very imperfect indeed, – not less than seventeen of these wretched beings at present sleep."²⁶ Bright later acknowledges that these penal establishments so vividly described by Howard were still operational in April of 1813.

In fact, as Bright explained after returning to Bristol from his Hungarian travels in 1815, he found the same conditions in the Bristol prison that were observed by Howard: "In the year 1815, when I am now writing, there seems to be a pit of the same nature, in constant use, in the gaol of the opulent commercial city of Bristol."²⁷ At this point, it has to be noted that Bright's journey to Hungary coincides almost perfectly with the time when the prison system in England started to undergo major changes culminating in several landmark legislative acts that, however, came into existence well after the completion of Bright's journey in Hungary. So, upon his return, while he noted still deplorable conditions at Bristol jail, shortly afterwards he experienced significant improvements at another prison in Warwick: "In October 1815, I again visited the gaol; and a more interesting scene I never witnessed. The prison is now divided into two parts; the one appropriated to adults, the other to children. They are wholly separated. Instead of lewd conversation, blasphemy, and the dangerous repetition of contrivances to do ill, the children are now improved in habits of industry, and hear only lessons of virtue and religion."²⁸

Taken all together, Bright reports about an impressive improvement in the conditions at Warwick prison in 1815, in the very year when he still noted no change at all in other jails. This corresponds to the fact that prison reform in England took off in the mid-1810s, and the perceivable improvements in some jails like the one visited by Bright in 1815, may have been rather the exception than the rule. In fact, it was in 1813 that the Quaker philanthropist Elizabeth (Betsy) Fry, a leading force for prison reform in early 19th century England visited Newgate prison.²⁹ She found conditions that utterly horrified her. Interestingly,

26 Ibid.

27 BRIGHT op. cit. 443.

28 Ibid. 445.

29 ROTHMAN, David – MORRIS, Norval (Eds.): *The Oxford History of the Prison: The Practice*

her experience in Newgate prison bore uncanny similarities to those described by Bright in Hungarian prisons. Witnessing prison overcrowding and the prevailing inhumane sleeping accommodations (no beds, only straw on the floor) gave Fry impetus to spearhead the efforts for prison reform that ultimately was also supported by Queen Victoria. Subsequently, in 1816, the Society for the Improvement of Prison Discipline was founded, and in 1823, introduced by Home Secretary Robert Peel, the Gaols [Jail's] Act was passed by Parliament.³⁰ This Act mandated that, among others, prisons should be made more secure, male and female prisoners should be sleeping separately, there should be doctors providing medical care in prisons, and that jailers should be paid. In general, the Act followed the dominant attitude of the 19th century firmly based on the assumption that prisons should be operated with the explicit aim to reform prisoners' lives. In addition, it was postulated that convicted individuals should be reformed by performing hard work, self-reflection and by Christian teaching. The Act was, however, partially ineffective, because of the lack of inspectors necessary for enforcing compliance. In 1835, the Prisons Act remedied this shortcoming, providing for five remunerated inspectors for each prison.

In 1843, twenty-eight years after the travels of Bright to Hungary, and very much in parallel to the legal events in England, a Reform Proposal for a new Criminal Code in Hungary was submitted that also included new statutes for the Hungarian prison system. It has been judged to be one of the most progressive and humane proposals for criminal legislation in Europe. In terms of the prison system, it would have introduced a whole host of improvements such as equal treatment, free medical care and clothes for the imprisoned, prohibition of forced labor, but at the same time, provision for strictly voluntary opportunities to work. It would have also abolished the death penalty. Unfortunately, after long legislative sessions, it was never approved to become law. The first Hungarian Criminal Code, the Codex Csemegi (or Codex Csemegiensis) ultimately passed in 1878 to become law.

Summary

Richard Bright, one of the most famous physicians of the 19th century traveled to Hungary in 1815 and reported about his extended stay in Hungary in a fascinating 796-page book entitled *Travels from Vienna through Lower*

of Punishment in Western Society. Oxford, Oxford University Press, 1995.

30 CRONE, Rosalind: *Guide to the Criminal Prisons of Nineteenth-Century England*. London, London Publishing Partnership, 2018.

Hungary. In this review, we focused on Bright's experience of the Hungarian legal system of the early 19th century. In his travel book, he made important observations about crime, capital punishment, as well as prevailing prison conditions in Hungary. The parallels he drew with legal conditions in contemporary England provide a useful departure point to compare aspects of the legal systems of Hungary and England of Bright's time.

Bright reports about highway robberies, a prevalent crime in Hungary of the early 19th century, at a time when highway robberies in England were close to extinction. He does not dwell on the reasons for this disjunction. There is little doubt, however, that more advanced societal conditions in England of this era had already propelled a significant restructuring of crime. England, the first country that moved from feudalism to a capitalistic economy and society, inevitably displayed a different spectrum of crime than Hungary that was part of the Austrian empire, a still feudalistic, albeit absolutistically governed monarchy at the dawn of the 19th century. It is fair to state that crime in England already displayed features typical of a capitalistic country while crime in Hungary, because of its comparatively delayed societal development, was characteristic of a feudalistic country. In England, with the advent of industrialized cities, with the development of the urban working class, with the physical but not existential liberation of a significant portion of agricultural work force, societal circumstances changed to a point where Bright did not find it conducive to adding much value to his report to lay out a comparison between the statistical properties and structure of crime committed in England and Hungary, a country at an earlier stage of societal development.

On the other hand, based on Bright's vivid parallel description, it is fair to state that punishment of crime and prison conditions were very much comparable in England and Hungary of the early 19th century. In other words, at the time of Bright's travels in Hungary, criminals committing crimes in the two countries ended up in similar penal institutions, prisons, and this fact deserved a closer look and ardent comparison by the educated traveler. At this point, although Bright, as an intellectual with admirable foresight, saw the imminent upcoming changes in the English prison system, he reliably described the *status quo* that was surprisingly similar to the conditions he found in Hungarian prisons. Based on Bright's report and the review of the literature, prison conditions at the beginning of the 19th century were not impressively different in England and Hungary. At the same token, this was the exact time when, upon his return to Bristol in 1815, the first cautious changes that foreshadowed the upcoming English prison reform were already perceivable by the educated observer Bright.

In terms of capital punishment, the third major component of Bright's report reviewed here, rigorous statistics are not available. Still, Bright's travel book suggests that, in the early 19th century, probably at least as many criminals (per number of population) received the death penalty in England as in Hungary. This may have been the result of developing societal changes in England: a harsh response of the judicial system to the crimes committed by a populace uprooted by rapidly changing economic circumstances and consequent urbanization, at the same time when measures influenced by a more humanistic approach embodied in the penal systems of the mid-19th century were still not implemented.

In summary, the travel report of Bright provides a cornucopia of information about crime and punishment in early 19th century Hungary and England, at a time when, despite differing levels of societal development and law systems, penal systems of the two countries bore significant similarities.



Figure 2. A Hungarian prison (drawing by Richard Bright. In: BRIGHT, Richard: *Travels from Vienna through Lower Hungary with some remarks on the state of Vienna during the Congress, in the year 1814*. Edinburgh, Archibald Constable and Company, 1818, 425.)