

Pearls worth Rds4000 or less: Re-interpreting eighteenth century sumptuary laws at the Cape

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Abstract

Governor Ryk Tulbagh promulgated sumptuary laws at the Cape in 1755. Umbrellas could no longer be carried freely by all classes, or silk dresses of a certain length worn by ladies without regard to rank and the value of pearl necklaces were strictly limited. These laws have often been interpreted as an attempt to maintain a social hierarchy (e.g. Ross 1990), a “defence against emulation” in the words of De Vries (2008). But the standard explanation leaves something to be desired: it does not engage with the economic motivation for sumptuary laws that influenced similar regulations in Europe and Asia at the time, it does not explain why the VOC would legislate in the Cape what the Dutch never tolerated at home and it seamlessly extrapolates the explanation for laws in Batavia to a different social and economic setting in the Cape.

An alternative interpretation of Tulbagh’s sumptuary laws is developed in this paper, which draws on evidence from the Cape and from Batavia. Their economic causes are sought in the East where the laws originated while their social reception and their impact are sought in the records of the Cape. In this way the paper provides a new reading of the causes underlying the sumptuary laws of 1755 and their role as instruments of economic and social policy.

Key words: Sumptuary laws, Cape colony in the 18th century, Dutch East India Company

JEL codes: N47, N97

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Introduction

Ryk Tulbagh decreed in 1755 that only women married to a Councillor of India may wear a string of pearls worth 4000 Rixdollars or more in the Dutch East India Company's (VOC) colony at the Cape. This sumptuary law was an unqualified success; there was not single recorded violation. We might explain such unusually successful social legislation in one of two directions: perhaps the women of Cape Town read the errors of their extravagant ways in the pre-amble to these sumptuary laws and promptly adopted the modest mores recommended for their dress and conduct. On the other hand it may be that no one at the Cape had a string of pearls splendid enough to fall foul of a law that was designed to be either irrelevant or unenforced. This paper considers the evidence for these two possibilities as part of a reinterpretation of Ryk Tulbagh's sumptuary laws.

Cape Town was an affluent city in 1755. The "Tavern of the Sea" serviced the ships on the Europe-Asia trade route and by the middle of the century travellers commented on the evident local wealth and fashion. In a prospering society all boats do not rise at the same rate though and those who had been at the top of the social ladder might resent those who were catching up, or even passing them in the accumulation and display of wealth. Such were the tensions at the Cape during the 1750s we have been told (Schoeman, 2011: 228) and where the *nouveau riche* lacked private restraint an austere governor stepped in to enforce public respectability and protect the colony's hierarchy with a set of sumptuary laws.

This is the standard interpretation of Tulbagh's sumptuary laws: it was an attempt – albeit a failed one (Ross, 2007: 384) – to maintain the social *status quo ante* in the face of a rapidly rising middle class (Ross, 1999: 10; Ross, 2007: 288-289; Schoeman, 2011: 228; Fourie, 2012a: 18), or in Groenewald's (2012: 53) words: "...the laws reveal much about the nature of symbolic power in VOC Cape Town society and its immense importance"². But it is an interpretation that runs into three difficulties: sumptuary laws aimed at social control would have been anachronistic by 1755 (the *period problem*), they would have been out of place in a Dutch Society (the *Dutch problem*) and it is known that these laws were not written in response to tensions at the Cape but were instead designed at and for circumstance in Batavia (the *Batavia problem*). The untangling of these three problems leads to an alternative interpretation of Tulbagh's sumptuary laws. Their economic causes are sought in the East where the laws originated while their social reception and impact are sought in the records of the Cape.

² While Groenewald (2012) reads these sumptuary laws along the lines of the standard interpretation he does allow that an investigation of their "real impact" (Groenewald, 2012: 224, n67, emphasis in the original) remains unclear. This paper is intended to be a part of the discussion about the actual impact of Tulbagh's sumptuary laws.

1. Sumptuary laws by the mid eighteenth century

Sumptuary laws have a long history. They were widely used in the middle ages as instruments of social policy to express, in Europe at least, Christian concern with the display of wealth. The vows of poverty by members of many religious orders gave concrete form to this sentiment and it passed from private virtue into social policy with sumptuary laws, in Italian city states, in German principalities, Swiss Cantons, England, France and Spain (Ross, 2007: 383-384). By the early modern period a new role for sumptuary laws emerged with the breakdown of the rigid social structure of the feudal order. In many European countries laws would henceforth help maintain the social hierarchy in outward form by structuring the public display and consumption of wealth according to social rank.

But the political climate was changing by the 18th century with sumptuary laws becoming instruments of economic necessity and what is now called industrial policy supplanted the social imperatives that underpinned these measures in medieval Europe (Hunt, 1996). The economic motivation for such laws in this era, not just in Europe but in Asia too, included the following: balance of payments concerns with the outflow of bullion in an era of mercantilist reasoning, the protection of local industry and an attempt to divert income towards savings with the goal of boosting the accumulation of capital (Baldwin, 1926; Freudenberger, 1963). These mercantilist objectives included the support for local textile industries in many European counties, with the notable exception of the Dutch Republic (Lemire and Riello, 2008: 898). The unintended consequence of such mercantilist reasoning was to divorce sumptuary laws from the "...moral and social connotations..." (Freudenberger, 1963: 44) they had held in a earlier period. This is the first problem with the standard interpretation of Tulbagh's laws, call it the *period-problem*, i.e. that the second half of the eighteenth century was well beyond the period of morally or socially based sumptuary laws.

1755 was not only late for moral or social foundations upon which to base sumptuary laws, Dutch society was also uniquely resistant to such interference. Unlike England, France and many of the German principalities there was no history of sumptuary laws to support public morals or maintain social hierarchy. This is the second problem, call it the *Dutch problem*, with the standard interpretation of Ryk Tulbagh's sumptuary laws. Not that social tension was absent from Dutch Society, but the "Genevan" style of Calvinism³, as Schama (1991) calls, it could only break into the "pragmatic

³ The Synod at Dordrecht (1618-19) which played a central role in codifying Calvinism recommended sumptuary laws. Elsewhere Schama (1979: 117) describes the futile efforts of the "[Church] to ban sweetmeats and wine from all baptismal feasts, weddings, and wakes, and failing in that, attempted with even less success to ban those celebrations outright".

atmosphere of government in big commercial centres like Amsterdam and Haarlem”⁴ under the stress of extreme circumstances (Schama, 1991: 336).

One such case was during war with England in 1655⁵; another was in 1672, again during war, though on that occasion with France (Schama, 1991: 182, note 113). Clothing was not restricted though and neither was the type and quality of food one may consume, though the number of guest, musicians and duration of feasts were temporarily limited. These regulations look sensible for a government interested in rationing resources while also sensitive to the many adverse incentives created by sumptuary laws: the trouble of monitoring, smuggling and the basic contradiction that Ross⁶ (2007: 384) identified at the core of such laws, i.e. that the sumptuary law itself raise the status of the prohibited consumption.

Even the stress of circumstance could not guarantee that these laws would be enforced though, most especially since the enforcers would also have to stick to the law. That is precisely what the social elite – which for this purpose included “...virtually anyone of any substance at all” (Schama, 1979: 13) – did not intend to do. These sumptuary laws would be just as little enforced as the legal protection offered to the Sabbath, which the magistrates ignore after they had given their “pious assent” (Schama, 1979: 13). Ross (2007: 384) argues that sumptuary laws did not only fail in Holland, but generally.

The underling reason for this Dutch problem with respect to sumptuary laws is contested: On one side of the debate Schama (1979) has argued that it reveals the combined effect of two deeply divergent value systems that combined to form the Dutch character of this period, with money, commerce, arts and science on one side and piety, austerity, sobriety and Calvinism on the other. By contrast Ross argued that the class structure in Holland was relatively open compared with, say, contemporary England (Ross, 1999: 14). It was possible for a rising merchant to become a patrician in a way that was not possible in most European societies. But such a rise required that the merchant live the lifestyle of a patrician with all its implied display (Ross, 1999: 15). These options were also available to those who rose to great wealth in the colonies, though it was only the Swellengrebel family from the 18th Cape colony who are known to have converted colonial wealth into patrician status in the home country (Ross, 1999: 15, footnote 16).

⁴ Schama (1991: 184-185) recounts the curious incident in 1663 when the mayor of Amsterdam used the religious restriction on idolatry to ban all dolls as well as gingerbread men and other cookies and candles that might be effigies. This religiously motivated attempt to control consumption was quickly defeated by outraged children and their parents.

⁵ It was not just war with England, but economic slump and the plague that encouraged extreme political decisions in 1655 (Schama, 1991: 182).

⁶ Ross (2007) credited Montaigne with this insight.

Both Ross's description of a relatively open class structure and Scahama's combination of divergent values systems agree on one point: that sumptuary laws were unlikely instruments of Dutch policy; except, apparently, in their colonies. When the Dutch governed their commercial empire through the VOC they "soon conquered such scruples" as held back sumptuary laws in the home country – to paraphrase Ross (2007: 386) – which led to such laws at the Cape in 1755. To explain why the Dutch accepted social legislation for their colonies which they would not tolerate at home Ross (2007) gave an expanded version of the standard interpretation⁷, but he also highlighted the irony of laws that sought to "...ban in the VOC's Asian world those developments [the marketing of consumption] which the VOC in Europe had done everything within its power to promote" (2007: 387). What I have called the *Dutch problem* in this paper is the plausibility of this ironic twist whereby the Dutch would prohibit at a distance what they were enthusiastically marketing at home.

2. Sumptuary laws at the Cape in 1755

By the second half of the 18th century there was much prosperity at the VOC's colony in the Western Cape. Ross (e.g., 1983) and more recently Fourie (2012a) have demonstrated the comparative wealth of the colonists in terms of assets and real income for this period. Cape Town, especially, gained a reputation as a wealthy city from many travel accounts, such as those of S.P. van Braam who found "...a magnificence which I am certain in general can be found in no other colony, nor even in the richest cities of any country in the world", or the commissioner Hendrik Breton who found "...nothing except signs of prosperity, to the extent that, in addition to splendour and magnificence in clothes and carriages, the houses are filled with elegant furniture and the tables decked with silverware..."⁸. A few years earlier Johan Stavorinus had been equally impressed with a farmstead he visited a short distance from Cape Town (at what is now Kuils River) which he though resembled not so much the house of a farmer as compound of a rich landowner (Stavorinus, 1797: 52). These anecdotes about the relative prosperity at the Cape in this period can easily be multiplied and the more systematic investigations, such as that of Fourie (2012a) tell the same story.

Ryk Tulbagh was appointed as governor at the Cape in 1751 during a local recession and against the backdrop of the long-run decline of the VOC. These observations do not, however, support the analysis of, for example Joubert (1942: 10), who claimed that Tulbagh assumed command during a period of economic stagnation only intermittently relieved by the temporary boom of a passing convoy.

⁷ Though he allows that the motivation of the Dutch colonial sumptuary laws is the realm of speculative history two points nevertheless seemed obvious to Ross (2007): firstly, that the sumptuary laws were attempts by the VOC to maintain the company's internal hierarchy and external supremacy in colonies where these were under pressure from a prosperous class of free burgers. Secondly, these sumptuary laws reflected a struggle over consumption, which was a proxy for an underlying struggle for political and social power in the colonies (Ross, 2007: 388-389).

⁸ Van Braam and Breton both visited the Cape around 1780. The quotations are from Ross (1983: 206).

This is to confuse the long-run trajectory of wealth and income with the business cycle⁹: It is true that Tulbagh assumed control in a relatively difficult period, but more recent analysis of the available data, for example Fourie (2012b), showed that Joubert (1942) had the sign wrong; that prosperity was rising at the Cape despite the Company's slow decline. Rising prosperity at the Cape suggests that the displayed wealth of burgers and officials reflected the usual relationship between income and non-essential consumption¹⁰, in contrast with Joubert's (1942) moralistic argument that conspicuous consumption was somehow causally connected to the colony's decline.

Early in 1755 Ryk Tulbagh received a plakaat from Batavia describing the extensive sumptuary laws promulgated by the Governor-General Jacob Mossel in December of the previous year¹¹. The pre-amble to the laws spoke of the scandal caused by the "...splendour and pomp among various Company servants and burghers..." (translated by Ross, 1999: 9). Such behaviour combined three vices, or so the pre-amble claimed: first, it risked the financial ruin of the spendthrift, second, such splendour was the fruit of pride, and third, the extravagant persons of lower stations might lose respect for their social superiors, threatening the very hierarchy upon which depended social order and the prosperity of the company (Ross, 1999: 9-10). To these motivations Schoeman (2011: 228) added the speculation that these laws might have been practical measures in the on-going struggle against corruption in the VOC¹², while in an earlier era Theal (1897: 82) added the psychological speculation that such laws were appropriate for the "... simple, honest, manly race of colonists, [and] to preserve the hardy virtues which had made the people of the Netherlands a powerful nation"¹³.

Mossel's plakaat was nothing if not comprehensive, with twelve chapters and 124 articles, consolidating earlier attempts in the same direction at Batavia and extending them enthusiastically to cover dress, transport, ceremonies, slavery and jewellery. Meanwhile Tulbagh had his hands full with a serious smallpox epidemic at the Cape and he instructed the Council of Policy to review the plakaat and suggest amendments for local circumstances. For example, while Mossel forbade more than two horses per carriage for all but the highest-ranking officials, the Council felt that this was impractical at the

⁹ Boshoff and Fourie (2010) identified a medium-term business cycle for the Cape during the eighteenth century which was greatly influenced by the arrival of both VOC and foreign fleets.

¹⁰ For a thorough recent discussion of the underlying theory and the considerable empirical support for the hypothesis that non-essential consumption rises more than proportionally with rising income see Kaus (2012).

¹¹ These were not the first of their kind in Batavia and followed the laws of 1680, 1704, 1719, 1729 and 1733 (Joubert, 1942: 36-39, 65, 67).

¹² This practical reason could hardly have weighed heavily in Tulbagh's calculation. He was not above corruption, though Schoeman argues that the degree was comparatively modest by the standards of the day. Nevertheless he is known to have concealed his considerable wealth from company officials and to have died a very wealthy man (Ross, 1983: 210; Schoeman, 2011: 231-232).

¹³ This psychological theory was Theal's (1897: 82) way to explain why Tulbagh would promulgate sumptuary laws in a colony with "...very little accumulated wealth". It did not occur to him that the laws might simply have failed through want of enforcement as they had, on his observation, failed in Batavia. Since Theal greatly underestimated the wealth of colonists and officials at the Cape (see, for example: Fourie, 2012a) there is no further need for his psychological analysis.

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Cape where roads were poor and distances great. Allowance was also made for the colder climate of the Cape where the admissible liveries of slaves were concerned (Schoeman, 2011: 229). The next few paragraphs summarise, briefly, the sumptuary laws enacted at the Cape¹⁴ (Joubert, 1942: 93-108; Ross, 1999: 10-12; Schoeman, 2011: 229-230):

The Batavian laws opened with very extensive regulations with respect to transport: the number of admissible horses, admissible types of carriages, the liveries of coachmen and so on. These were watered down considerably at the Cape, but Tulbagh's laws nevertheless contained the following restrictions: only members of the Council of India (which included the Governor General of the Cape) were allowed to decorate their carriages with gold and silver and only the Upper Merchants were allowed family emblems or coats of arms on their carriages. While Europeans were allowed to guide the horses of carriages, these guides were not allowed to be liveried. The same restrictions extended to sedan chairs for women and children.

Clothing was extensively regulated too and these have become the best-known parts of Tulbagh's sumptuary laws. Only the governor and his family were allowed to wear clothes embroidered with gold or silver thread and gold or silver buttons were only allowed one step lower down the hierarchy, i.e. to the Upper Merchants¹⁵. These Upper Merchants were also allowed to wear velvet, but nobody below them could and Lower Merchants and above could wear gold and silver buckles on their shoes. The Council of policy seemed especially concerned with velvet and silk a matter to which I will return in due course to understand the motivation for these laws. Restrictions by VOC rank were also placed on the admissible size of umbrellas, a perennial source of social tension. The liveries of slaves were also regulated with gold and silver jewellery reserved for slaves of the High Government¹⁶. Only the spouses of the members of the High Government were allowed a train of three slaves when they appeared in town, with the number of slaves allowed in the train diminishing with the rank of the husband.

Women's jewellery was limited by value, with only the wives of high-ranking officials allowed to wear a display worth more than Rds1000 in total. Pearl necklaces were specifically limited, with the spouse of a Lower Merchant and higher to just below the rank of Councillor of India not allowed to wear a string

¹⁴ Botha (1926: 61-62) claimed that Simon van der Stel had forbidden altogether the use of umbrellas as protection against the sun in 1687, but this is the only reference I found to such an early sumptuary law at the Cape.

¹⁵ A well-known painting of Pieter Cnoll (and his family), an Upper Merchant at Batavia in the 17th century, by the painter Jacob Coeman, shows Cnoll with gold buttons such as those limited by the sumptuary laws (Taylor, 2006: 27). Ross (1999: 10, footnote 3) observed that these buttons were often used as money in which case it is hard to account for its restriction to a few men in each VOC colony.

¹⁶ In a later iteration these laws evolved to focus specifically on emancipated slave women who were forbidden to wear silk, hooped skirts, ear-studs and decorated hats, with the exception that they were allowed black silk dresses when attending church (Ross, 1999: 11).

of pearls worth more than Rds4000. If your husband was but a captain or higher the pearls had to be more modest still and not exceed a value of Rds3000 (Joubert, 1942: 100).

Finally, a number of restrictions were also placed on ceremonies. Here the regulations limited bridal arches, clothing at weddings and funerals and the extent of the feasts. Beyond these major events the ceremony of daily life was affected by a regulation that required the public to show respect to the Council of Policy and the Governor by stopping at the approach of these individuals (Ross, 2007: 387).

Even Joubert (1942: 95) who mostly follows Theal's (1897) romantic sketch of Tulbagh as an austere, but ultimately benevolent, "father"¹⁷ argues that the sumptuary laws could not have been a response to social conditions at the Cape. Here as with the taxes and other industrial policy measures discussed in the next section the trumping fact was that the refreshment station at the Cape of Good Hope fell under the legal jurisdiction of the VOC's governing Council in Batavia. It is to Batavia that we must turn our attention to look for insight as to the possible purpose of these laws.

3. Jacob Mossel and the challenges facing the VOC in Batavia

Jacob Mossel had an unenviable task. He succeeded Gustaaf Willem van Imhoff to the governorship in Batavia in 1751; a time when the Company's fortunes were dwindling. The Company faced intense external competition from, *inter alia*, the British East Indian Company, internal corruption and a shift in Asian trade patterns that disrupted its business model, high mortality rates by company staff and an unsustainable dividend policy (e.g. De Vries and Van der Woude, 1997). His predecessor, Van Imhoff, had mishandled an uprising in Bantam and there was tension between the different groups of his cosmopolitan headquarters at Batavia.

Mossel's predecessor Van Imhoff tabled a grave assessment of the company's prospects full of biblical premonitions during a visit to the Cape in 1743. By the next decade the Here XVII attempted an extensive budgetary consolidation: on the expenditure side they required cost-cutting from all the colonial outposts, including the cancelation of company sponsored festivals, the reduction of garrisons and lower expenditure on slaves. Mossel achieved considerable success with this economising and was duly rewarded with honorific titles by the Staten Generaal and a rising stock price by the markets (Coolhaas, 1958: 37-38).

¹⁷ Georg Foster, a member of Captain Cook's party visited Cape Town just more than year after Tulbagh's death and noted that the late governor was "...looked upon as a father to this colony" (Ross, 1999: 11).

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Taxes were also raised on the burghers and officials and, especially heavily, on foreign ships in company ports¹⁸. These taxes were designed not only to raise revenue, but were also instruments of industrial policy as they included trade taxes (on imports and exports) and a special tax of 20% on textiles. In this way Mossel brought to a close an experiment in relatively free trade by his predecessor Van Imhoff (Coolhaas, 1958: 43). To these measures were added a reduction in the price the company would pay for produce at its various stations, such as at the Cape (Joubert, 1942: 36-39, 65, 67). The VOC's belt tightening and tariff policies of the early 1750s were followed by the promulgation in December 1754 of sumptuary laws in Batavia to regulate many consumer goods and some services. Though the details of the specific laws differed somewhat in Batavia from Tulbagh's laws discussed above the major themes are the same: restriction on transport, clothing, jewellery, slaves and ceremonies.

In its extensive trade network in the East the Company was a net importer of textiles, especially silk from China and various varieties of Indian cloth a portion of which was intended for re-exportation to Europe (Knaap, 2006: 495). Taxes on the local use of textiles in particular and trade taxes in general form tariff barriers with the effect of strengthening the trade balance of the policy makers against those of their trading partners. Non-tariff barriers can achieve the same result, as they do in in the 21st century when health and safety laws, minimum labour conditions or any number of nontariff barriers is used as instruments of industrial policy. Sumptuary laws are good examples of the non-tariff barriers employed by various governments in Europe and Asia during the 18th century (Hunt, 1996).

The third problem with the standard interpretation of Tulbagh's sumptuary laws, call it the *Batavia problem*, follows: those sections of the Batavian sumptuary laws which Tulbagh promulgated without too many local qualification related manly to clothing, especially to luxury cloth such as silk and velvet and to previous metals such as gold and silver. These were precisely the sections of the Batavian sumptuary laws that were most directly related to the mercantile needs of the Company in the East where the acquisition of these goods for domestic consumption would weaken the balance of payments. That is to say there is a plausible industrial policy motivation for these laws, which would avoid the Dutch and period problems highlighted above.

4. Implementation and interpretation of the sumptuary laws

The thesis in this paper is that the sumptuary laws at the Cape should not be understood as a reasonable response to class or other social tensions. Ross (1999: 4) argues that society at the Cape

¹⁸ That governor Tulbagh at the Cape objected strongly to these taxes as he did in a correspondence during April and May 1754 (cited in: Joubert, 1942: 39, 68) is instructive. These letters show that Tulbagh grasped the economic impact of these taxes on the Cape and he won some concessions and exemptions for his colony from the Here XVII.

during the 18th century was characterised by a “wide range of interconnected, and not always consistent, statuses, which were proclaimed in a wide variety of ways”, one of which was consumption, especially fashion¹⁹. Since society was not stationary status was a potential source of tension and historians have documented instances of where the latent tension turned into outright conflict²⁰. But it is leap from the observation of tensions to the conclusion that sumptuary laws would be the governor’s reasonable response. The three reasons to doubt the standard connection between the sumptuary laws and social tensions developed in this paper are: the Dutch problem, the Batavia problem and the period problem. But these objections do not settle the matter; the enforcement of laws provides extra information about their potential motivation and reception.

Court records do not provide a comprehensive account of how law abiding a society is: Enforcement is imperfect and Heese (1994) observes that this was especially so in the outlying districts of the Cape colony during the eighteenth century. The Court of Justice (Raad van Justisie) sat in Cape Town and Heese (1994: 2) refers to crimes committed in the outlying districts due to the poor enforcement of the law. But the sumptuary laws were not meant for Swellendam; they were meant, if the standard interpretation is correct, to change behaviour in Cape Town, close to the Court of Justice, where Joubert (1942: 96) argued they would have been a severe restriction on private lives. The assumption that implementation was possible is, accordingly, plausible.

Heese (1994) recorded all the court sentences in criminal cases for the eighteenth century, i.e. all cases recorded in the archival group *Sentenciën*. This includes all criminal cases that served before the Court of Justice in Cape Town, but excludes all less serious cases dealt with by rural magistrates. Heese (1994: 5) also found some prisoners on the lists of Robben Island who did not appear in the *Sentenciën* lists. The interpretation of the court records with respect to the sumptuary laws proceed here with the acknowledged risk that the *Sentenciën* excludes some persons who were incarcerated for serious offences on Robben Island and some who were sentenced for lesser crimes by rural courts. It is assumed that the sumptuary laws fell in neither of these two categories. That the *Sentenciën* includes sentences for other social crimes (sexual misdemeanours²¹, polygamy²², *crimen injuria*²³, keeping children out of

¹⁹ European fashion influenced local fashion and Ross (1999: 11) notes the expectation that newly arrived women from Europe would display the latest fashion at their first ball.

²⁰ Joubert (1942: 5) discussed a curious incident from 1715 where a visiting official Pieter Gysbert Noodt claimed to outrank the *secundus* at the Cape, Abraham Cranendonk, with respect to military salutes and seats for their wives in the church.

²¹ For example, Jan Theunisse was sentenced for sodomy in 1717.

²² For example, Jan Calmers sentenced for polygamy in 1711.

²³ For example, Hendrik Meyboom and his wife Elsje were found guilty of *crimen injuria* against Hendrik Bouman in 1705.

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school²⁴ etc.) (Heese, 1994: 30) is read as evidence to support the assumption that offences against the sumptuary laws should have been recorded in the *Sentenciën*.

The long list of crimes, many of a social nature, listed in Heese (1994) does not, however, include even one offence against the sumptuary laws. Joubert (1942: 108), though deeply sympathetic to the cause of the sumptuary laws, regretted that he could not find any evidence of their actual enforcement and Trotter (1903: 270) observed that no traveller to the Cape in this period mentioned these laws or their application. There are four possible explanations for this silence in the official records and travel accounts: first, that offences against the sumptuary laws were tried elsewhere and not counted as criminal offences. The reasons for discounting this possibility are: that the crimes would have been committed in the location of the Court of Justice and that this court did not avoid social crimes. A second possibility is that locals never broke the sumptuary laws because they immediately changed their behaviour in accordance with Tulbagh's plakaat. This is logically possible, but judged implausible in light of the evidence that the same population did not respond in this manner to other laws and travel accounts from later in the century mention at least the same level of fashionable display as earlier.

Two plausible explanations remain: that the sumptuary laws were not enforced or were designed to be irrelevant given the actual behaviour at the Cape. Indeed the evidence suggests that these explanations are both correct to some extent: some of the laws were designed to be irrelevant and the remainder were not enforced.

Starting with the irrelevant laws: Tulbagh's sumptuary laws include regulations such as the limit on the value of strings of pearls with which this paper opened. It was not admissible to wear a string of pearls in public which was worth more than 3000 or 4000 Rixdollars depending on the status of the husband. The probate inventories and auction rolls²⁵ (MOOC8 and MOOC10 series) from this period help us to judge how limiting these constraints would have been. There is considerable variability in the estimated value of pearls recorded in this inventory, ranging from Rds 3:6 in Sophia van der Bijl's estate of 1733 (MOOC10/4.110) to Josina van Dam's string of pearls with diamonds worth Rds149 (MOOC10/4.116). But these strings were worth but a fraction of the legislated limit for pearls in Tulbagh's sumptuary laws.

²⁴ Theal (1897) mentions the case of a Cape town widow who had kept her children at home until she was threatened with a flogging by the Council for undermining their Christian education.

²⁵ The MOOC8 series of probate inventories transcribed by the TANAP (2010) project between 2004 and 2008 lists the assets of individuals who died intestate at the Cape. The project also included the MOOC10 series of auction rolls, which show the prices fetched by goods sold at auction by the Cape Orphan chamber.

The situation is little different for the regulation that limited a lady to jewellery of Rds1000 or less any at any point in time. From Fourie's (2012a: Table 5) list of average asset prices at the Cape in this period she would have been able to buy on average 9 slaves or 66 horses for Rds1000. One of (if not *the*) the wealthiest women at the Cape during the 18th century, Debra de Koning, left 24 pieces of jewellery worth Rds761 when she died in 1748 (MOOC8/7.71 3/4c). Given the value of 18th century jewellery at the Cape it is scarcely plausible that even the elite could have violated this ordinance, let alone the up and coming middle class against whom the laws were ostensibly aimed. Many of the regulations with respect to transport were also known to be irrelevant at the time; For example, there were few of the lighter carriages used for leisure elsewhere (in Batavia) and the opinion was that even these were used for useful transport, not for display.

It is not possible from this vantage point to judge whether Tulbagh's sumptuary laws were simply not enforced, or were designed to be irrelevant so that no enforcement would be required. Tamplin's (1897: 22) observation that the laws remained in force at the Cape until 1795 is evidence in favour of the irrelevance hypothesis. There is, of course, no problem in keeping laws such as the restrictions on jewellery mentioned here in force and it will have no bearing on behaviour. But there is also evidence in favour of the non-enforcement hypothesis in the form of Hahlo and Kahn's (1968: 574, footnote 47) record of Batavian *placaaten* which were simply not applied at the Cape.

There is no need to settle the question between these two hypotheses though. The standard interpretation of the sumptuary laws is not consistent with either: laws designed to be either irrelevant or not implemented could not have been intended as a serious defence of the social *status quo*.

5. Conclusion

The Standard interpretation of Ryk Tulbagh's sumptuary laws of 1755 is that they were an attempt by the VOC elite to protect a social hierarchy under threat from the ostentatious display and consumption of rising class of *nouveau riche*. This interpretation runs into three problems. The first is that by the 18th century sumptuary laws had evolved from instruments of social control to proto-industrial policy in step with the mercantilist thinking of the day and the Dutch were especially unlikely candidates for using sumptuary laws to social ends. It is also known that industrial policy was on the VOC's agenda at this time as the sumptuary laws followed shortly on the heels of other mercantilist policies such as taxes and trade barriers in Batavia which were extended to Cape Town. This offers an alternative angle to understand the surprising adoption of sumptuary laws in a colony of the one European power not to have used such laws to protect their social hierarchy.

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