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An Act to Avoid the Excess in Apparel 1554–5

By Noel Cox

In an earlier paper¹ it was proposed that the author would—over time—collect and publish the texts of all ancient sumptuary laws of the United Kingdom, at least the principal ones. This has proven to be slower than expected. But in this article, An Act to avoid the excess in apparel 1554–5 is transcribed in full,² with a commentary.

The Act of 1533 for the Reformation of Excess in Apparel³ allowed bachelors of divinity and doctors, being clergy,⁴ to use sarcenet⁵ in their gown (*cappa clausa*) lining, black

1 Noel Cox, 'Tudor Sumptuary Laws and Academical Dress: An Act against Wearing of Costly Apparel 1509 and An Act for Reformation of Excess in Apparel 1533', *TBS*, 6 (2006), pp. 15–43.

2 Both texts are taken from the *Statutes of the Realm* (London: HMSO, 1817), vol. III, located in the Maitland Legal History Room, Squire Law Library, University of Cambridge. The author wishes to thank the Deputy Librarian, Peter Zawada, for his assistance.

3 24 Henry VIII c 13.

4 It is not clear exactly what is meant by 'clergy' in this context, for university men were, in some degree, in the clerical state rather than simply laymen. They were not necessarily ordained, thus they were not 'spiritual men', or 'spiritual persons', which terms were used in the 1509 and 1533 Acts respectively to describe, presumably, those who had received the sacrament of (major) holy orders and religious (monks). Generally speaking, however, the medieval university scholar was a cleric, that is a man in holy orders, or at least one who had received the tonsure.

In medieval times he then enjoyed the civil benefits of clerics. Tonsure was a prerequisite for receiving the minor and major orders, and in later years the benefit of clergy was extended to any who could claim to be a cleric and so under the jurisdiction of ecclesiastical rather than lay courts. This was a means of avoiding punishment by temporal courts. Originally this was achieved by appearing tonsured or habited as a religious (monk or priest), but later merely by a literacy test (formalised by statute in 1351). Traditionally this required the reading of Psalm 51–50 in the Vulgate and Septuagint—which became known as the neck verse: *Miserere mei, Deus, secundum misericordiam tuam*. ('O God, have mercy upon me, according to thine heartfelt mercifulness').

Generally, for the status of university men, see Very Rev'd Rashdall Hastings, *The Universities of Europe in the Middle Ages* (first published 1895, new ed. F. M. Powicke and A. B. Emden (Oxford: Clarendon Press, 1936)); also the Revd T. A. Lacey, 'The Ecclesiastical Habit in England', *Transactions of the St Paul's Ecclesiological Society*, 4 (1900), pp. 126, 129–30.

Today one becomes a cleric only when ordained a deacon (cf. for the Roman Catholic Church, canon 266 of the Code of Canon Law; *The Code of Canon Law: in English Translation* prepared by the Canon Law Society of Great Britain and Ireland (London: Collins Liturgical Publications, 1983)).

5 A fine plain-weave silk, primarily used for linings.

satin⁶ or camlet⁷ in their doublet⁸ and sleeveless coat⁹ (*roba*), and black velvet, sarcenet or satin in their tippet,¹⁰ riding hoods or girdles. The gown (*cappa clausa*) might, in addition, be scarlet, murrey¹¹ (red-purple) or violet coloured. The sleeveless coat (*roba*) might also be of scarlet, murrey, or violet cloth. This remained the principal sumptuary law for several decades, and was repealed in 1603.¹²

Sumptuary laws have been common in the past, across many countries and centuries, but have rarely been effective. They are not confined, of course, and have often included such matters as the regulation of dining. One example, from the time of King Edward III, provided that

No man of whatever condition or estate, shall be allowed more than two courses at dinner or supper, or more than two kinds of food in each course, except on principal festivals of the year, when three courses at the utmost are to be allowed.¹³

It is unlikely that this statute was honoured any more assiduously than the sumptuary law we are about to consider.

1 & 2 Ph & Mary c 2 (An Act to avoid the excess in apparel 1554-5)

As with An Act against wearing of costly Apparel 1509, this statute dates from the very beginning of a reign, in this case that of King Philip and Queen Mary. Again, whether this suggests that it was in response to a serious contemporary concern, or whether the timing was simply fortuitous, is unclear. What is clear, however, is that the Act was yet another attempt—mostly futile as it proved—to regulate attire. As was observed in the earlier article, this was in part inspired by a concern that men ruined themselves by excessive expenditure on clothing. The limitation on the use of silk and other rich imported fabrics was also motivated by economic protectionism.¹⁴ As with earlier—and subsequent—Acts regulating attire, Mary’s Act did not repeal Henry’s, and should be read as supplementing it, overriding the earlier Act where the two were inconsistent.

6 Satin is next in importance to taffeta as the basic plain weave, with an even, smooth and glossy surface which uses much more thread than taffeta (plain weave), so was more expensive. In this case the Act is referring to silk satin, but any fibre—wool, linen, cotton—can be woven in a satin weave.

7 Camlet, or Chamlett, also known as Camelot, or Camblet, is a woven fabric originally made from woven silk and goat (or camel) hair, now more usually wool and cotton, or goat and silk. In the sixteenth century it would usually be a mixture of wool and silk. Poplin, a fine closely woven plain weave showing fine ribs (running widthwise), was originally made with a silk warp, and a worsted wool weft.

8 A close-fitting body garment, with or without sleeves, worn by men from the fourteenth to the late seventeenth centuries.

9 In this context, ‘sleeveless coat’ means a jerkin with the ‘skirt’ extending to the knee.

10 The tippet, possibly derived from the medieval hood, replaced the almuce by the sixteenth century.

11 Murrey, an heraldic tincture, supposedly the colour of mulberries, between red (Gules) and purple (Purpure).

12 Continuation of Acts Act 1603 (1 Jac I c 25) s 7.

13 10 Edw. III ch. 3 (1337).

14 See also the encouragement of woollen shrouds.

The full text of the 1554–5 Act (with modernized spelling, numbers converted from Roman to Arabic form, and notes where explanation is required) is as follows:

Be it enacted by the authority of this present Parliament, that no person born within this Realm or the Dominions of the same, other than the son and heir apparent of a Knight, or other than such as may dispend¹⁵ twenty pounds by the year in lands offices fees or other yearly Revenues for term of life, or be worthy in goods two hundred pounds, shall after the first day of April next coming, wear any manner of silk in or upon his hat bonnet nightcap, girdle¹⁶ hose¹⁷ shoes scabbard or spur leather upon pain of three months imprisonment, and Forfeiture¹⁸ of ten pounds for every days wearing contrary to the tenor of this Act.

Thus the use of costly imported silk was restricted to knights' eldest sons, and those spending £20 a year, or worth £200 in chattels.¹⁹ These individuals were deemed to be able to sustain such expenditure, and also be worthy of wearing such flashy apparel. As always with such matters, there was a compromise between preventing men from dressing extravagantly—at a cost to themselves and their families—but not precluding the use of suitable decoration by men of substance. The Act continues ...

II

And Be it further enacted by the authority aforesaid, that Justices of Assizes²⁰ in their Circuits Justices of Peace in their Sessions Sheriffs in their Turns²¹ Stewards in Leets and Law days²² Mayors Sheriffs and Bailiffs of Cities Boroughs and Towns Corporate in their Courts, shall and may enquire here and determine from time to time all and every the said Offences done or committed within the limits of their several jurisdictions and authorities:

And where any such Forfeitures shall happen to be found within the precinct of any city borough town corporate leet or law days, to have the one moiety²³ of the said Forfeitures, and the other moiety to be to any subject of

15 To expend.

16 Probably intended to have a fairly broad meaning.

17 Tubes of fabric, usually of expensive lightweight material, cut on the bias, and sewn to fit the foot and lower leg. Sixteenth-century hose consisted of two parts; upper or 'trunk' hose; and lower, which could refer to 'canons', long hose, or nether stocks. Upper stocks were usually called breeches.

18 To forfeit something is to automatically lose ownership of it, without formal process being required, as a consequence of the commission of some specified act (or possibly, omission).

19 It is very difficult to give an accurate assessment of the present day value of money. 'Measuring Worth—Purchasing Power of British Pound Calculator' <<http://www.measuringworth.com/calculators/ppoweruk/>> is one of many attempts to produce a tool capable of calculating approximate values. Using this, £20 in 1554 was estimated to be worth £7,508 in 2013 using the retail price index, or £82,170 using average earnings; Lawrence H. Officer, 'Purchasing Power of British Pounds from 1270 to present.' *MeasuringWorth.com*, 2014.

20 Itinerant Justices of King's Bench, on circuit around the country.

21 An obsolete court of record (see n. 24 below), held by the sheriff twice a year in every hundred within his county.

22 As for example the 'view of frankpledge', a medieval 'neighbourhood watch'.

23 A half share.

this Realm that will sue for the same in any Court of Record²⁴ by Action²⁵ Information²⁶ Bull²⁷ or otherwise, in which no Wager of Law²⁸ Protection²⁹ or Essoyn³⁰ shall be allowed:

And where such Forfeitures shall be to the King and Queen's Majesties³¹ and heirs of the Queen,³² and another moiety thereof to any of their subjects that will sue for the same by Bull³³ Plaintiff³³ Action Information or otherwise in any Court of Record as is aforesaid, in where no Wager of Law, Protection or Essoyn shall be admitted or allowed:

And that all and every such person and persons as have authority by virtue of this Act to hear and determine the premises,³⁴ may upon the conviction of every such Offender and process unto the Sheriff of any shire within this Realm for the apprehension of the said Offender, which being apprehended shall be committed by the Sheriff unto the Gaol of the said shire, there to remain without Bail or mainprise³⁵ until the said Offender hath paid the Forfeiture wherein he is so convicted.

III

And Be It further enacted by the authority aforesaid, That if an person or persons of what Estate Condition or Degree³⁶ soever he or they be, after the said first day of April next coming, knowing any servant or servants of his or them to offend contrary to this Act, do not put the same out of his or their service, but shall keep in his or their service the same Offender or Offenders by the space of fourteen days next after such knowledge had, or else being so put out of his or their service, shall retain the same Offender or Offenders to his or their service again, within one year next ensuing the time of committing any such Offence, the same person or persons so keeping or retaining again, in or to his or their service, any such servant or servants offending contrary to the tenor of this Act, as is aforesaid, shall for every his or their Offence Forfeit one hundred pounds of lawful money of England: the moiety whereof to be to the King and Queen's Majesties' use, and the heirs and successors of the Queen, and the other moiety to him that will sue for the same in any Court of Record, by Action Bull Plaintiff Information or

24 A court that keeps permanent record of its proceedings, and is thus is legally distinct from the judges who preside over it, and also subject to appeal.

25 Suit, or proceeding.

26 A formal accusation of a crime made by a prosecuting officer as distinguished from an indictment presented by a grand jury.

27 Presumably 'bill', an alternative term for a petition, a document directed to the King or Court of Chancery requesting legal action.

28 A defence by way of compurgation; finding men, usually twelve, who could swear to his innocence.

29 A privilege granted by the king to a party to an action, by which he is protected from a judgment which would otherwise be rendered against him.

30 The allegation of an excuse for non-appearance in court at an appointed time; the excuse itself.

31 Queen Mary and King Philip II of Spain were joint Sovereign, but Philip's authority was severely curtailed, much to his annoyance.

32 The succession was of course through Queen Mary, not King Philip.

33 The exhibiting of any action, real or personal, in writing.

34 That is, to act upon that which is put before them.

35 A writ issued to the sheriff ordering the release of a person.

36 Not the University degree, but their social status.

otherwise, wherein no Wager of Law Essoyn or Protection shall be admitted or allowed.

As with the 1509 Act, encouragement is here given to local enforcement, primarily through giving a half-share of any forfeiture to the party responsible for bringing the suit.

IV

Provided always and Be it enacted, That this Act or anything therein contained shall not extend to any person being of or above the degree of a Knights son or daughter, or being wife to any of them, nor to such as have been be or shall be Mayor Bailiff Alderman³⁷ or Head Officer in any city borough or town corporate, or to the wife of any of them, nor to any of the King's or Queen's servants in ordinary wages attendant,³⁸ and wearing the King's or Queen's ordinary livery,³⁹ But that they and every of them may use as they or any of them might lawfully use and wear before the making of this Act.

The scope of the Act is clearly limited to those of less status than a knight's son or daughter. Those above this rank were not regulated—at least not by this Act—and interestingly, nor were members of the Royal Household. The latter, at least, were more fully regulated by the internal discipline of the Household.

V

Provided also that no person shall be compelled by this Act to put away his Apprentice or hired servant before the end of the term agreed between them, nor that any master shall Forfeit or lose any pain or Forfeiture for the keeping of his Apprentice or hired servant after his Offence contrary to this Act unto the end of the term before agreed between them: Anything abovesaid to the contrary notwithstanding.

VII

Provided also that women may wear in their caps hats girdles and hoods as they or any of them might use and wear lawfully, before the making of this Act.

Conclusion

In simple terms, this Act restricted the use of silk for decoration to those with sufficient means or status. Importantly, it was silent on the question of academical dress.

The 1533 Act repealed the 1509 Act, and was in force when the 1554–5 statute was enacted; the latter Act did not repeal that of 1533. The Act of 1533 for the Reformation of Excess in Apparel⁴⁰ allowed bachelors of divinity and doctors, being clergy, to use sarcenet in their gown (*cappa clausa*) lining, black satin or camlet in their doublet and sleeveless coat (*roba*), and black velvet, sarcenet or satin in their tippet, riding hoods or girdles. They were thus deemed of similar or higher status to the knights' sons. Likewise, municipal

³⁷ An ancient municipal council office, now obsolescent in England and Wales, abolished in Ireland, but still surviving in parts of Australia, Canada, and the United States of America.

³⁸ As distinct from 'extraordinary'; the King's or Queen's servants in ordinary were permanent personnel of the Royal Household rather than the honorific, such as the holders of office by grand serjeanty, who were extraordinary.

³⁹ Court Uniform or Court Dress, as we might call it today.

⁴⁰ 24 Henry VIII c 13, see nn. 3–9 above.

officers were granted similar rights and status. Holders of academic degrees who were permitted to wear silk in its various manifestations in 1533 were not forbidden to do so by the 1554–5 Act. This is because of the principle that something approved by Parliament remains lawful unless rendered unlawful by subsequent Act, by express words or necessary implication. The silence of the 1554–4 Act on the subject of academical dress makes it clear that Parliament was not endeavouring to regulate this area, and the previous Act continued to apply.⁴¹

The regulation at Cambridge in 1560 that allowed doctors and BDs to have silk in their hoods in summer instead of fur, confirmed in 1585, and the 1558 statutes of the newly refounded Gonville Hall that have non-regent masters in hoods lined with silk, both illustrate that the 1533 rules remain applicable with respect to academical dress.

The statutes 24 Henry VIII c 13,⁴² 1&2 P & M c 2⁴³ and all Acts relating to apparel then in effect were repealed by King James I in 1603,⁴⁴ and thereafter the regulation of attire outside institutions such as the church and the universities was abandoned.

41 This would be so even if the 1533 had been repealed by the 1554–5 Act, on the principle that lawful authority once conferred by Act becomes lawful under common law if the authorising Act is repealed—provided again it is not abolished by necessary implication or express words in a later Act.

42 Act for the Reformation of Excess in Apparel 1533.

43 Act to avoid the excess in apparel 1554–5.

44 Continuation of Acts Act 1603 (1 Jac I c 25) s 7.