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section 22 of the Uniform Sales Act. In addition, this section provides that until the condition is fulfilled the increase of the goods shall remain the seller's property.

Section 29 states rules for cases not provided for previously in the Act and is closely analogous to section 63 of the Uniform Sales Act.

Section 30 provides that:

"This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it".

All the uniform commercial acts contain this provision,⁴⁷ the purpose of which is to lead Pennsylvania courts in construing the Acts not only to follow Pennsylvania precedents but also those of other jurisdictions.

There is no provision in the Pennsylvania Act providing for a repeal of prior inconsistent legislation corresponding to section 32 of the commissioner's draft.⁴⁸

Nicholas Unkovic

EVIDENCE OF OTHER CRIMES IN MURDER TRIALS

Since the *Act of 1925, P. L. 759*, the law in Pennsylvania has been hazy and unsettled regarding the admission of evidence of prior, unrelated crimes in the trial of a specific offense. It has long been the established rule that "evidence of unrelated crimes is not admissible in the trial of a particular offense",¹ and this has been supported by the *Act of 1911, P. L. 20*.² As juries had been very reluctant to bring in a verdict of "guilty", with the death

⁴⁷Uniform Sales Act of May 19, 1915, sec. 74, P. L. 543; Uniform Bills of Lading Act of June 9, 1911, sec. 52, P. L. 838; Uniform Warehouse Receipts Act of March 11, 1909, sec. 57, P. L. 19; Uniform Stock Transfer Act of May 5, 1911, sec. 19, P. L. 126. See also Swift v. Tyson, 16 Peters 1, 19, 20 (1842).

⁴⁸See Section 32, 2 U. L. A. No. 32, p. 42.

¹Wigmore on Evid., Vol. I, (Ed. II) Par. 193; Jamestown Iron & Metal Co., v. Knofsky, 154 Atl. 15 (Pa. 1931); Comm. v. Jones, 280 Pa. 368 (1924); Comm. v. Wilson, 186 Pa. 1 (1898).

²Sec. 1, 19 P. S. sec. 711, p. 147.

penalty attached automatically, in a case of first degree murder, the Act of 1925, *supra*, was passed to give them the power to determine the penalty for the defendant found guilty by them. To aid them in this determination, evidence of other crimes may be introduced. The earlier cases decided after the passage of this Act, applied it so as to nullify the Act of 1911, and if these are held to have established the law since the Act, it might well be said that, "The case of *Comm. v. Parker*, 294 Pa. 144 set out a new exception to the general rule, applicable to a limited number of cases; i. e., on a trial for first degree murder, evidence of other unconnected crimes may be admitted so that the jury might thereby be aided in pronouncing sentence under the Act of May 24, 1925".³

Several cases, relying on *Comm. v. Parker*, *supra*, have carried the admission of such evidence to the point of allowing its use to help convict of the crime for which defendant is then being tried. In *Comm. v. Quaranta*,⁴ Kephart, J., said, "While defendant was on the stand, at his counsel's request he admitted having been convicted of certain other crimes; when cross-examined by the district attorney, he was interrogated as to another crime for which he had been convicted. This evidence was objected to, first, because the Act of 1911 prevented it, the defendant not having put his good character in evidence. Defendant assumed that if he shows a good character, minus so much bad character, the Commonwealth is prevented from proving still further bad character by showing as false, his testimony in respect to other crimes committed. Defendant voluntarily stepped outside the Act of 1911 when he narrated his criminal record, thus placing his character in evidence. His true character as shown by the conviction of an infamous offense, was proper in affecting veracity, as well as proper cross-examination on his own testimony". So it is seen that such evidence may be used to impeach veracity of the defendant. In *Comm. v. Melis-*

³R. S. Machmer, 33 Dickinson Law Review, 244. (Under this same title).

⁴295 Pa. 264.

sari,⁵ the defendant was not questioned about a former crime or charge, but a witness testified that he had seen the defendant in a police station, and this was competent to prove the fact of the previous association with one shown to have taken part in a previous murder, and defendant's false denial of that important fact was held to be proper for the consideration of the jury, in passing on his guilt.⁶ The most recent case was *Comm. v. Schroeder*,⁷ where the defendant had herself testified that she stole "just to get a thrill out of it", and was "properly badged by the medical experts as an 'habitual criminal'." Here, the Court said, "In principle, we recognize the propriety of testimony such as complained against in *Comm. v. Buccieri*, 153 Pa. 535, and *Coyle v. Comm.*, 104 Pa. 117. Furthermore, it is admissible to give the jury light on the matter of punishment, which is the problem they had to solve. They had a right to know what kind of person she really was".⁸ Thus, while allowing the evidence to be used according to the Act of 1925, this Court seems to go further and allow it to be used as substantive evidence, as that was the nature of the evidence complained of in the cases cited above.

However, our Court, feeling perhaps, that the exception, if carried too far, would create an extremely unpleasant situation, held in *Comm. v. Weston*,⁹ that such proof could not be received unless "it tends to establish guilt of the defendant of the particular offense under consideration of the jury", and continues to say that repetition of a voluntary confession made to police officers is not an attempt on the part of the Commonwealth to prove a separate and distinct crime.

But, the above references to the contrary notwithstanding, there is a line of cases promulgating the general

⁵298 Pa. 63.

⁶*Comm. v. Jones*, 297 Pa. 326.

⁷152 Atl. 835, 302 Pa. 1, (1930).

⁸See, also: *Comm. v. Parker*, supra; *Comm. v. Mellor*, 294 Pa. 339.

⁹297 Pa. 382.

doctrine of inadmissibility of such testimony as substantive evidence, which is upheld by the Supreme Court of Pennsylvania today. Despite the interpretation put on the case of *Comm. v. Parker, supra*, we find the Court there following the spirit of the Act of 1925 in these words: "Under the section (of the Act) requiring the jury by its verdict to fix the penalty of death or imprisonment for life at its discretion on conviction of first degree murder, evidence of the defendant's confessions of other crimes than that charged is admissible, especially when the entire defense is, in substance, a plea to the jury for mercy". This is closely followed in *Comm. v. Dague*,¹⁰ and in *Comm. v. Flood*,¹¹ where the limitation on the exception to the general rule is emphatically stated thus: "While the statement in this case might have militated against the defendant in a general way, and without the Act of 1925 would have been improper, it became material evidence as an aid to the jury in determining the punishment to be inflicted, and in ascertaining whether the defendant is entitled to mercy. This class of criminal cases must not be confused with the authorities which exclude prior and subsequent acts as *substantive* evidence of the commission of a crime. It is here admitted for the sole purpose of enabling the jury to properly administer the punishment, and the trial judge should be very careful to explain and emphasize this limitation in his charge to the jury".

It is rather strange that in *Comm. v. Luccitti*,¹² Kephart, J., made no mention of the exception to the general rule as set out in *Comm. v. Parker, supra*. In this case, defendant was on trial for murder, and the Court says, on page 196, "The general rule is that in a trial for a specific offense, evidence cannot be offered of another distinct, independent and unrelated offense", and cites cases in support of this observation. But the Court goes on, "A different rule, however, must apply when the connection or relation between the two crimes is manifest either from

¹⁰152 Atl. 837, 302 Pa. 13, (1930).

¹¹153 Atl. 152, 302 Pa. 190.

¹²295 Pa. 190.

the crime itself, or from proofs in connection therewith". Here, we find no consideration of the introduction of such evidence for the purpose of aiding the jury in reaching a determination of the penalty to be imposed, but rather, the Court holds the evidence to be introduced strictly within the confines of the general rule.

The majority of States today have enacted statutes authorizing the tribunal to increase the sentence of one whose offense, when established is found to be the second or a later offense. Most of these, however, as well as the English statutes, provide, or have been interpreted by their respective Courts to mean, that such evidence of prior convictions cannot be introduced until *after* the jury has found the defendant guilty of the offense charged. But some of these statutes, "apparently bound by the supposed requirements of the unwise rule (existing in some jurisdictions) which allows the jury to fix a criminal sentence, permit the fact of prior convictions to be considered by the jurors *before the verdict*."¹³ The Pennsylvania statute (Act of 1925, P. L. 759) is of this type. However, in Virginia, in capital cases, prior convictions are not admissible under the statute.¹⁴

From the cases here collected, it will be perceived that although the Supreme Court of Pennsylvania has guarded jealously the rights of the accused to have no evidence of other crimes admitted as to help to determine him guilty of the offense charged, by construing strictly the confines under which such evidence shall be admitted under the Act of 1925, they have, nevertheless, gone the limit under this Act. The Courts having judicially noticed the class of offenders known as "habitual criminals", have admitted such testimony in the protection of society at large from

¹³Wigmore on Evid., Vol. I, Par. 196 (2). See, also: 27 Harv. L. R. 169; Hall v. Comm., 106 Ky. 894, 51 S. W. 804; People v. McIntyre, 163 N. Y. S. 528; Murby v. U. S., 2 Fed. (2nd) 56. Other states having similar statutes are Illinois, Iowa, and Maryland.

¹⁴Wright v. Comm., 109 Va. 847; 65 S. E. 19.

this class of persons, at the risk of having such evidence militate in a general way against the defendant.

Carol Macklem

CONSTRUCTION OF THE ARBITRATION ACT OF 1927

In *Grote v. Stein*,¹ our Superior Court has displayed an attitude which must surely distress those advocates of the Arbitration Act of 1927,² who had hoped for a broad construction of the statute, remedial of many of the distinctions and peculiarities of the former law.³

To understand the suggested disappointment, a brief review of the status of arbitration agreements before the Act of 1927 is necessary. A distinction had been made between agreements to arbitrate disputes which might arise in the future and submission agreements of existing disputes.

Of the former type, the courts early recognized that a different rule should apply when a future dispute agreement designated a named arbitrator or arbitrators from the type of future dispute agreement in which the clause was general and no arbitrator or arbitrators were chosen by the parties. *When arbitrators were named*,⁴ the agreement was held to be irrevocable in two senses of the term, i. e., no action could be maintained on a cause of action embraced in the terms of the agreement, nor had the parties power, by due notice of the revocation of authority prior to the award, to prevent the binding effect of the award. *When arbitrators were not named*,⁵ the clause was held to be general and, therefore, revocable in both senses above men-

¹99 Pa. Super. Ct. 556 (1930).

²P. L. 381.

³Arbitration Under the New Pennsylvania Statute, Wesley A. Sturgis, 76 University of Pennsylvania Law Review, 345 and following.

⁴*Lauman v. Young*, 31 Pa. 306 (1858); *Hartupee v. City of Pittsburgh*, 97 Pa. 107 (1881); *Commonwealth v. Central Paving Company*, 288 Pa. 571 (1927).

⁵*Snodgrass v. Gavit*, 28 Pa. 221 (1857); *Gray v. Wilson*, 4 Watts 39 (1835); *Gowan v. Pierson*, 166 Pa. 258 (1895).