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STUDENT NOTES

ADMISSIBILITY OF EVIDENCE OF SIMILAR OFFENSES IN CRIMINAL PROSECUTIONS IN WEST VIRGINIA.—The problem of the admissibility of evidence of other similar acts in a trial for a particular offense is a very broad one in the field of evidence. Due to the scope of the subject it has been found inexpedient to treat the application of the rules to civil cases; however, it is generally said that the same rules apply. Likewise, only incidental mention will be made of such problems as the degree of proof required of the similar acts, the instructions to the jury regarding the use of the evidence, and the remoteness of the similar acts.

The early English cases did not recognize a broad rule of exclusion of evidence of other similar acts. If the evidence was relevant, it was admissible, with the qualification, however, that where the relevancy merely showed that the accused had a tendency or propensity to commit crimes the evidence was excluded. This, in effect, is the rule adopted by the Model Code of Evidence which states: “Subject to Rule 306 [Evidence Concerning A Person’s Character As Tending To Prove His Conduct], evidence that a

1 2 Wigmore, Evidence § 371 (3d ed. 1940).
2 1 id. § 194. See also Stone, The Rule of Exclusion of Similar Fact Evidence; England, 46 Harv. L. Rev. 954 (1933); and Stone, The Rule of Exclusion of Similar Fact Evidence; America, 51 Harv. L. Rev. 988 (1938).