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Presumptions in Violent Death Cases or Quo Vadis Presumption?

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The title to this paper is broader than its scope. The subject matter will be limited to the use of presumptions in suits on life policies where death was violent and the insurer's defense is suicide of the insured.

The insured under a double indemnity life insurance policy is found in a locked room dead by a contact bullet wound. An airliner crashes under mysterious circumstances killing a passenger who has recently taken out a large amount of life insurance. An entertainer heavily insured under an accidental death policy is found dead from an overdose of sleeping pills. Investigation by the insurer in each of these cases and in literally thousands of other violent death cases, may be inconclusive as to whether death was by suicide, or there may be evidence of suicide ranging from "slight" to "conclusive."

This paper does not attempt to fully cover the types of circumstantial evidence that would be admissible on the issue of suicide. The cases have given broad latitude in allowing the introduction of circumstantial evidence and evidence which bears on the question of motive. Evidence of the pecuniary circumstances of the suicide victim is considered admissible. Recent acquisition of large amounts of insurance otherwise unexplained would have great evidentiary value. Other circumstances which have evidentiary value are: a person's mental state; his physical health; his religious views; his experience with the means whereby he has met death, for example, his familiarity with firearms if death is the result of a gunshot wound; the loss or affliction of a loved one; marital difficulties and other domestic relations;

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statements of the deceased bearing upon his outlook on life; suicidal threats and others.

In appraising such cases for settlement or in preparing for trial, an important consideration, in addition to that of evidence, is the treatment of presumptions in violent death cases by the courts of the particular jurisdiction.

Webster defines "presumption" as follows:

Ground for presuming, or believing probable; probable, but not conclusive . . . An inference as to the existence of one fact not certainly known, from the known existence of some other fact.3

Black distinguishes between a presumption of fact and one of law:

Of fact — An inference affirmative or disaffirmative of the truth or falsehood of any proposition or fact drawn by a process of probable reasoning in the absence of actual certainty of its truth or falsehood, or until such certainty can be ascertained.

Of law — A rule of law that courts and judges shall draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved.4

The courts of the United States have long recognized the "presumption against suicide" or the so-called "presumption in favor of accidental death," but there has been such a diverse application of this presumption that it has frequently been reviewed by the writers and courts with substantial criticism.

Most life insurance policies provide that if death occurs from suicide during the contestable period or during the period within which the defense of suicide may be used the only liability of the insurer is to refund the premiums paid. In the event an insurer's defense to a suit for the face amount of a life policy is based on suicide, such a defense must be affirmatively pleaded and the burden of proof of this issue — suicide — is on the defendant insurer.5 Accident policies and double indemnity provisions of life insurance contracts usually provide for benefits or additional benefits in the event that death is due solely to violent and external accidental means. The great majority of cases hold that in a suit to collect accidental death benefits or double indemnity benefits, the burden of proof is on the beneficiary, aided by the presumption against suicide, to prove that the cause of death was accidental.6 Policy litigation involving these

two types of cases is unfortunately very common. It would seem that by now the courts would have a fairly well established rule for the application of the presumption against suicide, but not so.

Generally speaking, the decisions can be divided into two general classifications of treatment—one stating that the presumption against suicide or in favor of accidental death is a rule of evidence and the other stating that it is a rule of law. As a rule of evidence, the court in instructing the jury, charges, regardless of evidence to the contrary, that there is a presumption against suicide and that such presumption is to be weighed as evidence in arriving at a verdict. Treated as a rule of law, the presumption is for the use of the court in determining upon whom the burden of going forward with the evidence rests. Under this latter application, the presumption against suicide is given effect only in suits on accidental death policies or on double indemnity claims. The courts holding that the presumption against suicide should be used as a rule of law assert that this presumption does not affect the ultimate burden of persuasion. Once the plaintiff has established that death was violent, the presumption merely shifts the burden of going forward with the evidence to the defendant insurer, and as soon as any evidence is introduced inferring that death was by suicide the presumption disappears and the issue, by the better view, is then determined by a preponderance of the evidence. The plaintiff's initial proof of violent and external death may be such that it causes the presumption against suicide to vanish.

In the jurisdictions holding that the presumption is a rule of evidence, the presumption is applied in accidental death cases, double indemnity cases and in suits for the face amount of the policy where suicide is a defense within the contestable period of the policy. Where the suit involves a claim on a double indemnity policy within the contestable period and the defense to both the claim for the basic amount of the policy as well as to the claim for double indemnity benefits is that the insured committed suicide, sometimes a rather unusual and anomalous result can occur if

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9. In this regard the court in New York Life Ins. Co. v. Ross, 30 F.2d 80, 82 (6th Cir. 1928), cert. denied, 279 U.S. 852 (1929) said, "A presumption is not evidentiary in its nature, and the burden of proof, in its usual and primary meaning as the risk of nonpersuasion of the jury, never shifts, but remains with the affirmative throughout the case."

both the plaintiff and the defendant fail to meet their respective burdens of persuasion. The burden of persuasion on the basic amount of the policy would be on the defendant, who has pleaded the affirmative defense of suicide. The burden of persuasion of establishing death in a manner entitling the beneficiary to the double indemnity benefits would be on the plaintiff. It should be noted that the term “burden of proof” encompasses both the concepts of the burden of going forward with the evidence and the burden of persuasion. The latter is always upon the proponent of an issue and never shifts; the former may shift from the proponent to the opponent or vice versa. It is conceivable that the jury could conclude that the insurer had failed to prove suicide and was therefore liable for the face amount of the policy, and at the same time find that the beneficiary had failed to prove accidental death and was not therefore entitled to the double indemnity benefits. In such a situation neither party would have sustained his burden of persuasion as proponent of the particular issue.

The lay person’s familiarity with presumptions is limited to criminal cases where the accused is presumed innocent and to the extraordinary degree of proof required to overcome such a presumption, that is, proof of guilt beyond any reasonable doubt. In the attempt to explain the weight to be accorded the presumption against suicide, the courts, in charging the jury, have not only failed to properly instruct the jury, but in many instances have probably reaffirmed the jurors’ belief that this presumption against suicide must be overcome by proof beyond any reasonable doubt. This is simply not the degree of persuasion required in the vast majority of jurisdictions. However, the Supreme Court of Florida apparently became as confused as most juries in one instance and required the criminal degree of persuasion to prove suicide as a defense in a civil suit on the face value of a life policy.

As a rule of evidence, the presumption against suicide is used in two ways. Some courts say that this presumption is to be weighed along with

11. 9 Wigmore, Evidence §§ 2485-2489 (3d ed. 1940).
other evidence;¹⁴ and some courts hold that this presumption is the tie-breaking vote, that is, if the evidence is hopelessly in conflict as to the cause of death, and the jurors are unable to decide which evidence outweighs the other, then the scale should be tipped by the presumption against suicide.¹⁶ One obvious objection to the use of the presumption as evidence is that such a charge is often given when the only reasonable hypothesis is that of suicide and the charging of a presumption allows the jury to deliberate an issue which should receive a directed verdict. The cases are voluminous where juries have returned a verdict for the insured in the face of overwhelming evidence of suicide.¹⁸ The presumption no doubt gave them an excuse for such a verdict if it did not directly influence their decision.

Another difficulty in the use of the presumption against suicide as a rule of evidence is encountered in attempting to define and explain this presumption to the jury. In giving probative value to the presumption against suicide, how much weight is given to such a presumption? How much evidence is necessary to overcome the presumption? What is a presumption? How does this presumption differ from other presumptions? These questions must be answered by the court in its charge to the jury if a presumption is to be charged. There are literally hundreds of written decisions resulting from appeals in cases where the jury has received varied instructions as to the probative value to be given the presumption against suicide. Since the interpretation of this presumption as a rule of evidence is virtually impossible by even the above-average jury, the use of the presumption as a rule of evidence has been examined and criticized by many writers and by the appellate courts of many states.¹⁷ There has been a great amount of confusion in the treatment and interpretation of this presumption against suicide where the courts have applied it as a rule of evidence.

There is no uniformity in the decisions as to the quantum of proof required to overcome this presumption against suicide. Some cases hold

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¹⁴. See note 7 supra.
¹⁶. In Brotherhood v. Page, 197 Ark. 498, 501, 123 S.W.2d 536, 537 (1939) the court stated: "It must be conceded that we have a number of cases of very tenuous character, affirming verdicts apparently finding that the insured had not committed suicide, in which the evidence greatly preponderated to the contrary."; Home Life Ins. Co. v. Miller, 182 Ark. 901, 33 S.W.2d 1102 (1930); Cox v. Prudential Ins. Co. of America, 172 Cal. App. 2d 629, 343 P.2d 99 (1959); See also P. HENRY, THE TRIAL OF SUICIDE CASES, PROCEEDINGS OF LEGAL SECTION OF AMERICAN LIFE CONVENTION 57-96 (1956).
¹⁷. See, e.g., Wallin, The Presumption Against Suicide in Insurance Cases in the District of Columbia, 46 GEO. L.J. 503 (1958); Fallon, Coverage and Suicide in Life Insurance, 58 DICK. L. REV. 1 (1953); Breyfogle & Richardson, Problems of Proof in Distinguishing Suicide from Accident, 56 YALE L.J. 482 (1947); Hartman, The Presumption Against Suicide as Applied in the Trial of Insurance Cases, 19 MICH. L. REV. 20 (1934).
that the mere preponderance of evidence is sufficient to overcome the presumption.18 Other cases say that the presumption against suicide may be overcome by circumstantial evidence only where the circumstances leave room for no other reasonable hypothesis than that of suicide.19 This rule would seem to require that the proof eliminate all doubt in order to overcome the presumption, yet the majority of states have refused to apply that degree of proof. According to some cases, these two rules as to the amount of proof required to overcome the presumption against suicide are not inconsistent.20 Yet, other cases hold that a mere preponderance of the evidence is insufficient to overcome the presumption.21

At least one case which has not been specifically reversed states that the presumption against suicide can be overcome only by proof beyond a reasonable doubt.22 This rule may have been abandoned by the Florida Supreme Court in City of Jacksonville v. Waldrep.23 If not, then Florida evidently requires one degree of persuasion to overcome the presumption against suicide in accidental death policies,24 and another degree of proof

18. See note 12 supra.
22. In New York Life Ins. Co. v. Satcher, 152 Fla. 411, 412, 12 So.2d 108 (1943) the court said, "The rule is generally approved that when the defendant comes forward with a plea of suicide he must prove it beyond a reasonable doubt just as he would the defense in a criminal case. The evidence must exclude every other reasonable hypothesis of death."

It might be noted that Virginia has adopted the so-called extreme doctrine requiring that suicide be established only when there is clear and convincing evidence excluding every reasonable theory of accident; this apparently applied whether suicide be established as a matter of law or upon a finding by the jury. In commenting upon this view in Note, 34 Va. L. Rev. 378 (1948) the author stated, "It is difficult to see when a jury will be allowed to pass on the question. If the evidence of suicide is clear and convincing, the defendant is entitled to a peremptory ruling; if the evidence is less persuasive than that, any finding by the jury that death resulted from suicide would be set aside as being contrary to the evidence."

23. 63 So.2d 768 (Fla. 1953). In this case, the court, in receding from its pronouncement in the case of Florida East Coast Ry. Co. v. Acheson, 102 Fla. 15, 140 So. 467 (1932) stated that it had inadvertently adopted the rule with reference to circumstantial evidence which obtains in criminal cases. It quoted with approval its pronouncement in King v. Weis-Patterson Lumber Co., 124 Fla. 272, 273, 168 So. 858, 859 (1936) wherein it stated:

Where circumstantial evidence is relied on in a civil case to prove an essential fact or circumstance essential to recovery, the rule is that the particular inference of the existence of the fact relied on as arising from the circumstances established by the evidence adduced, shall outweigh all contrary inferences to such extent as to amount to a preponderance of all of the reasonable inferences that might be drawn from the same circumstances.

to overcome the presumption where suicide is pleaded as an affirmative defense where death occurred during the contestable period of a life policy.  

Another court has stated that a simple denial by the insurer that the insured met his death by accidental means is the equivalent to an affirmative plea of suicide. Ordinarily, in an action for the face amount of the policy, the burden of proof is on the plaintiff to establish accidental death, the presumption against suicide merely shifting the burden of going forward with the evidence to the defendant insurer. Once any evidence is offered to show the cause of death then the presumption disappears. Since the burden of persuasion as to the particular issue is on one who asserts it, the *Bell* case goes farther than most cases and places on the defendant insurer the burden of persuasion. Another extreme view has evidently been adopted by the courts of Virginia which in effect says that when the insurer relies on circumstantial evidence to establish suicide, the insurer will not be entitled to a jury verdict unless he is entitled to a directed verdict. The Virginia courts have adopted the view that the presumption against suicide may only be overcome by circumstantial evidence where such evidence is clear and convincing and excludes every reasonable theory of accident.

The Louisiana Supreme Court has adopted an unusual and incomprehensible rule wherein it requires circumstantial evidence to exclude every reasonable hypothesis of accidental death in order to prove suicide, yet, where proof of motive is essential to overcome the legal presumption against suicide, the burden is upon the pleader to establish motive by a fair preponderance of the evidence.

The trial of insurance cases in which the defense is suicide has resulted in such a preponderance of verdicts against the insurer, that one writer has stated that the only way to win a suicide case is by getting a directed verdict, which as pointed out above may be the only way in Virginia in the absence of direct evidence. Due to the natural sympathy

27. Some courts require something more than "any" evidence to cause the burden of going forward to shift from the party in whose favor the presumption operates. See, e.g., Union Central Life Ins. Co. v. Sims, 208 Ark. 1069, 189 S.W.2d 193 (1945) ("substantial" evidence); Kentucky Home Mut. Life Ins. Co. v. Watts, 298 Ky. 471, 183 S.W.2d 499 (1944) ("sufficient" evidence); Kath v. Kath, 238 Minn. 120, 55 N.W.2d 691 ("competent" evidence); State v. Barton, 361 Mo. 780, 236 S.W.2d 596 (1951) ("substantial" evidence); Southland Life Ins. Co. v. Greenwade, 138 Tex. 450, 159 S.W.2d 854 (1942) ("clear, positive and disinterested" evidence).
32. See quote from Note, 34 Va. L. Rev. 378 (1948) supra note 22.
of a jury for a bereaved family, we cannot explain all of the verdicts adverse to the insurer in suicide cases by the use or mis-use of presumptions against suicide; however, the writer submits that the presumption against suicide when used as a rule of evidence places the insurer at an unfair disadvantage.

There has yet to be found a logical or comprehensible standard of the weight that a jury should give to the presumption against suicide when treated as evidence. How then can a jury determine just how much evidence is required to overcome such a presumption? The answer is that the jury has no way of knowing and not knowing how much weight to accord the presumption against suicide, the jury will of necessity place its own interpretation on this presumption since a meaningful charge is impossible.

Certainly it would be permissible to remind the jury that the majority of violent death cases are accidental rather than suicidal, but the writer takes issue with the decisions that say that suicide is "improbable" or "unnatural" and that the jury may be so instructed. One only has to read the newspapers or to check the statistics in the Almanac to know that suicide is far too prevalent. There were 18,490 cases of reported suicides in 1958 in the United States—almost one-half of the number of those killed in motor vehicle accidents. There are many other attempted suicides and successful suicides which because of the stigma attached to suicide are never recorded. Suicide is not so uncommon an occurrence as to warrant special and peculiar obstacles for a jury to hurdle in arriving at a finding of suicide. A burden of persuasion charge to the jury is all that is necessary in order for a jury to make a finding of fact on the issue of accidental death, or of suicide where suicide is an affirmative defense. A fair instruction would be one ignoring the presumption entirely and pointing out that if the evidence of suicide and that of accidental death bring the scale of justice into even balance, then the verdict should be against the one having the burden of persuasion.

Not only is the application of the presumption against suicide not uniform, but the reasons given for the use of this presumption are varied. One case holds that the basis for the presumption against suicide where the circumstances are such that death may have been caused by either accident or suicide is the statutory presumption that "a person is innocent of a crime or wrong." One writer states that the presumption against suicide is a "judicial recognition of what is probable." Many cases have held that this presumption is based on the natural love of life by an

34. Modern Woodmen v. Craiger, 175 Ind. 30, 92 N.E. 113 (1910).
37. Thayer, Preliminary Treatise on Evidence 334 (1898).
One purpose of many presumptions of law is to afford some desired protection for certain types of litigants, for example, the presumption of legitimacy and the presumption of innocence of a crime. Experience has taught us only too well that the beneficiary under a life policy needs no special protection by the court. It is the insurer who needs, but does not usually receive, protection from the sympathy of a juror for a bereaved widow or child. An impartial verdict is rare when the evidence points to suicide. It is incumbent upon the courts, and in some states upon the legislature, to reexamine the purpose served by what is possibly an anachronism and to consider whether perhaps the presumption against suicide is without present-day foundation and is therefore unnecessary and undesirable. If we are to support the proposition that the presumption is without present-day foundation, it becomes necessary to investigate the historical origin of the presumption to determine from the scholar's viewpoint, the evolution of its obsolescence.

While the idea of suicide is revolting even to the modern senses, under the early law of England suicide was considered so offensive that the law demanded severe punishment and humiliation for the family of the suicide victim. Blackstone relates that the law of England required the forfeiture of all of the deceased's goods and chattels to the Crown and required an ignominious burial on the public highway with a stake driven through the body. One writer attributes the origin of the presumption against suicide to lawyers who developed this shield for the protection of the widow and children against the forfeiture of the decedent's goods and the humiliation and stigma attached to suicide. Humiliation remains, but


39. In the article by P. Henry, *The Trial of Suicide Cases*, *Proceedings of Legal Section of American Life Convention* 57-96 (1956), the author pointed out that out of 173 cases surveyed, 153 were decided by the juries in favor of the plaintiff-insured. Mr. Henry went on to say, "It is therefore plain that the only place where the insurance company can hope to receive an unprejudiced examination of its defense is in the appellate court."

40. Blackstone states that the civil law did not regard suicide as placing any humiliation upon the family of the deceased or any blot upon his reputation. "Si quis impatientia doloris, aut roedio vitae, aut morbo, aut furore, aut pudure, more maluit, non animadvertatur in eum." (If any one sinking under the pressure of grief, or weariness of life, disease, madness or shame, shall prefer death, his conduct shall not be considered to the prejudice of his character.) *4 BLACKSTONE, Commentaries* *189* (Cooley's 4th ed. 1899). This adds emphasis to the writer's contention that the basis upon which the presumption against suicide was originally founded, i.e., humiliation, lacks universal acceptance.

41. *4 BLACKSTONE, Commentaries* *189* (Cooley's 4th ed. 1899).

42. These measures were taken hoping that the care of the *felo de se* for either his own reputation, or the welfare of his family, would be some motive to restrain him from so desperate and wicked an act.

the family of the decedent no longer suffers forfeiture of property, but on the contrary, the family often benefits financially from suicide. The humiliation suffered by the surviving family is no basis for such a legal presumption which would affect the contractual rights of the insurer.

The courts of this country inherited the presumption against suicide with the common law, but one of the most admirable traits of the common law is its flexibility, and if the reason for the rule of law no longer exists, then the rule should be abolished. As a rule of law the presumption should be used only in the exceptional and unusual case where there is no evidence of any kind offered as to the cause of violent death. As a practical matter, the modern insurance company, from a financial and public relations standpoint, cannot afford to defend an accidental death claim where there is no reasonable evidence of suicide. Under the federal practice and in those states whose civil procedures provide for summary judgment where there is no genuine issue of any material fact, a case in which there is no evidence of suicide would never get to trial. Thus, under the better modern practice the presumption against suicide has no place at the trial of the factual issues.

Abuse of the application of this presumption conceivably may even serve to promote self-destruction. A great majority of the courts base the presumption against suicide on a normal person’s natural “love of life.” However, do those who are sick, financially oppressed or bereaved from family tragedies love life to the same degree that a normal individual loves life? People from all walks of life and from all educational levels have been known to commit suicide. Modern medicine knows only too well the extent of mental illness in this country. Who and what is this “normal person?”

Are not the courts which give effect to the presumption against suicide based on the natural “love for life” guilty of faulty reasoning? The court in Grosvenor v. Fidelity & Casualty Co. stated:

... When, knowing only that one has died from drinking carbolic acid, you say you are in doubt as to cause, and then bring into service the presumption against suicidal intent, you finally conclude that death was accidental, are you not guilty of that error known in logic as teneo principii? ... Let us suppose experience has shown that of all the persons who have died from drinking carbolic acid three out of four were cases of suicide; then, would it not be possibly absurd to infer in the given case that death was not intentional? The rule invoked arises when we are ignorant of the intent and loses its force as a presumption in the presence of

44. It was abolished by statute early in the history of our country, and today all states have abolished forfeiture to the state for the conviction of any crime.
46. See, e.g., Fla. R. Civ. P. 1.36.
47. See note 38 supra.
actual facts bearing upon intent. The presumption then comes in conflict with other presumptions or facts which may overcome it. There is the almost conclusive presumption that when one drinks he drinks voluntarily; the presumption that when one drinks he knows what he is drinking, especially so if he is drinking carbolic acid; the presumption that when one drinks carbolic acid he knows the poisonous character of the liquid; and the presumption that one intends the natural consequences of his own act.

One writer\(^{48}\) suggests that in each type of death, e.g., poison, carbon monoxide poisoning in an enclosed garage, etc., that statistics should be consulted to determine the percentage of deaths which are suicidal before the court applies the presumption against suicide. Another writer\(^{49}\) states that there is no longer any basis for a presumption against suicide in cases where death occurred as a result of hanging because of the lack of probability. Before applying the presumption against suicide in cases where death occurred from self-inflicted contact gunshot wounds, the courts should examine the statistics to determine whether the majority of such deaths in the past were accidental or suicidal, and the same is true where death occurred in some other violent manner.

Only where the overwhelming majority of deaths in a particular manner were not suicidal, should there be a presumption against suicide. Justice Maxey in *Watkins v. Prudential Ins. Co.*, stated:

> When the issue is death by accident against death by suicide, the data as to the respective total number of deaths from these two causes is not in the average mind so decisively balanced against the probability of death by suicide as to 'harden' the inference against death by suicide into a presumption of law which shifts the burden of proof to the defendant in a suit on an insurance policy.

Justice Maxey in the above case referred to the presumption against suicide as a "phantom of logic, flitting in the twilight, but disappearing in the sunshine of actual facts."\(^{50}\)

Some courts refer to the presumption as a presumption in favor of accidental death.\(^{51}\) Other writers say that the law does not indulge affirmative presumptions\(^{52}\) and that therefore there is only a presumption

\(^{47a}\) 102 Neb. 629, 631-32, 168 N.W. 596, 597 (1918).

\(^{48}\) See note 43 supra.


\(^{49a}\) 315 Pa. 497, 507, 173 Atl. 644, 649 (1934).

\(^{50}\) Id. at 512, 173 Atl. at 651.


\(^{52}\) CORNELIUS, ACCIDENTAL MEANS 74 (2d ed. 1932).
against suicide or a presumption against death by the fault of another. One case stated that where the evidence was conflicting and the evidence was more consistent with accidental death than suicide, there is a presumption that death was accidental. In such a case where the issue can be decided from the weight of the evidence there is no need to lend confusion by the application of a presumption against suicide.

In the Watkins case, the court stated:

An examination of many cases concerning presumptions, particularly ‘presumptions against suicide,’ reveals what has been aptly characterized as a ‘welter of loose language and discordant discussion concerning presumptions.’

This is demonstrated by one case where the court said that the presumption against suicide was neither a rule of law nor a rule of evidence, but the court found a way to use it. The Court of Appeals of New York in Welisch v. John Hancock Mutual Life Ins. Co. stated that the presumption against suicide,

... is not one of those that takes the place of evidence so as to create a question of fact even when all the real proof is the other way. Nor is it the sort of ‘presumption’ that serves only to shift the burden of proof and disappears from the case as soon as evidence to the contrary is offered ... It is really a rule or guide for the jury in coming to a conclusion on the evidence.

Rather than narrow the application of the presumption against suicide, many courts have broadened it.

Mr. Justice Cardozo in his dissenting opinion in Landress v. Phoenix Mutual stated that “The attempted distinction between accidental results and accidental means will plunge this branch of the law into a Serbonian Bog.”

The writer submits that the laws with regard to presumption against suicide are already in that Bog and the only solution is to abandon the presumption to the Bog. There is no logical basis for the continued application of this outmoded illusory technique.

56. 293 N.Y. 178, 184, 56 N.E.2d 540, 543 (1944).
57. “In conclusion, it may be said that what was originally a presumption only against suicide has now evolved into one against all causes of death other than accident in cases involving accident insurance contracts and life insurance policies with double indemnity clauses for accidental death.” Friedman, Insurance — The Presumption Against Suicide, 15 GA. B.J. 349 352 (1953).
58. 291 U.S. 491, 499 (1934) (dissenting opinion).
APPENDIX

For further treatment of this subject see:

(2) P. Henry, The Trial of Suicide Cases, Proceedings of Legal Section of American Life Convention 57-96 (1956).
(4) Fallon, Coverage and Suicide in Life Insurance, 58 Dick. L. Rev. 1 (1953).
(5) Breyfogle & Richardson, Problems of Proof in Distinguishing Suicide from Accident, 56 Yale L. J. 482 (1947).
(9) Falknor, Notes on Presumptions, 15 Wash. L. Rev. 71, 82-83 (1940).
(10) McCormick, What Shall the Trial Judge Tell the Jury About Presumptions, 13 Wash. L. Rev. 185 (1938).
(13) Sullivan, Ethics of Suicide—Aquinas and the Common Law, 2 Catholic Law. 147 (1956).
(14) Shumaker, Proximate Cause as Applied to Suicide Clause in Insurance Policy, 30 Law Notes 205 (1927).
(15) Morgan, Some Observations Concerning Presumptions, 44 Harv. L. Rev. 906 (1931).
(16) Thayer, Preliminary Treatise on Evidence 336 (1898).
(17) Note, 22 Ill. L. Rev. 324 (1927).
(22) Note, 10 Mercer L. Rev. 209 (1958).
(23) Note, 32 Rocky Mt. L. Rev. 240 (1960).