

A Time To Presume, A Time To Die

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This Thesis aims to establish the standard to be used in determining the time of death where a presumption of death due to absence applies. To achieve this purpose, the Author presented different views and theories on the presumption of time of death and their application under Philippine Law. In the end, he makes a distinction between absence or disappearance attended by dangerous circumstances and those which are not; the former, such as the cases under Article 391 of the New Civil Code, presumes the time of death to be at the occurrence of such absence or disappearance. As regards the latter, there is no unanimous view. The opinion of former Chief Justice Moran, however, is held to be the rule more predominantly observed. According to him, there is no presumption of time of death in the case of ordinary absences. To establish the precise period of death, one must do so by evidence. He can neither depend upon the presumption of death, nor upon the presumption of continuance of life.