

However, the first 3rd September was excluded, and since the law makes no fraction of a day, Sir Robert had the whole of the anniversary day to die in, and consequently the insurer was liable. This seems fairly obvious, but the Chief Justice recurred to the question of full age and testamentary capacity: "If he be born on the 3rd day of September, and on the 2nd day of September, twenty-one years afterwards, he makes his will, this is a good will, for the law will make no fraction of a day, and by consequence he was of age."

The point occurred again in *Toder v. Sansam* (1 Bro. Parl. Cas. 468) where Thomas Sansam was to take an estate under a will "as soon as he shall accomplish his full age of twenty-one years." Now, Thomas was born between the hours of five and six o'clock in the morning of the 16th August, 1725, and he died about eleven o'clock in the forenoon of 15th August, 1746, when he was killed by a fall from a waggon. It seems to have been assumed that he had lived to attain his full age of twenty-one years.

There appears to have been a departure from this mode of reckoning in the statement made by Lord Blackburn in delivering the judgment of the Judicial Committee in *Letterstedt v. Broers* (9 App. Cas., p. 372). The appellant, he said, "was born on the 13th of May, 1853, and consequently attained the age of twenty-one on the 13th of May, 1874, and the age of twenty-five on the 13th day of May, 1878." But the exact date of attaining these ages was not there material, and Lord Blackburn no doubt was using the popular mode of reckoning, as indeed anyone would do whose attention was not called to the legal subtlety involved. However, there seems to be no reason for ascribing to the words of the will the popular rather than the technical sense; and accordingly in the present case Sargant, J., held, in accordance with the above authorities, that Captain Shurey attained the age of twenty-five on the day preceding his twenty-fifth birthday, and accordingly his share of the residuary estate under his father's will had vested in him.—*Solicitors' Journal*.