

Understanding the York Probate Act Books - tuitions, curations and caveats

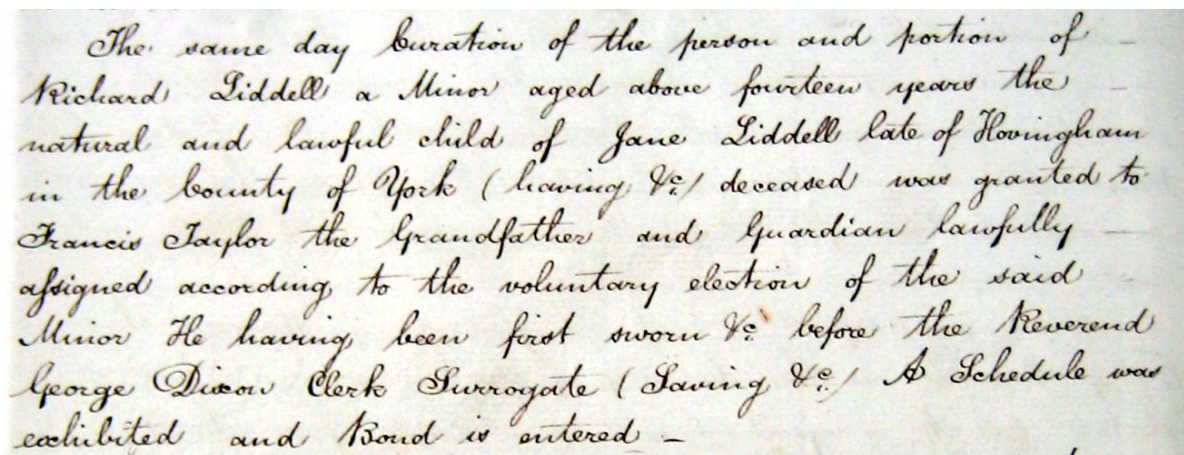
TUITIONS AND CURATIONS

When an under-age child (usually called a minor in the records) was left goods, the probate courts could act to appoint suitable guardians or trustees for their estates. These guardians or trustees were known as tutors or curators, and their appointment was known as a tuition or curation. It was possible for a father to appoint suitable guardians in his will, but if guardians were needed, and none were appointed by will, then the archbishop could appoint someone to look after a child's personal estate. Once a boy had reached 14 and a girl 12, they could, in some cases, choose their own guardians.

The laws of guardianship were complicated, and the age at which a minor could take full responsibility for his or her possessions varied depending on what it was he or she had been bequeathed.

It is important to bear in mind that the existence of a tuition or curation does not mean that the child's father had died. If a minor received a bequest from a third party, they needed someone to look after it on their behalf. In such cases a child's own father was often appointed as tutor or curator.

A record of this process was entered in the York probate act books. A typical tuition or curation will record the names of the children, the name of the father, and the name of the tutor or curator appointed if this is different from the father. It may, but equally may not, give you an idea of the age of the child. The official language of the court remained Latin until 1732 and, like administration entries, there is a lot of abbreviation. With a bit of practice it is possible to recognise the essential parts, even without a knowledge of Latin. Here is a typical example in English:

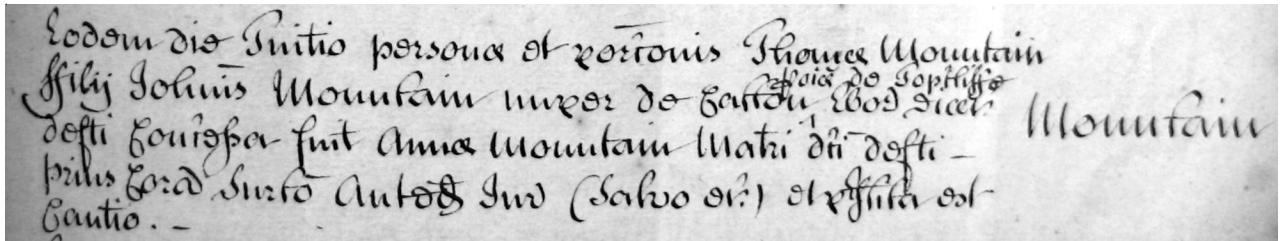


The same day Curation of the person and portion of -
Richard Liddell a Minor aged above fourteen years the -
natural and lawful child of Jane Liddell late of Hovingham
in the County of York (having &c.) deceased was granted to
Francis Taylor the Grandfather and Guardian lawfully -
assigned according to the voluntary election of the said
Minor He having been first sworn &c. before the Reverend
George Dixon Clerk Surrogate (Saving &c.) A Schedule was
exhibited and Bond is entered -

The same day [look back in the book to see what this was] Curation of the person [that is the duty to feed, cloth, teach and discipline the child] and portion [that is to look after the things the child has been left] of Richard Liddell a Minor aged above fourteen years the natural and lawful child of Jane Liddell late of Hovingham in the County of York (having etc.) deceased was granted to Francis Taylor the Grandfather and Guardian lawfully assigned according to the voluntary election of the said Minor He having been first sworn etc. before the Reverend George Dixon Clerk Surrogate (Saving etc.) [a standard legal phrase that means the rights of other people were reserved] A Schedule was exhibited and Bond is entered.

Those signing the bond would have been subject to a financial penalty if the obligations of guardianship were not fulfilled.

Here is an earlier example in Latin dating from 1728. The family name is written in the margin.

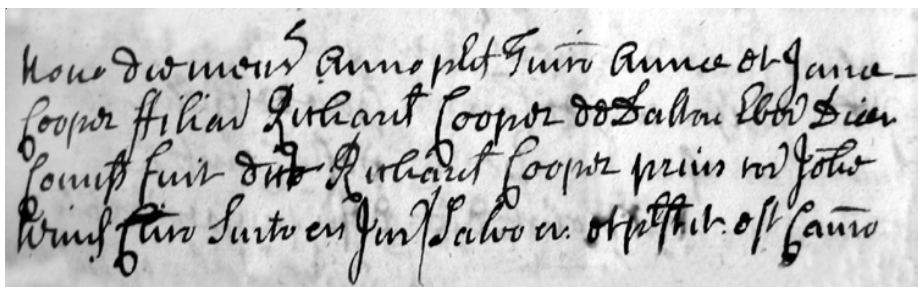


In this transcription abbreviated words have been extended - the extra letters needed to make sense of the words have been placed in brackets.

Eodem die Tuitio personae et porc(i)onis Thomae Mountain Filii Joh(an)nis Mountain nuper de Catton p(ar)o(ch)iae de Topcliffe Ebor dioces(is) def(unc)ti Concessa fuit Annae Mountain Matri d(ic)ti def(unc)ti prius Cora(m) Sur(roga)to Anted(icto) Iur(ae) (Salvo etc) et p(re)stita est Cautio

On the same day the tuition of the person and portion of Thomas Mountain, son of John Mountain late of Catton in the parish of Topcliffe in the diocese of York, deceased, was granted to Ann Mountain, mother of the said deceased, previously sworn before the said surrogate (saving etc) and a bond was entered.

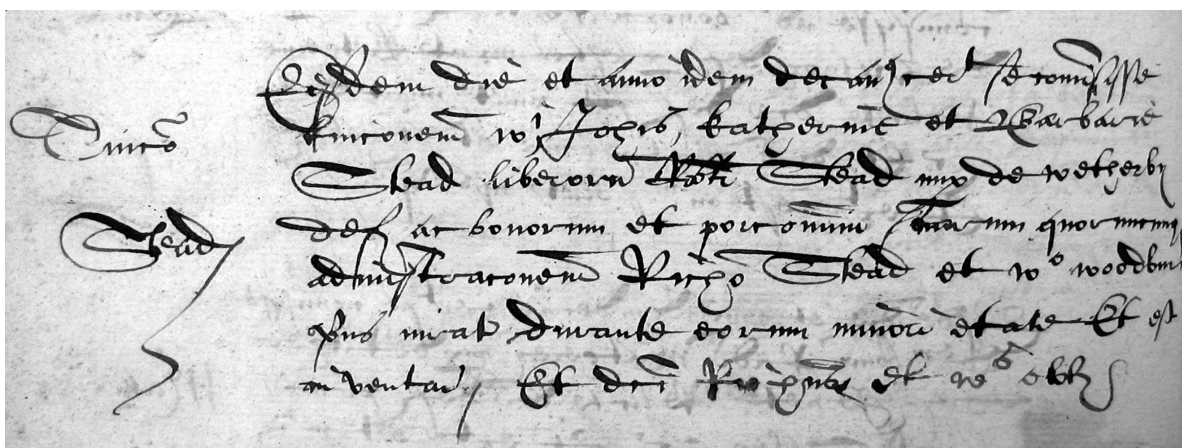
Here's an example where the child's father is still alive:



Nono die mens(is) Anno p(re)d(icto) Tuic(i)o Annae et Janae Cooper Filiar(um) Richard(i) Cooper de Dalton Ebor' dioc(es)is Comiss(a) fuit dicto Richard(o) Cooper prius cor(am) Joh(ann)e Wind Cl(er)ico Sur(roga)to etc. Iur(o) Salvo etc. et p(re)stit(a) est Cau(c)io

On the ninth day of the month in the year aforesaid the tuition of Ann and Jane daughters of Richard Cooper was granted to the said Richard Cooper previously sworn before John Wind, clerk, surrogate etc. (Saving etc.) and a bond was entered.

The next example comes from 1590. Note that Stead, the surname of the child, is entered in the margin with the word Tuic(i)o meaning Tuition:



Eisdem die et anno idem decan(us) cert(ificavit) se com(m)isisse tuic(i)onem W(illelm)i, Joh(ann)is, Katherine et Barbarie Stead liberoru(m) Rob(er)ti Stead nup(er) de Wetherby def(uncti) ac bonorum et porc(i)onum suorum quorumq(ue) admi(ni)strat(i)onem Rich(ard)o Stead et W(illelm)o Woodurn p(ri)us iurat(is) durante eorum minoru(m) etate Et est inventar(ium) Et d(ic)ti Richardus et W(illelmus) obl(igantur).

On the same day and in the same year the same dean certified that he had granted the tuition of William, John, Katherine and Barbara Stead, children of Robert Stead late of Wetherby, deceased and the administration of their goods and portions, to Richard Stead and William Woodburn, previously having sworn, during their minority. And there is an inventory. And the said Richard and William are bound.

Useful tips and vocabulary for reading the records of grants of tuition and curation in probate act books

A tuition or curation will normally begin with the date of the grant. Very often it will say *on the day or year above mentioned* and you will need to go back in the book a number of pages to discover this.

The next sentence will probably give you the names of the children and their father, along with the father's place of residence. Take note of whether the father is described as deceased or not. The next part will tell you who was appointed as the curator or tutor. The final part normally consists of standard legal formulae about oaths taken in front of the archbishops' surrogate.

Latin words have different endings in different parts of sentences. The words below are given in all the forms you are most likely to find in the act books.

<i>liberi/ liberorum</i>	children		
<i>filius/filii</i>	son	<i>filii/filiorum</i>	sons (sometimes used to mean children)
<i>filia/filiae</i>	daughter	<i>filiae/filiarum</i>	daughters
<i>pater/patri</i>	father	<i>mater/matri</i>	mother
<i>frater/fratri</i>	brother	<i>soro/sorori</i>	sister
<i>avunculus/avunculi/avunculo</i>	uncle	<i>amita/amitae</i>	aunt
<i>nuper de</i>	late of	<i>defunctus/defuncti/defuncta/defunctae</i>	deceased

Before 1732 English names were Latinized by the clerks. Most of them are easy to guess but these sometimes catch people out:

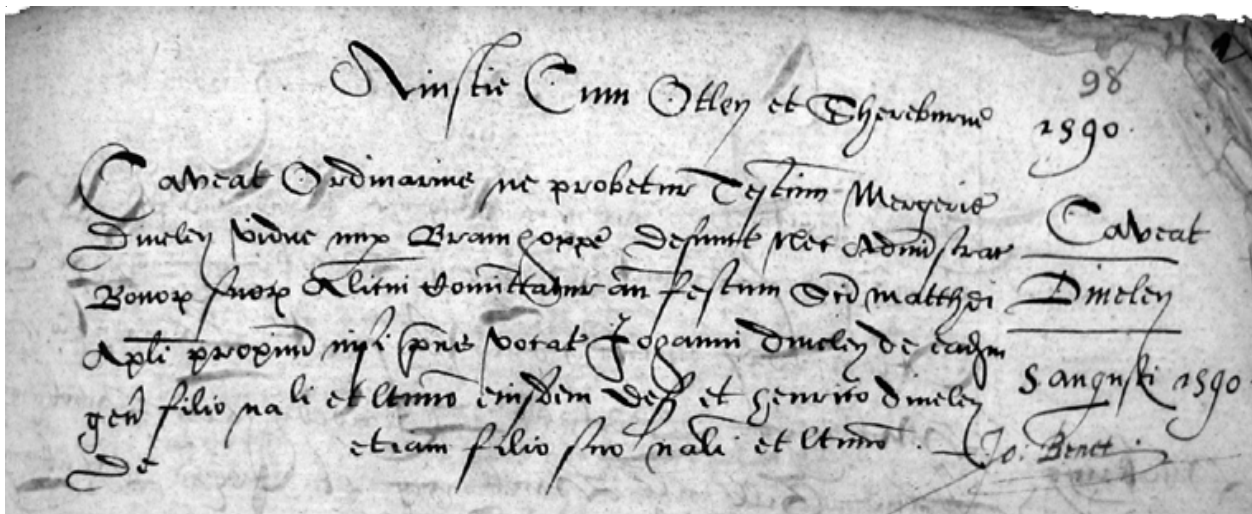
<i>Maria</i>	Mary	<i>Guillelmus</i> (also <i>Willelmus</i>)	William
<i>Jacobus</i>	James	<i>Johannes</i>	John
<i>Johanna</i>	Joan	<i>Galfridus</i>	Geoffrey

We also have a leaflet entitled *Understanding the York Probate Act Books - administrations and probate acts*, which provides additional vocabulary.

CAVEATS

A caveat is a legal document in which a person “warns” the church court authorities that they have an interest in certain proceedings. In probate act books we see records of caveats that people have issued when they have an interest in the estates or goods of a deceased person, and do not want probate or administration to be granted without being informed.

This example is taken from the top of a page, so you can see the running title of the act book “Ainstie Cum Otley et Shereburne” and the date 1590.



Caveat Ordinarius ne probatur testi(moniu)m Margerie Dineley vidue nup(er) Bramhoppe defunct(e) nec administrat(io) bono(rum) suo(rum) Alicui com(m)ittatur an(te) festum s(anc)ti Matthei Ap(osto)li proximu(m) nisi prius vocatus Johanni dineley de eadem gen(erso) filio na(tura)li et l(egi)timo eiusdem def(uncti) et henrico dineley de [gap] etiam filio suo na(tura)li et l(egi)timo

Let the Ordinary [i.e. the archbishop] be aware that the will of Margey Dineley, widow, late of Bramhoppe, deceased, is not to be proved nor the administration of her goods to be granted to anyone before the feast of St Matthew the Apostle, unless first declared to John Dineley of the same place, gentleman, natural and legitimate son of the same deceased and to Henry Dineley of [blank] also her natural and legitimate son.

If you wish to find out what happened after the caveat was issued you could try searching the probate indexes to see if you can find when probate or administration was eventually granted. You could also check the indexes to the York cause papers (court cases in the York ecclesiastical courts) to see if there were any formal proceedings in the courts. Such cases are often known as Testamentary Causes.

For more information about probate law see:

A Treatise of Testaments and Last Wills by Henry Swinburne who was a judge in the Prerogative Court of York. There were numerous editions between 1591 and 1803. Copies of this are available at the Borthwick.