

Copy of Mr Martleys opinion

I am of opinion that the Commissioners are entitled to recover the Rent charge from the time of the expiration of the Lease. Indeed I think it likely that they would have a right to the Rent charge from the 1st November 1837. For the act of 182^d Viet C. 109 s. 11 puts an end to all Leases which have the effect of suspending Compositions, and charges the Lands with a Rent Charge instead. And the 2^d Viet C. 3. provides that every Rent Charge established under that act is to take effect from the 1st November 1837. However it would be necessary before giving an opinion on this point, to see the Lease, and be informed of the circumstances under which it was made, in order to Judge whether it was such a Lease as would have had the effect of suspending the Composition, And as the Commissioners treated the Lease as a subsisting one and received Rent under it, I should not advise them, at this time, to put forward the claim to the Rent charge prior to the expiration of the Lease, provided it be paid for the subsequent period. The mode of proceeding for recovery of the Rent charge is, by Bill in Equity or by Action at Law, the former is the preferable remedy in this case, but I have no doubt that Mr. Mappy will yield to the claim if he shall be satisfied that it will be founded in Law.

Henry Martley
15th October 1848