

File No. 23720 Continued. R

leaving to those who contest its validity to have the question determined afterwards. Thereupon the ordinance was signed.

For your information, however, I quote from an opinion of Mr. Field, former City Solicitor, filed August 19th, 1919, with reference to this subject, as follows:

"In my judgment this ordinance is also invalid as an unreasonable interference with the rights of property including the right of contract on the part of the owners of real estate in Baltimore City. The guarantee of liberty contained in both the Federal and State Constitutions, includes not simply the right to have one's person free from physical restraint, but the right to make contracts with others and the right to acquire and own property and to use it in any way not distinctly detrimental to others or to the public. The general right to make contracts and to use one's own property is subject to the exercise by Legislative bodies of reasonable control for the public welfare. This power in Legislative bodies as representatives of the public is what is usually known as the police power. It has not been distinctly defined by any Court, but its limits may be generally stated to be that the Legislative body cannot arbitrarily or unreasonably interfere with or impair rights of property or contract rights or the right of the citizen to make contracts and to use his property, and any attempt at the restriction of the rights of property or the rights of contract must not restrict the individual rights and liberties of the citizen, out of proportion to the relief to the public which is to be gained thereby.

In my judgment the attempt to invest Justices of the Peace with the power to say how much a rent a man can charge for his own property as a permanent law, and not merely as an emergency measure, is an unreasonable invasion of the rights of the individual which the Courts would not uphold."

The ordinance thus far has not been passed upon judicially and in my judgment there is considerable doubt with reference to the outcome of the litigation with reference to it.

Very truly yours,

(Signed) Roland R. Marchant,
City Solicitor.

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