

File No. 7362 Continued.

OPINION.

contagion).

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But whatever might be the power to pass a resolution of this kind, Dr. Bosley informs me that none such has ever been passed, and I am quite clearly of the opinion that the Commissioner of Health, without any specific authority of law or ordinance, or without some formal and specific rule or regulation of the School Board, cannot of his own motion, prohibit the admission to the public schools of all applicants who refuse to submit to an examination by his physicians, regardless of the existence or non-existence of some disease or sickness in the community in general, or of some particular reason why individual applicants should be examined.

Of course, if any particular applicant is in such condition as to make his admission to the public schools dangerous or improper, or if any pupil who has already been admitted, is in a similar condition, then such applicant can be denied admission or such pupil can be excluded.

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I intimated orally to Dr. Bosley what my conclusion would probably be and he then told me that if your conclusion concurred with mine and was against his right to refuse admission to the public schools to applicants who will not submit to his examination, he would prefer that his inquiry be not answered. He said that the practice in vogue was a most excellent one and practically no one ever objected to it, in fact the case of Dr. Manger, which he refers to in his letter is the first objection raised, he says, in many thousands of instances. He considered moreover that if there was any doubt at all about his right to require the examination that he would much prefer making no point about Dr. Manger's case. I gathered from my conversation with him that unless his right to make the examination is perfectly clear he does not want to open up a discussion of the matter by applying for any law or ordinance with regard to it.

Very truly yours,

(Signed) Albert C. Ritchie,

Assistant City Solicitor.