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MEMORANDUM .

for Education

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There is no authority of law for the issuance of a marriage license to any Indian, citizen or non-citizen, by an Government officer in charge of an Indian Reservation ; and as a marriage by Indian custom implies the absence of a license by any officer, the issuance of "a license or permit" without legal authority could not add to or diminish the rights or liabilities of the parties to an Indian custom marriage, or affect the status of the children.

An Agent's or Superintendent's "license" is a mere bluff so far as legality is concerned and works against the interests of the Indians; for, instead of encouraging compliance with State laws by allotted Indians or these unallotted Indians who come under the influence of the reservation schools, its tendency is to keep them and the whole tribe, through them, in ignorance of such State laws, by substituting something which appears to give the Agent or Superintendent more power but which is without legal effect. It has been held in the Department that Indians living in tribal relations are not subject to the State or Territorial laws on marriage and divorce, and , in effect, that a marriage by church ceremony may be effectually and finally dissolved in the old Indian custom way, without reference to the State courts.

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If the marriage be not according to the Indian custom nor in compliance with State laws, it cannot be a marriage by virtue of the Superintendent's pretended license or approval. The assumption, for temporary effect on the minds of the Indians, of powers not pertaining to his office, and the issuance of sham licenses or divorce decrees which the Department and the courts must repudiate for want of legal effect, will reduce the educational value of his administration, and show it to have been an obstructing rather than ^{the} "advancing" policy which it was intended to be.

The "head men" which is understood to be the Indians' own representative governing body, it would seem, could be influenced by the Superintendent in their consideration of all irregular cases and those wherein the better or more progressive Indian customs are violated.

If this body has come to have any jurisdiction in such matters, conferred by the tribe, so that its consideration of such cases is sought by the Indians and recognized by them as necessary in the present day and action that the Superintendent might take would be only in the maintenance of good order on the reservation, and not with any idea of changing the ^{family} status of the Indians.

OK So far as ~~that~~ allotted
Indians are concerned

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