

Parent Information Session Two



Introduction to Indian Land Tenure

The U.S. Federal Government began the policy of allotting Indian land as early as 1798. Several treaties with Indian tribes included provisions that stated land would be divided among their individual members. After 1871, however, Congress declared that no further treaties would be made and all future dealings with Indians would be conducted through legislation. Eventually, there was a push for a national federal policy to break up Indian land and assimilate native people.

When the U.S. Federal Government developed the Allotment Act it considered the Indian way of life and collective use of land as communistic and backwards. It also saw the ownership of private property as an essential part of civilization that would give Indians a reason to stay in one place, cultivate land, disregard the cohesiveness of the tribe, and adopt the habits, practices, and interests of the new settler population. Furthermore, many people thought that Indians had too much land. These people were eager to see Indian lands opened up for settlement as well as for railroads, mining, or forestry.

General Allotment Act

In 1887, Congress passed the General Allotment Act. Members of the selected tribe or reservation were given permission to select pieces of land—usually around 40 to 160 acres in size—for themselves and their children. Sixty million acres were either ceded outright or sold to non-Indian homesteaders and corporations as “surplus lands”.

Under the policy of allotment, Indian land ownership was not the same as land ownership for other homesteaders. Under the General Allotment Act, Indians had only partial ownership because the United States considered itself to have legal title to the land. Indians only had beneficial (“equitable” or “[usufruct](#)”) title. In other words, while the allotment was held “[in trust](#)” by the federal government, the Indian landholder could use the land but not sell it. However, the act stated that 25 years after the allotment was issued, Indians would be given complete, fee simple ownership of the land.

Despite the original safeguards in place to help native people retain their land, the General Allotment Act caused their holdings to plunge from 138 million acres in 1887 to 48 million acres by 1934. Often cut off from their older ways of survival, some Indians were convinced to sell their land after the 25-year trust period because in their poverty they had nothing else to sell. So much Indian land was passing out of Indian hands that even the U.S. Government became alarmed. In



1928, a government report entitled “The Problem of Indian Administration” (also known as the “Merriam Report”) sharply criticized the policy of allotment and the U.S. Indian Service in general. The report provided undeniable evidence of the destructiveness of federal Indian policy and spurred significant changes in the federal administration of Indian affairs.

In 1934, the Wheeler-Howard Act (also known as the [Indian Reorganization Act](#)) was passed and ended the process of allotment on Indian lands in the contiguous United States. The Act did not change the fact that on reservations, both Indians and non-Indians owned land, and thus there were different claims as to how land within the reservations was to be used, governed and policed.

Allotment not only caused nearly 90 million acres of Indian land to be lost, but it also made using Indian land much more difficult and costly for Indians in the following ways: fractionation, reservation checkerboarding, and the creation of a class of landless Indians.