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## Letter from Senator Langer to Herbert Brownell Regarding Indian Claims Commission, July 16, 1956

William Langer

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Jordan Claims

July 16, 1956

Honorable Herbert Brownell  
Attorney General  
Department of Justice  
Washington, D.C.

My dear Attorney General:

I am enclosing herewith pages 10497 through 10800 of the Congressional Record of July 6, 1956. I would appreciate it very much if you would read this material which expresses my views on the importance of concluding Indian Claims at an early date. In view of the emphasis being placed by your Department on the speeding up of Federal courts and cases, I am sure you will be interested in the speeding up of Indian claims, as well.

As you know, I have been investigating the situation in North Dakota, South Dakota, Montana, Arizona, New Mexico, California and other places. The North Dakota Indians are thoroughly organized and I want to assist them in getting action on their problems. Last year I held four hearings in North Dakota, where the Indians headed by Mr. Martin Cross of New Town presented their problems. The Indians and I, with the help of Governor Brunsdale and Commissioner Glenn Emmons, were successful in getting some needed reforms in the matter of law enforcement. However, the Indian Claims situation remains very unsatisfactory.

I find that all over the country the Indians are dissatisfied because of the slowness of the Commission in disposing of these claims and the blame is being put on the

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Department of Justice. It is believed that the attorneys assigned to defend the cases are not proceeding fast enough. It would seem that the Congress agrees with that view, since it approved your request for \$300,000 additional funds for lawyers in the section which handles these claims. It would be appreciated if you would indicate whether this program will be speeded up, and, if so, how it will be accomplished. I desire to write these Indian tribes telling them what they can expect in the next five and three-quarters years, the period for which the life of the Commission has been extended by Congress.

Frankly, believing that it would speed up the conclusion of these cases, I did everything possible to limit the tenure of the Indian Claims Commission to April 10, 1959, but the Conference Committee felt that period was too short to conclude over 700 pending claims.

As I investigate these delays there are various factors which strike me as requiring improvement. It seems to me that the March 1955 report of the Hoover Commission task force on legal services and procedure (p. 184) shows these intolerable delays. It would seem to me that this situation is worthy of vigorous corrective action, just as the speeding up of the delay in Federal courts has been considered worthy of the special attention of the United States Attorneys and your Department.

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One of the complaints is in the trial procedure. There are evidences that after the Indians have presented their proof the Department attorneys, instead of being prepared to put on their cases and close the record, as is required in ordinary litigation, delay the cases and keep the record open for them to accumulate and present evidence. This precludes the preparation of findings of fact and rendering of decisions. I am wondering why the Department in its cases before the Commission cannot prepare itself to meet trial dates and conclude its cases without delaying adjournments of the trial, just as it would do before the courts. It appears that some of these delays are for protracted periods of time and are unfair to the Indians because of the delay and additional expenses resulting from this practice.

The Indians further advise me that the Department of Justice has opposed settlement of any kind. I am sure that your work to speed up the Federal courts has indicated the necessity of encouraging settlement by litigants. In fact, I believe most Federal courts are making a great effort in that direction. Your own department in civil and criminal litigation, including extensive antitrust litigation with large corporations, does not undertake to litigate all of its cases to conclusion. Why should not the long and involved trials of Indian cases be worthy of careful study, looking toward fair settlements. My experience as a lawyer



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indicates that often both sides can profit from a settlement dispensing with long and involved trials and appeals. I think that a careful study of some of your Indian cases would disclose to you that early settlement would not only favor our taxpayers but the Indians, who are anxious to have their claims settled now, instead of years from now when many of them will be dead.

Related to this same problem is the reported failure of your Department to agree to stipulations. It would seem to me with all the Indian litigation of the past serving as precedents there is area for agreement by stipulation to reducing the extent of the litigation. If, for example, immediately surrounding land has already been valued by Court decision, it may be prudent to explore the possibility of agreeing on an indicated value, before resorting to long and expensive appraisals and trials to establish that value in the Commission. I don't find anything in the Indian Claims Commission Act which requires the Department to treat Indian cases differently from other cases, in this respect.

Because of my long and continued interest in the affairs of the Indians and in the Department of Justice, I would

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appreciate hearing from you on this at an early date and  
would be interested in any proposals you may have as to how  
these cases may be concluded promptly.

Sincerely yours,