



ATTORNEY-GENERAL  
THE HON ROBERT McCLELLAND MP



10/10915, MC10/8138

22 JUN 2010

Mrs Julia Irwin MP  
Chair  
Standing Committee on Petitions  
Parliament House  
CANBERRA ACT 2600

*Julia*  
Dear Mrs Irwin

I refer to your letter dated 25 May 2010 seeking a written response to a petition submitted to your committee, regarding a Section 72(ii) process under the Constitution.

The petition requests that Parliament invoke the procedure provided for in Section 72(ii) of the Constitution to address alleged wrongful misbehaviour by judicial officers of the High Court and the Family Court of Australia.

Section 72(ii) of the Constitution provides that Justices of the High Court and of the other courts created by the Parliament shall not be removed except by the Governor-General in Council, on an address from both Houses of Parliament in the same session, asking for such removal on the ground of proved misbehaviour and incapacity.

On the information provided, it does not appear that allegations made in the petition amount to proved misbehaviour or incapacity on the part of judicial officers of the High Court or the Family Court of Australia. Taking into account the seriousness of the provision, I do not consider it appropriate for Section 72(ii) proceedings to be invoked on the basis of this petition.

Yours sincerely

Robert McClelland