



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

10/4168, MC10/3516

Ms Julia Irwin MP
Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600

05 MAY 2010

Julia
Dear Ms Irwin

I refer to your letter dated 18 March 2009 seeking a written response to a petition submitted to your Committee regarding a Section 72(ii) process under the Constitution.

Section 72(ii) of the Constitution provides that the 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 or incapacity. The proceedings are exceptionally serious. No Commonwealth judicial officer has ever been dismissed under this provision.

The basis on which this petition has been put forward is not clear. Taking into account the seriousness of the allegations made, considerably more information would need to be provided before the applicability of the provision could be considered.

I trust this information is of assistance to the Committee.

Yours sincerely

Robert McClelland