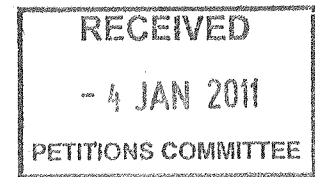
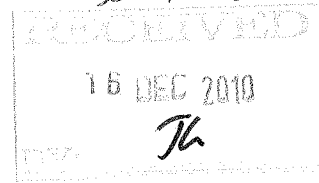




ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP



332/608



AG-MC10/13834, 10/30506

10 DEC 2010

The Hon John Murphy MP
Chair
Standing Committee on Petitions
Parliament House
CANBERRA ACT 2600

Dear ^{John} Mr Murphy

I refer to your letter dated 16 November 2010 seeking a written response to a petition submitted to the Committee, regarding a section 72(ii) process under the Constitution. You may be aware that the petitioner submitted related petitions on 15 March and 24 May 2010. The petitions request that the Houses of Parliament use their exclusive powers to terminate the appointments of Justices of the High Court.

The current petition is very similar in substance to the petition of 24 May 2010. In response to that petition, I wrote to the previous Chair of the Committee, Mrs Julia Irwin MP, on 9 July 2010. I advised Mrs Irwin that on the information provided it did not appear that the allegations contained in the petition amounted to any misbehaviour or incapacity on the part of a Justice of the High Court. My recommendation was that it would not be appropriate for proceedings under section 72(ii) of the Constitution to be invoked on the basis of the petition.

Section 72(ii) of the Constitution provides that Justices of the High Court and of the other courts created by 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.

As the current petition contains no further information as to the alleged misbehaviour or incapacity of judicial officers, I maintain the position expressed in my letter of 9 July 2010 that it would not be appropriate for section 72(ii) proceedings to be invoked on the basis of this petition.

Yours sincerely

Robert McClelland