



ATTORNEY-GENERAL  
THE HON ROBERT McCLELLAND MP



10/10915, MC10/8134

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

09 JUL 2010

Dear Mrs Irwin

I refer to your letter dated 25 May 2010 seeking a written response to an amended petition submitted to your committee by Antal Bittman, regarding a Section 75(v) process under the Constitution. I note that the petition was amended following my letter to the Committee of 5 May 2010.

The petition requests that Parliament invoke the procedure provided for in Section 72(ii) of the Constitution to terminate the appointments of Justices of the High Court. The petition alleges that the High Court erred in failing to set aside orders made by Officers of the Commonwealth to liquidate or freeze assets of a company or depositor in a matter involving the petitioner.

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 any misbehaviour or incapacity on the part of a Justice of the High Court. 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.

I hope this information is of assistance to the Committee.

Yours sincerely

Robert McClelland