

CBA ELECTION BIO – REBECCA HERBERT

I was called to the Bar in 1993. A large part of my practice is in crime, prosecuting and defending, with a considerable emphasis on rape and sexual abuse cases. I am a member of 36 Bedford Row, but I practise in crime almost entirely on the Midland Circuit. I am married to a criminal practitioner silk, and have two children.

Some of you may be aware of the considerable amount of campaigning I have done on social media over the last 18 months or so, against the Government's plans to cut legal aid and restrict access to justice. For those who haven't, I can say that I have been vocal in my opposition to Grayling and the Ministry of Justice on Twitter and on Facebook. I have had letters published in The Guardian, the Daily Mail, the Independent; have written in the local press and contributed to a very supportive article by Jenny McCartney in the Sunday Telegraph. Last year I returned a VHCC case in protest at the proposed cuts in fees, and was a keen supporter of No Returns. I did not think the deal was a good idea and I voted against it. I thought then, and still do, that at that time we had, perhaps for the first time, showed the Lord Chancellor that he could not simply ride roughshod over the Criminal Justice System on our watch. I regret that we failed to capitalise on that at the time. I had (and have) no faith whatsoever that his word about delaying cuts to the Bar were made in good faith, or with any real prospect of binding his successor. In any event, I do not see that delaying or removing cuts to my fees will assist me should my practice be decimated by the bankruptcy of my instructing solicitors. The Lord Chancellor and his department have made a mockery of the consultations with the profession, and ignored all wise counsel, from whatever source, about the effect of the so-called reforms. I do not believe that the true imperative for these reforms are savings; in fact the Government can hardly claim that it is, as they have this week admitted in relation to civil

legal aid that they have no idea what costs have been displaced to other areas as a result. Watch this, and weep;

<http://www.parliamentlive.tv/Main/Player.aspx?meetingId=16684>

There is no doubt that they are equally ill-informed (disinterested) in the costs consequences, let alone the human consequences, of cuts in criminal legal aid. Rather, I believe that the changes are ideological, and therefore rational debate with the MoJ is doomed to failure. I certainly see little gained by negotiating thus far.

I see no prospect for the ultimate survival of the independent criminal Bar as things stand. Dual contracts will remove 75% of our defence solicitors, and I do not believe that for the large part, successful bidders for remaining contracts will brief the independent Bar. As it is, there are few criminal pupillages being offered, and little work at the junior end even if taken up. We are already a dying profession. I don't know what we have done to address that over the last years, but it doesn't seem, to me, to have worked.

I accept that the reality is that unity amongst solicitors may be unachievable, but I do not accept that unity between the Bar and a significant number of current providers is so. Our joint survival is dependent upon it and **I wish to do whatever is possible to work towards achieving that, and exploring what options, including direct action, are open to us.** To suggest that criminal solicitors are unable or unwilling to fight is unfair and inaccurate. They have just successfully judicially reviewed the Lord Chancellor in respect of his unlawful consultation about their contracts, and it is clear that many have the heart and mind for a battle ahead. I have spoken to plenty of solicitors with criminal practices who see the benefits and advantages for both them and their clients in retaining the Bar as specialist trial advocates, and wish to do so, and wish to continue to use our services in the traditional way. I want to build bridges with those who distrust the Bar

because they feel that we betrayed them by the deal over our fees, and work with them to achieve a viable future for us all. I cannot say that we can achieve success by fighting. I can say that we will not by doing nothing.

I deplore the way criminal practitioners (bar and solicitors) are viewed by the system. I'm tired of the way we are treated as utterly expendable, and our time valueless. I do not accept that we should tolerate being asked to spend days preparing cases which are relisted at moment's notice with no account being taken of our diaries or our unpaid endeavour. I do not accept that we should tolerate going to Court for unnecessary hearings, for which we are paid little or nothing, because listing officers make mistakes, or refuse to listen to our representations. If I spend days out of court preparing a rape trial, only for it to be adjourned because some outsourcer has failed in their duties, I think I should be compensated. I don't think my time is valueless. I think that I, and you, and our commitment and standards are the reason that this limping system staggers on, and I cannot conceive of another body of professionals who would allow itself to be treated so shabbily. I am outraged by the Government pretending it cares about "victims" of crime, when the fixtures in my diary, involving child complainants, fly out of the list because there are insufficient judges to hear them.

I firmly believe that our justice system is all the better for having an independent Bar, and a wide selection of criminal advocates, learning from the best, and competing with each other by quality of representation. I don't accept that we are expensive; I think we are remarkably cheap. I am sure many of us would delight in the salaries Grayling is paying his PDS advocates. As I am typing this, I am struggling with 'flu (I blame that for lack of erudition), and worrying about the cases I have listed this week and how I will manage them. We have all been here. We have all spent weekends and evenings, at cost to our families and our health, delivering what we do best, seeking to assist

our clients and the Courts and justice. To dismiss our contribution is not only grossly unfair, it is negligent.

I'm standing for CBA executive because I was stung by the suggestion that I, and others like me, were merely whining from the sidelines. I don't accept that criticism, I think I have done as much as I could to raise awareness, and have stood up to be counted when required. Whether or not I am elected to the executive, I will continue to fight for what I believe in, in whatever way that I can. But I'm as happy to do it from the pitch as from the sidelines.