

We must educate, talk and organise

JOHN STURROCK

WHILE some of my fellow columnists have corresponded from exotic locations recently, a few days in the Western Isles has reminded me that, in weather such as we have enjoyed recently, this really might be the most beautiful small country in the world. That got me thinking about our legal system in the context of the First Minister's proposition that we are, or can be, the best small country in the world.

Over generations, Scots law and Scottish lawyers have been held in high regard, often punching above its and their collective weight. The Scots and their lawyers have a reputation for integrity, trust and competence that is a very valuable commodity. But rather than capitalising on that in the global marketplace for legal services, it seems that, rather as often happens to the Scottish landscape, the mist has descended. Such strengths are often obscured by a mixture of hot air and cold fronts. Typically Scottish, perhaps.

There appears to be increasing tension among the stakeholders in the legal system and its institutions, with regular controversy. Examples include: procedures for making complaints against lawyers; reform of judicial appointments and integration of the court system; and criminal legal aid payments.

I wonder if it goes too far to suggest there is some suspicion, distrust and lack of understanding involving various players: policy makers in the Scottish Executive; MSPs in the Parliament; professional bodies; the judiciary; the Scottish Legal Aid Board; and the Scottish Legal Services Ombudsman. Within these groupings, there are diverse views.

But, overall, one's impression is things are not quite as they should be and, as a result - rather than working together to reinforce the impact the Scottish legal system might have in the wider world - the stakeholders' energies are often spent in a cycle of internal criticism and justification. How could this be changed?

- **Education:** There will always be difficulty if people do not know about the core principles and values of the legal system and its institutions. How many of us really understand what is meant by judicial independence, or the value of an independent legal profession? To what extent could these be covered in schools? And how many of our MSPs and civil servants have a good understanding of these? Learning, as part of enhancing a sense of civic responsibility, may be a good starting point.

- Dialogue: I suspect some in the legal profession have been rather lukewarm towards the Parliament. Over a number of years, there may have been a sense of detachment from, rather than involvement with, the legislators. How often have key figures sat down and talked openly about the real issues and, without having to justify or criticise, simply sought to explain what they are trying to do and why? How often have they listened to the points of view and genuinely held concerns of others who have an interest? Engagement is essential, both ways.

- Roles: Who should be in charge of policy-making? Who controls the purse-strings? Who makes decisions about resources? What benchmarks are set for professional (and legislative) performance? How do we measure value for money? There is scope for a frank reassessment.

I venture to suggest that if we wish to have an outward-looking, confident system of law which represents fully the interests of the Scottish people, then the lawyers, politicians, judges and civil servants need to work together in an atmosphere of mutual trust and respect. Perhaps we need an action plan to achieve this.