

'On such an afternoon some score of members of the High Court of Chancery bar ought to be — as here they are — mistily engaged in one of the ten thousand stages of an endless cause, tripping one another up on slippery precedents, groping knee-deep in technicalities, running their goat-hair and horse-hair warded heads against walls of words and making a pretence of equity with serious faces, as players might.'

Over 150 years have passed since Charles Dickens' masterful lampoon of the complexities of the Chancery courts. But in 2015 a Criminal Alliance report into the criminal justice system has echoed these sentiments in a report entitled 'Structured mayhem: personal experiences of the Crown Court.' Based on interviews with legal practitioners, defendants and witnesses it comments that 'Prosecution and defence counsel often seek to outdo each other with displays of eloquence, quick-wittedness and legal knowledge', 'the wigs and gowns worn by legal professionals in court help, not least, to create a sense of other-worldliness' and 'deployment of formality and ritual can be seen as, in part, a deliberate strategy to sustain the Crown Court's aura of authority for those who work in court but, especially, for those who enter the space as outsiders.'

Whilst the phrase 'structured mayhem' is not one that many advocates or judges would choose, even the staunchest defenders of the adversarial system would accept that a trial which starts punctually with all the witnesses in attendance and without anything unplanned occurring is a wonderful concept but one which is more likely to feature in a soap opera than in an overworked and under resourced justice system.

The report makes serious points which need further investigation. Is the retention of wigs necessary if they intimidate lay participants? Do lawyers assume too great an understanding of legal terminology on the part of their client? Can anything more be done to ensure witnesses do not feel marginalized?

However ultimately the role of an adversarial trial is to prevent the state imposing a criminal sanction upon an individual until they have proved, to a high standard, that an individual has committed an offence. Rules of procedure and evidence exist to ensure that only evidence which establishes that fact is presented to the jury. It is crucial that any individual charged with an offence can have the evidence against them properly scrutinised. If we forget that principle and compromise it we risk not just 'structured mayhem' but simply 'mayhem.'