

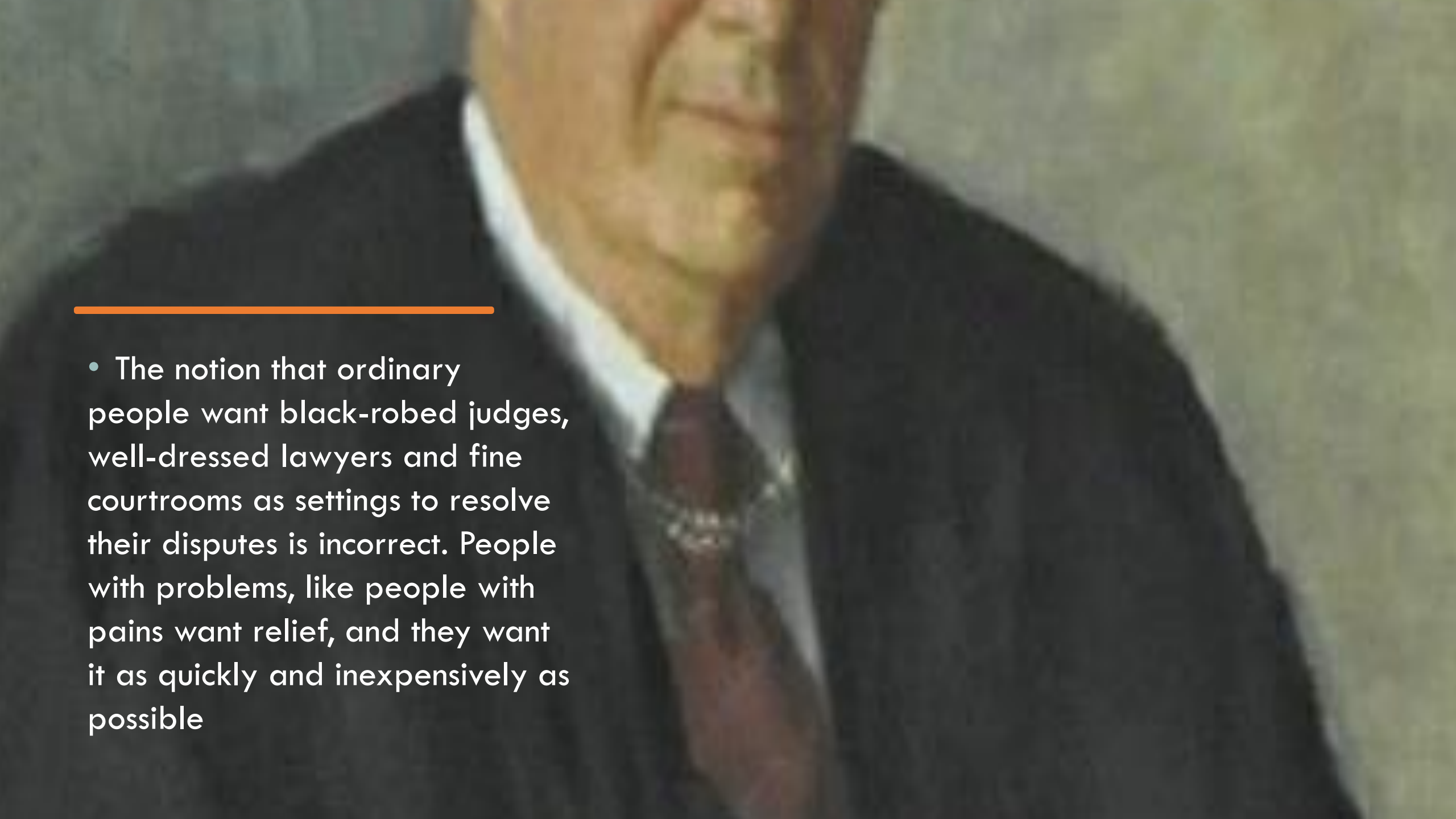
CATHRINA KEVILLE, BL

GEMME IRELAND MEDIATION
EVENT, 25 OCTOBER 2023



Building bridges (and not walls): essentials of a



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- The notion that ordinary people want black-robed judges, well-dressed lawyers and fine courtrooms as settings to resolve their disputes is incorrect. People with problems, like people with pains want relief, and they want it as quickly and inexpensively as possible





DISADVANTAGES OF LITIGATION

-
EXPENSIVE

- SLOW

- LABOUR INTENSIVE

- STRESSFUL

- UNPREDICTABLE

- ADVERSE PUBLICITY

PARTIES ARE NOT IN CONTROL OF PROCESS

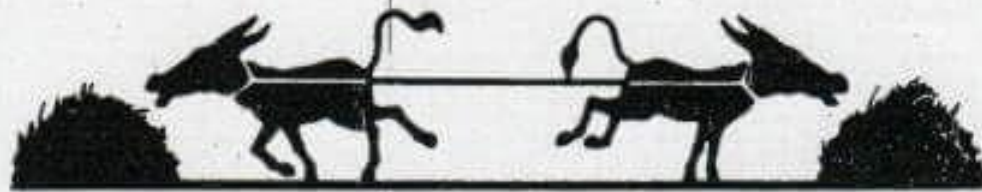
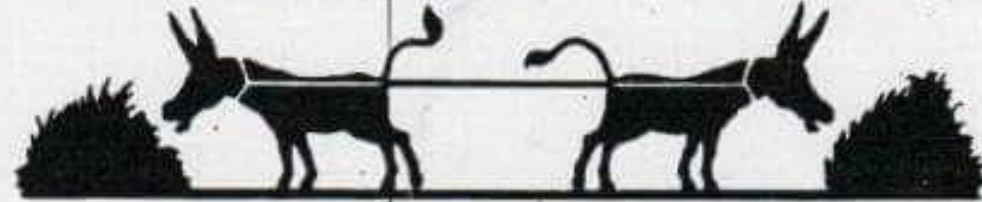
PARTIES MAY NOT FULLY UNDERSTAND PROCESS

Mediation: a mystical art ?

- Mediators - born or made?
- Famous dispute resolvers such as eg Nelson Mandela was not known to have attended formal mediation training course.
- In certain cultures: wise elders carry out dispute resolution.
- Innate personality traits or interpersonal skills lend themselves to mediation.



COLLABORATION



MOVE FROM POSITIONS TO INTERESTS:

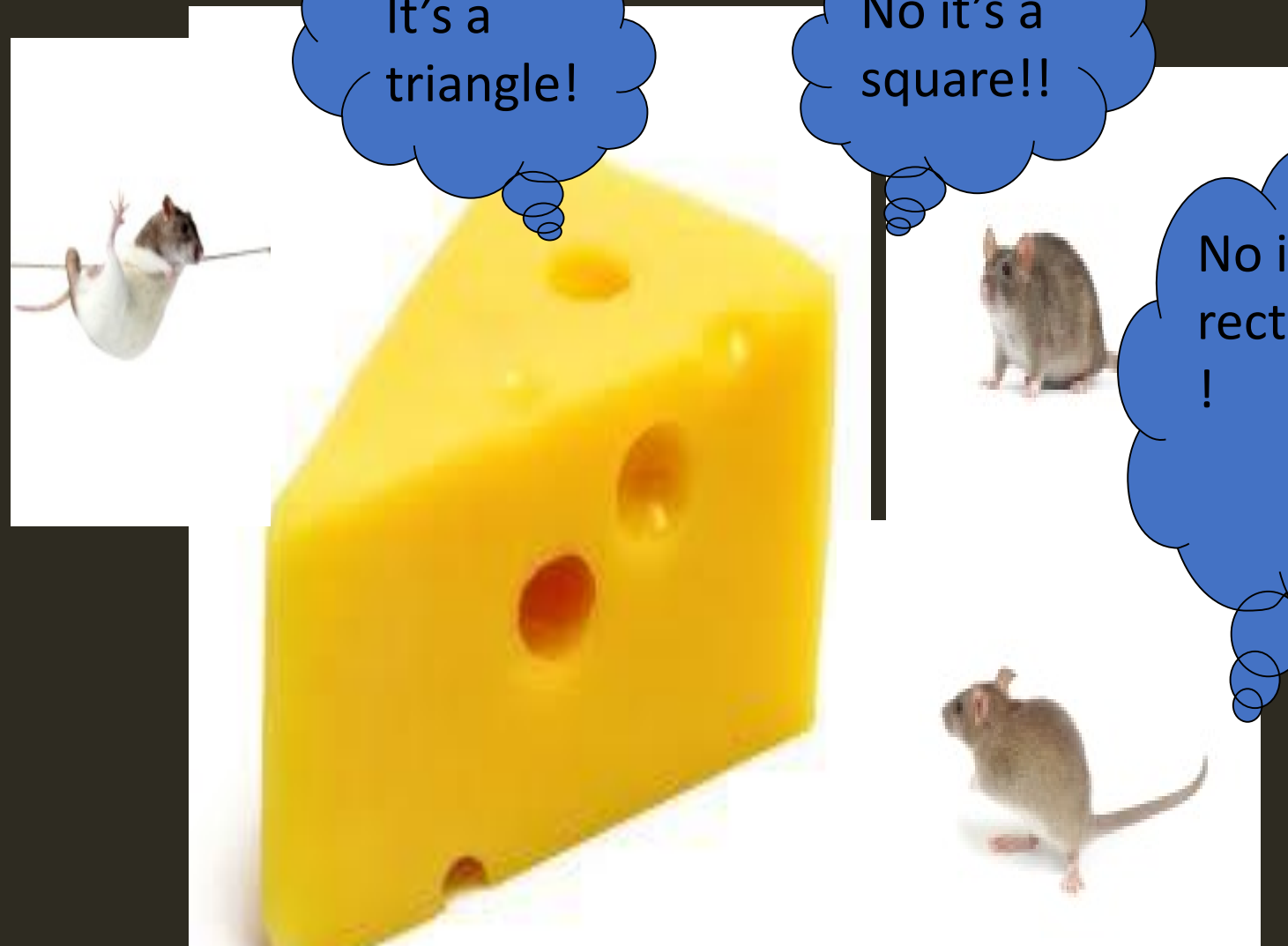


Positions

Interests

Needs

Perceptual positions and framing



It's a triangle!

No it's a square!!

No it's a rectangle!!
!



Mediations are held in private.

Parties can speak to the mediator in confidence and the mediator can only reveal to the other party what has been told to him with the explicit consent of the other party.

Part of the skill of a mediator is getting the trust of the parties in order to reopen or restore communication between the parties.

Restored communication can lead to breakthroughs in understanding.

Better understanding of the other parties' interests, needs and concerns may lead to a realisation of shared interests, needs or concerns.

It may be possible to accommodate shared interests, needs or concerns by agreement between the Parties.

ACTIVE LISTENING SKILLS



Mediator skills

BLAISE PASCALE

People are generally better persuaded by reasons which they themselves have discovered than by those which have come into the minds of others”

Blaise Pascal



MANAGING EMOTIONS

Emotions may need to be vented by parties in order for logical part of brain to engage.

Strategies should be deployed to allow parties to “save face”

Remaining impartial is a challenge for a mediator.

Emotional intelligence is vital for a mediator and is made up of self-awareness; self-management or regulation; empathy and social skills – right brain skills.

Conclusion

- The intellectual activity associated with intensive legal work requires left brain strengths.
- Mediation requires capacities more associated with the right brain hemisphere and recourse to intuition perhaps not traditionally as highly valued in society as logical left brain strengths –
- “The intuitive mind is a sacred gift and the rational mind a faithful servant. We have created a society that honours the servant but has forgotten the gift.”

Albert Einstein

- <https://cassandravoices.com/law/containing-strife-professional-ideals-in-law-and-mediation/>
- Article by Fergus Armstrong, solicitor on the concept of mediation as a practice.
- See RSA: Animate: the Divided Brain by Dr. Iain McGilchrist, Consultant Psychiatrist
<https://youtu.be/dFs9WO2B8ul?feature=shared>

