ENDURING VALUES OR RADICAL CHANGE?
CORE ELEMENTS OF AUSTRALIAN INDUSTRIAL RELATIONS SYSTEM

• The presence of independent statutory tribunal with compulsory powers;
• Significance of the public interest;
• A recognition and understanding that the system exists to “protect the weak”;
• Acceptance that trade unions have a privileged (or necessary) role to play in the working of the system.
CHARLES CAMERON KINGSTON
OPERATION OF CORE ELEMENTS DURING WHEN CONCILIATION AND ARBITRATION IN PLACE

• “Commission” with power to resolve industrial disputes
• Unions regarded as parties principal to the dispute
• Role of public interest linked to industrial matters (the subject matter of disputes)
DID ANYTHING CHANGE UNDER BARGAINING PROVISIONS?

• First, provisions of Keating Government’s *Industrial Relations Reform Act* 1993 – and then Howard Governments *Workplace Relations Act* 1996

• Commission approving agreements – with principal requirement being the “no disadvantage test” (subject to award safety net)
HOW MUCH OF CHALLENGE IS WORK CHOICES (2005 – 2007) TO OVERALL ARGUMENT?

• Diminution in powers of tribunal, and no authority to approve agreements (which were no longer required to satisfy NDT)

• Scaling back role of trade unions – with this arguably linked to tribunal’s limited authority in cases of “industrial disputes”
HOW SHOULD WE REGARD WORK CHOICES PERIOD?

• Is it an “aberration” in the evolution of the Australian industrial relations system,

• Or was there actually no intent to eliminate (and no apparent impact upon) the core elements of the system during the Work Choices period?
RE-EMPHASIS ON CORE ELEMENTS UNDER THE FAIR WORK ACT AND BEYOND

• Tribunal’s powers to approve agreements (that meet BOOT) restored – and some arbitral authority in bargaining jurisdiction

• And note impact of Fair Work Amendment Bill 2014
SOME CONCLUSIONS

• Core elements of the traditional system remain in place ...
• And this probably demonstrates the unique nature of the Australian system