

Homing Devices in Choice of Tort Law: Australian, British and Canadian Approaches

There is an article in the new issue of the *International & Comparative Law Quarterly* (October 2006; Vol. 55, No. 4) by **Reid Mortenson** (TC Beirne School of Law, University of Queensland) on "**Homing Devices in Choice of Tort Law: Australian, British and Canadian Approaches**". The abstract reads:

*Since 1994, Canada, the United Kingdom and Australia have adopted new choice of law rules for cross-border torts that, in different ways, centre on the application of the law of the place where the tort occurred (the *lex loci delicti*). All three countries abandoned some species of the rule in *Phillips v Eyre*, which required some reference to the law of the forum (the *lex fori*) as well as the *lex loci delicti*. However, predictions were made that, where possible, courts in these countries would continue to show a strong inclination to apply the *lex fori* in cross-border tort cases—and would use a range of homing devices to do so. A comprehensive survey and analysis of the cases that have been decided under the Australian, British and Canadian *lex loci delicti* regimes suggests that courts in these countries do betray a homing instinct, but one that has actually been tightly restrained by appeal courts. Where application of the *lex fori* was formally allowed by use of a ‘flexible exception’ in Canada and the United Kingdom, this has been contained by courts of first appeal. Indeed, only the continuing characterization of the assessment of damages as a procedural question in Canada and the United Kingdom, seems to remain as a significant homing device for courts in these countries.*

For those with online access to the ICLQ, the full article can be downloaded from [here](#).

There is also a shorter article by **Richard Frimpong Oppong** (*PhD candidate, University of British Columbia*) in the latest issue of the ICLQ on "**Private International Law and the African Economic Community: A Plea for Greater Attention**". The full article, again for those with a subscription, can be found [here](#).