Article on choice of law for intra-Australian torts after the civil liability legislation

Professor Martin Davies, co-author of the leading text on Australian private international law (Nygh and Davies, *Conflict of Laws in Australia*, now in its 7th edition (2002)), has an article in the most recent *Torts Law Journal*. It concerns the choice of law issues which have been created by the various Acts passed by the Australian states and territories to reform aspects of Australian tort law. As the abstract explains:

> *The civil liability legislation passed by the states and territories in the early part of this decade was not uniform in form or effect. As a result, choice of law in intra-Australian torts cases has been given a new lease of life. The lex loci delicti (law of the place of the wrong) choice of law test adopted by the High Court in John Pfeiffer Pty Ltd v Rogerson applies only to questions of substance. Thus, it is now necessary to ask whether the statutory reforms made by the civil liability legislation are substantive or procedural. This article suggests some tentative characterisations. No generalisations are possible because each statutory rule must be characterised individually. Because some of the statutory reforms seem clearly to be procedural, they create a new incentive for plaintiffs to go forum-shopping for a jurisdiction that provides a more favourable environment for their claims. Defendants can only protect themselves against that forum-shopping by applying for a venue transfer under the cross-vesting legislation. There is uncertainty about the operation of that legislation, too. Thus, a new set of unsettled questions has been melded to an existing area of uncertainty. The result is a fertile source of disagreement and future litigation.*

The article is both interesting and of use to practitioners. The citation is Martin Davies, "Choice of Law after the Civil Liability legislation" (2008) 16 *Torts Law Journal* 10.