

# Article Challenges Canadian Approach to Jurisdiction

Professor Tanya Monestier of Queen's University has published an article challenging the approach in some of the leading cases, including *Muscutt v. Courcelles*, to the taking of jurisdiction over defendants outside the forum: see Tanya J. Monestier, "A 'Real and Substantial' Mess: The Law of Jurisdiction in Canada" (2007) 33 Queen's L.J. 179 (available to those with access to a database containing this journal).

Professor Monestier argues that "By superimposing onto the jurisdictional framework a multiplicity of considerations that are unrelated to the connection between the forum and the action, *Muscutt* has essentially transformed the question of whether a court *can* hear a case (jurisdiction *simpliciter*) into the question of whether a court *should* hear a case (*forum non conveniens*)."

In her conclusions Professor Monestier stresses the importance of certainty in the jurisdictional inquiry and argues, in the (in)famous language of *Tolofson v. Jensen*, for "order" over "fairness".