Not So Fast: Canadian Courts Cannot Sit Everywhere

In an earlier post I discussed three first-instance decisions of Canadian courts, one from each of Ontario, British Columbia and Quebec, holding that the court could, at its discretion, sit outside the province.

Two of those decisions were appealed and one appeal has now been decided. In *Endean v British Columbia*, 2014 BCCA 61 (available here) the Court of Appeal has reversed the lower court's decision in British Columbia and called into question the other two lower court decisions.

The court held (at para 82) that "British Columbia judges cannot conduct hearings that take place outside the province. Such a major law reform is for the legislature to determine." The court did note that "There is, however, no objection to a judge who is not personally present in the province conducting a hearing that takes place in a British Columbia courtroom by telephone, video conference or other communication medium".

The reasoning of the Court of Appeal echoes that in a comment written about the three first-instance decisions by Vaughan Black and Stephen G.A. Pitel entitled "Out of Bounds: Can a Court Sit Outside its Home Jurisdiction?" (currently available only through access to (2013) 41 Advocates' Quarterly 503).