



Philosophy 2270 (670)
CANADIAN JUDICIAL THINKING
Fall/ Winter 2025-2026

Instructor: R. Robb
Email: rrobb@uwo.ca

Course Information

Calendar Description:

This case-based course examines Canadian judicial thinking. Focusing on controversial rulings, students examine the legal structures and principles that operate in Canadian judicial thinking and its effect on Canadian life. Topics include: the constitution and charter of rights, fundamental freedoms, equality rights, Indigenous issues, civil and criminal responsibility, and sovereignty.

Extra Information: 3 hours.

Course Weight: 1.00

Breadth: Category B

Subject Code: PHILOSOP

Notice: Unless you have either the requisites for this course (fulfilment of pre-requisites, no anti-requisite conflicts), or special permission from your Dean to enrol in it, you may be removed from this course and it will be deleted from your record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites.

King's University College
PHILOSOPHY 2270 (670)
Canadian Judicial Thinking
Fall/Winter 2025-2026

Course Information:

Professor: Dr. Ryan Robb

Email: rrobb@uwo.ca

Office: Zoom

Office Hours: Mondays, 5:30 – 6:30 on Zoom or by appointment

Course Description:

Law guides and regulates the behaviour of individuals and groups within Canadian society, most often their interactions with one another. Explaining precisely how those laws are meant to guide and regulate citizen behaviour, in both particular and general circumstances, is ultimately the responsibility of Canadian judges. This course seeks to articulate the norms according to which the authoritative legal interpretations of Canadian judges are structured, interpretations that specify the character of legally permissible, and impermissible, interactions. We start with a brief survey of the dominant theoretical understandings of the need for, and role of, judicial reasoning. The bulk of the readings in this course consist in a sample of leading judicial rulings, primarily from the Supreme Court of Canada (since they are the final legal interpretive authority in Canada) in respect of the *Constitution Act, 1982*, aboriginal title, property law, contract law, and tort law.

Learning Outcomes:

The first goal of this course is to help students develop their critical thinking skills, i.e., the capacity to recognize when a position is supported by reasons, to evaluate the reasons offered in support of a position, and to provide reasons to support their own responses. The development of these skills will occur by doing the readings, watching the lectures, as well as completing the quizzes, two written course assignments, and three exams.

The secondary goal of this course is to introduce students to the process by which judges reason in Canada and the specific considerations they entertain when they engage in that process. This goal will be satisfied by testing students' ability to develop compelling legal arguments of their own in the two course assignments, and by assessing their comprehension on the three course exams.

NOTE: Students contemplating the pursuit of law as a career will find this course particularly valuable; it will help them both determine whether the study of law is something they enjoy, and to develop some basic, and necessary, legal reasoning skills.

Mode of Instruction:

The lectures in this course will be delivered asynchronously on OWL.

Course Materials:

All the readings for this course will be made available on OWL as the course proceeds. There is no cost to students to acquire these materials.

Method of Evaluation:

Quizzes: 20% (eight multiple choice quizzes, worth 2.5% each)
Assignments: 20% (two 1250 – 1500 word written assignments, worth 10% each)
Exams: 60% (three written answer exams, worth 20% each)

Academic Considerations:

Quizzes – Each multiple-choice quiz will provide students with 90 minutes of writing time. Each will be available for students to take for 7 (seven) days, according to their own schedule. Owing to that scheduling flexibility, quizzes not completed by the end of the window during which they are open will not be able to be made up.

Assignments – The two written assignments in the course are both due in second term. The first is due Monday, January 19th, 2026 by 11:59 p.m. EST on OWL. Any assignments not submitted by that date will be subject to a 5% per day late penalty, up to a maximum of 10 days, or 50% of the assignment grade, at which point a grade of 0 will be entered. Students may NOT submit an 'undocumented absence' to avoid this penalty. The second written assignment is due Thursday, April 9th, 2026 by 11:59 p.m. EDT on OWL. Since, following Western Senate guidelines, no coursework can be submitted after the last day of a semester, no late assignments will be accepted after April 9th without the submission of formal supporting documentation to the Office of the Academic Dean.

If a student is granted academic consideration for one of the two assignments, an alternate due date will be set in consultation with Professor Robb.

Exams – All three course exams will be timed; students will have 4 hours of writing time once they begin, for each exam. Exam 1 will be open for students to take at any point during Week 9. Exam 2 will similarly be available for students to take at any point during Week 18. Exam 3 will be written during the April 2026 exam period, scheduled by the office of the Registrar, and will provide a 4-day writing window. No additional course tasks will be required during the exam writing periods (i.e., no readings, no lectures, no quizzes, no assignments due). Owing to the flexibility included in this exam scheduling, students who fail to complete an exam during the designated period will be unable to write a make-up without the submission of formal supporting documentation to the Office of the Academic Dean.

If a student is granted academic consideration for one of the three exams, a make-up exam will be arranged as soon as is reasonably possible following the missed exam.

All requests for academic consideration for the duration of this course are to be made to the Academic Advising office of the student's Faculty of Registration, NOT to Professor Robb.

Academic Integrity/Remote Proctoring:

This link will take you to the Western Scholastic Discipline policy:

https://uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

Use of generative artificial intelligence (AI) tools (such as ChatGPT) is not permitted for the quizzes, assignments, or exams. Unauthorized use of AI will be subject to academic discipline.

Both written assignments will be submitted for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).

Examinations in this course will be conducted using ProctorTrack remote proctoring service. By taking this course, you are consenting to the use of this software and acknowledge that you will be required to provide **personal information** (including some biometric data) and the session will be **recorded**. Completion of this course will require you to have a reliable internet connection and a device that meets the technical requirements for this service. More information about this remote proctoring service, including technical requirements, is available on Western's Remote Proctoring website at: <https://remoteproctoring.uwo.ca>.

Assessment Dates:

Quizzes

Quiz #1: Open September 18th, closes September 25th at 11:59 p.m. EDT

Quiz #2: Open October 9th, closes October 16th at 11:59 p.m. EDT

Quiz #3: Open October 23rd, closes October 30th at 11:59 p.m. EDT

Quiz #4: Open November 20th, closes November 27th at 11:59 p.m. EST

Quiz #5: Open January 5th, closes January 12th at 11:59 p.m. EST

Quiz #6: Open February 2nd, closes February 9th at 11:59 p.m. EST

Quiz #7: Open March 10th, closes March 17th at 11:59 p.m. EDT

Quiz #8: Open March 28th, closes April 4th at 11:59 p.m. EDT

Assignments

Assignment #1: Due on OWL no later than Monday, January 19th at 11:59 p.m. EST

Assignment #2: Due on OWL no later than Thursday, April 9th at 11:59 p.m. EDT

Exams

Exam #1: Open October 30th at 9 a.m., to be completed by November 13th at 11:59 p.m. EST

Exam #2: Open February 9th at 9 a.m., to be completed by February 23rd at 11:59 p.m. EST

Exam #3: Held during the April 2026 Final Exam Period, to be scheduled by the Office of the Registrar.

Reading Schedule:

Unit 1 –The Theory of Judicial Reasoning (Sept 4th – Oct 1st)

Week 1 – What is Philosophy? What is Law? – no reading

Week 2 – Hart and the Open Texture of Law

Reading:

Chapter 7, *The Concept of Law*

Week 3 – Dworkin's Legal Interpretivism

Readings:

'Hard Cases'

'Law as Integrity'

Telus Communications Inc v Canadian Municipalities SCC 2025

Week 4 – The Rule of Law

Readings:

Dicey – 'The Rule of Law'

Fuller – '8 Ways to Fail to Make Law'

Roncarelli v Duplessis SCC 1959

Unit 2 – Constitutional Law (Oct 2nd – 30th)

Week 5 – The Constitutional Role of the Judiciary

Readings:

'The Role of the Judiciary'

Reference re Secession of Quebec SCC 1998

Week 6 – The Division of Powers

Readings:

Ward v Canada (Attorney General) SCC 2002

Reference re Senate Reform SCC 2014

Week 7 – The *Charter of Rights and Freedoms* – s 2(b) Freedom of Thought

Reading:

R v Keegstra SCC 1990

Week 8 – The *Charter* – s 7 Life, Liberty and Security of the Person, and s 15 Equality Rights

Readings:

Carter v Canada (Attorney General) SCC 2015

Fraser v Canada (Attorney General) SCC 2020

Week 9 – Exam #1 (open from October 30th to Nov 13th)

Unit 3 – Aboriginal Title (Nov 13th – Jan 11th)

Week 10 – The Crown and Canada's Indigenous Peoples

Readings:

The Royal Proclamation, 1763

Borrows – 'Wampum at Niagara'

Week 11 – Aboriginal Title before the *Constitution Act, 1982*

Readings:

Calder et al v Attorney General of British Columbia SCC 1973

Guerin v The Queen SCC 1984

Week 12 – Aboriginal Title and s. 35 (1) of the *Constitution Act, 1982*

Readings:

R v Sparrow SCC 1990

Delgamuukw v British Columbia SCC 1997

Week 13 – The Limits on, and Recognition of, Aboriginal Title

Readings:

R v Marshall; R v Bernard SCC 2005

Tsilhqot'in Nation v British Columbia SCC 2014

Unit 4 – Property Law (Jan 12th – Feb 8th)

Weeks 14 – Private Law and Property Law – no reading

Week 15 – Possession

Readings:

Pierson v Post SCNY 1805

Young v Hitchens QB 1844

Keron v Cashman CCNJ 1896

R v Christie NBCA 1978

Popov v Hayashi SCS 2002

Nakhuda v Story Book Farm OSC 2013

Week 16 – The Law of Finders

Readings:

Armory v Delamirie KB 1722

Clark v Maloney DSC 1840

Bridges v Hawkesworth QBCA 1851

South Staffordshire Water Company v Sharman QB 1896

Bird v The Town of Fort Frances OSC 1949

Parker v British Airways Board CA 1982

Thomas v Canada (Attorney General) ABQB 2006

Week 17 – Limits on Property Rights

Readings:

Ochoa v Rogers TCA 1921

Ploof v Putnam SCV 1908

Vincent v Lake Erie Transp Co SCMinn 1910

Week 18 – Exam #2 (open from Feb 9th to Feb 23rd)

Unit 5 – Contract Law (Feb 23rd – March 15th)

Week 19 – The Elements of a Contract

Readings:

Carlill v Carbolic Smoke Ball Company CA 1892

Smith v Hughes QB 1871

Schiller v Fisher SCC 1981

Thomas v Thomas QB 1842

Hamer v Sidway NYCA 1891

Week 20 – Contractual Interpretation

Readings:

Sattva Capital v Creston Moly SCC 2014
Tercon Contractors Ltd v B.C. SCC 2010
Corner Brook (City) v Bailey SCC 2021

Week 21 – Unconscionability and Liability for Breach

Readings:

Uber Technologies Inc v Heller SCC 2020
Semelhago v Paramadevan SCC 1996

Unit 6 – Tort Law (March 16th – April 9th)

Week 22 – The Scope of Tort Law Liability

Readings:

Appleby v Erie Tobacco Co OSC 1910
Moore v Sweet SCC 2018
Wilkinson v Downton QB 1897
Fouldes v Willoughby EP 1841
Turner v Thorne OSC 1959

Week 23 – The Dawn of the Modern Tort of Negligence

Readings:

Donoghue v Stevenson HL 1932
Palsgraf v Long Island Railroad Co NYCA 1928
Wagon Mound No 1 PC 1961

Week 24 – Negligence in Canada

Readings:

Cooper v Hobart SCC 2001
Deloitte & Touche v Livent Inc SCC 2017

This Topic Schedule is Subject to Change Given Sufficient Prior Notice

KING'S UNIVERSITY COLLEGE
GENERAL COURSE POLICIES
2025-2026

1. Academic Accommodations, Consideration for Absences

Academic Accommodation (Accessibility)

Accessibility Services works to ensure that academic programs are accessible to all students, and supports students who may have a condition related to, but not limited to, vision, hearing, mobility, different ways of learning, mental health, chronic illnesses, chronic pain, autism spectrum disorder, ADD/ADHD, and temporary conditions (beyond short-term academic consideration). Accessibility Services provides recommendations for accommodation based on medical documentation or psychological and cognitive assessment. The accommodation policy can be found here [Academic Accommodation for Students with Disabilities](#). Information on Accessibility Services at King's can be found [here](#).

Academic Consideration for Student Absence

If a student is unable to meet a course requirement due to substantial but temporary extenuating circumstances (medical or compassionate), they should follow the procedures below.

In some cases, where instructors have built flexibility into their assessments, this flexibility will already address consideration needs.

Requests for academic consideration should be directed to the Academic Advising Office of your faculty/college of registration. Requests must be made as soon as possible and no later than 48 hours after the missed assessment.

As a rule, documentation is required for academic consideration. For academic consideration requests on medical grounds, the Student Medical Certificate is available at https://www.kings.uwo.ca/kings/assets/File/currentStudents/courses_enrollment/exams_and_tests/SMC-Feb-2025.pdf.

Students are permitted one academic consideration request without supporting documentation per term per course.

Instructors may designate one assessment per half-course weight as requiring formal supporting documentation. Please refer to the course outline for each course.

For further information, please see:

https://uwo.ca/univsec/pdf/academic_policies/appeals/academic_consideration_Sep24.pdf

Absences from Final Examinations

If you miss the Final Exam, contact the Academic Advising Office of your faculty/college of registration as soon as you are able to do so. They will assess your eligibility to write the Special Examination (the name given by the University to a makeup Final Exam).

You may also be eligible to write the Special Exam if you are in a “Multiple Exam Situation” (e.g., more than 2 exams in 23-hour period, or more than 3 exams in a 47-hour period).

If a student fails to write a scheduled Special Examination, the date of the next Special Examination (if granted) normally will be the scheduled date for the final exam the next time this course is offered. The maximum course load for that term will be reduced by the credit of the course(s) for which the final examination has been deferred. See the Academic Calendar for details (under Special Examinations).

Religious Accommodation

Students should consult the University's list of recognized religious holidays, and should give notice in writing to the instructor and Academic Advising Office if a course requirement will be affected by a religious holiday/observance. Notice must be given as early as possible, and no later than two weeks prior to an examination, and one week prior to a midterm test date. It is the responsibility of such students to inform themselves concerning the work done in classes from which they are absent and to take appropriate action.

2. Support Services

Accessibility, Counselling and Student Development at King's University College:
<https://www.kings.uwo.ca/current-students/student-services/>

Students experiencing emotional or mental health distress can access services at King's University

College: <http://www.kings.uwo.ca/current-students/campus-services/student-supportservices/personal-counselling/>

Good2talk is a good online and phone 24/7 resource for students and is available in English, Mandarin, and French: <https://good2talk.ca>, 1-866-925-5454

MentalHealth@Western provides a complete list of options about how to obtain help:
https://www.uwo.ca/health/mental_wellbeing/

Academic Support Services at King's University College:
<https://www.kings.uwo.ca/current-students/academic-resources/>

GBSV Support:

King's is committed to reducing incidents of gender-based and sexual violence and providing compassionate support to anyone who has gone through these traumatic events. If you have experienced sexual or gender-based violence (either recently or in the past), you will find information about support services for survivors, including emergency contacts at:
<https://www.kings.uwo.ca/about-kings/safe-campus/gender-and-sexual-violence/>

You can reach someone supports at Kings by emailing Care@kings.uwo.ca or calling 519-930-4640 to reach a social worker who can offer help.

You can also reach Western's Gender-Based Violence & Survivor Support Case Manager by email or by calling 519-661-3568.

Further supports can be found on this website: <https://www.kings.uwo.ca/about-kings/safecampus/gender-and-sexual-violence/>

See also https://www.uwo.ca/health/student_support/survivor_support/get-help.html

University Students' Council offers many valuable support services for students, including the health insurance plan: <http://westernusc.ca/services/>

3. Statement on Use of Electronic Devices

Use of Electronic Devices: Unless explicitly stated otherwise, you are not allowed to have a cell phone, or any other electronic device, with you during tests or examinations. Unauthorized possession of such a device during a test or examination constitutes an academic offence.

Use of Laptops, Tablets, and Smartphones in the Classroom: King's University College at Western University acknowledges the integration of new technologies and learning methods into the curriculum. The use of electronic devices such as laptop computers, tablets, or smartphones can contribute to student engagement and effective learning. At the same time, King's recognizes that instructors and students share jointly the responsibility to establish and maintain a respectful classroom environment conducive to learning.

The use of electronic devices by students during lectures, seminars, labs, etc., shall be for matters related to the course at hand only. Students found to be using electronic devices for purposes not directly related to the class may be subject to sanctions under the Student Code of Conduct; see <https://www.kings.uwo.ca/current-students/student-affairs/code-of-student-conduct1/>

Inappropriate use of electronics (e.g., laptops, tablets, smartphones) during lectures, seminars, labs, etc., creates a significant disruption. As a consequence, instructors may choose to limit the use of electronic devices in these settings. In addition, in order to provide a safe classroom environment, students attending in-person class sessions are strongly advised to operate laptops with batteries rather than power cords.

4. Statement on Academic Offences

King's is committed to academic integrity. Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, is posted at

http://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

It is expected that students will submit work that is truly their own, completed without external assistance (human or artificial) except as explicitly permitted by the course instructor. Check with you instructor on what tools, including generative AI (ChatGPT, translation tools, grammarchecking tools) are permitted in the course. Because a tool is permitted in one course, that does not mean it is permitted in other courses.

All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system; see <https://elearningtoolkit.uwo.ca/tools/Originality Reports - TurnItIn.html>.

Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating.

5. Copyright of Course Material

Lectures and course materials, including PowerPoint presentations, tests, outlines, and similar materials are protected by copyright. Faculty members are the exclusive owner of copyright in those materials they create. Students may take notes and make copies for their own use. Students may not allow others to reproduce or distribute lecture notes and course materials publicly (whether or not a fee is charged) without the express written consent of a faculty member. Unauthorized sharing of class content is subject to academic discipline.

Similarly, students own copyright in their own original papers and exam essays. If a faculty member wishes to post a student's answers or papers on the course website, they should ask for the student's written permission.

6. Use of Recordings

Participants in this course are not permitted to record the sessions, except where recording is an approved accommodation and/or the participant has the prior written permission of the instructor. Unauthorized recording and/or sharing of class content is subject to academic discipline.

7. Policy on Attendance

Any student who, in the opinion of the instructor, is absent too frequently from class or laboratory periods in any course, will be reported to the Dean of the Faculty offering the course, after due warning has been given. On the recommendation of the department concerned, and with the permission of the Dean of that Faculty, the student will be debarred from taking the regular examination in the course.