



Canadian judges wear long black robes with trim colour and design that varies according to the court.

## Tradition

Historians seem to agree that the practice of British judges wearing robes dates back seven centuries. In the 1300s robes were worn by scholars at universities and aristocrats attending the royal court. When lawyers were granted the right to appear in law courts they wore robes or gowns as a symbol of that privilege. The clerics and knights who acted as judges wore robes as well, although theirs were richly trimmed and made of costly material. During the Middle Ages judges wore different coloured robes for each season, and often received the textiles needed to make their robes as a gift from the king. Today, that is something that would infringe judicial independence and violate judicial ethics because the courts are the third branch of government separate from the Legislative and Executive branches of government.

In the 1600s, British judges adopted guidelines for a sort of dress code indicating the occasions and seasons when certain robes should be worn. A decree issued by the judges at Westminster in 1635 established summer and winter garb.

It said, "The Judges in Term are to sit at Westminster in the Court in their Black or Violet Gownes, whether they will; and a hood of the same colour put over their heads, and their Mantles above all; the end of the Hood hanging over behind; wearing their Velvet caps, and Coyfes of lawn, and cornered caps. The facing of their Gownes, Hoods and Mantles is with changeable Taffeta; which they must begin to wear upon Ascension Day, being the last Thursday in the Easter term; and continue those Robes until the Feast of Simon and Jude; and upon Simon and Jude's day, the Judges begin to wear their robes faced with white furs of Miniver; and so continue facing until Ascension Day again."

Miniver is apparently white fur. Lawn Coyfes were likely caps made of fine fabric.

Later that century judges in England began to wear black robes, a practice that may have spread during mourning periods for King Charles II in 1685 and Queen Mary in 1694. By the 1680s, judges and lawyers had also replaced the ruffs worn as collars during Elizabethan times with two rectangles of linen, tied at the throat. The "tabs" are still worn by judges and lawyers today with a winged shirt collar. By the 1700s, new guidelines were adopted mandating black robes, although scarlet robes were still to be worn for criminal trials and ceremonial occasions and violet for other trials.



*British judges in ceremonial wigs and robes, with barristers (lawyers) in wigs and gowns observing at bottom right, in 2013*

Although British judges originally wore coloured caps and hoods matching their robes, they began wearing horsehair wigs in the 1600s when they were the style in society. The practice was not just fashionable, it was said that wearing a wig on a shaved head prevented the spread of lice. As wigs disappeared outside courts in the 1700s, judges' wigs gradually became smaller, but British judges and lawyers and those in some Commonwealth countries continue to wear them even today.

After European settlers came to North America, judges' wigs and robes crossed the Atlantic along with the British common law on which Canada's legal system is based. The first judges in British Columbia trained in British law came from England and brought with them British judicial robes. For more than 80 years, some British Columbia judges and lawyers wore wigs, although they were expensive and uncomfortable in warm weather. The provincial legislature passed a law banning wigs in BC courts in 1905.

## **Supreme Court of Canada**

In photographs, you often see the judges of the Supreme Court of Canada in scarlet fur-trimmed robes. These robes are ceremonial and reserved for special occasions in the Court, Senate or Parliament. In the video, *Inside the Supreme Court of Canada: The Robes*, Justice Andromache Karakatsanis confides that they are hot and heavy to wear, with two or three layers of fur in some areas.



Credit: <https://scc-csc.ca/review-revue/2022/TopCourt-HautTribunal-eng.html>

## Inside the Supreme Court of Canada: The Robes

For daily court sittings, the judges of Canada's highest court wear much more comfortable black silk robes.

## Provincial Court of BC

In BC's early days its magistrates, the non-legally trained predecessors of Provincial Court judges, did not wear robes. They travelled the province on horseback or whatever transportation was available, dealing with civil disputes of varying levels and summary conviction offences and they dressed for their lifestyle. In *Magistrate-Judge, The Story of the Provincial Court of British Columbia*, Alfred Watts, QC, described one magistrate who served from 1864 to 1888 as wearing "Irish tweeds, coat and riding breeches".

By the 1950s magistrates in Vancouver and Victoria were wearing robes, and in 1967 magistrates throughout the province were issued with robes which some, but not all, wore. After the creation of the Provincial Court in 1969 some judges robed, and some wore business suits, while others dressed casually.

Seeking consistency and dignity reflecting the Court's role in the administration of

justice, in 1975 the BC Provincial Court Judges Association passed a resolution adopting the style of robe worn today. Since then, BC's Provincial Court judges have worn black robes with red facing down the front and around the cape collar when they preside in court. Under their robes they wear a white shirt, black vest and white tabs or a decorative collar.

For settlement and family case conferences Provincial Court judges sometimes wear business clothes, in keeping with the less formal conference setting.

Some BC Provincial Court judges still travel extensively, carrying their robes by float plane, boat or SUV to the remote locations where they hold court. As Alfred Watts QC wrote about their predecessors, "One must have considerable admiration for those who constantly travel in difficult areas but always ensure that the dignity of the court is so upheld."

## More than tradition

Judges' robes are a tradition. One they maintained long after styles changed and other segments of society embraced different fashions. But it is a tradition that serves a purpose today. Judges' robes lend dignity to judicial proceedings, distinguish independent courts from other decision-making tribunals, and remind people of the important role our courts play in a democratic society: resolving disputes peacefully and fairly, and upholding our constitution and the rule of law.

## Why do Canadian judges wear robes?

Available as a podcast.



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