

**Maxtone-Graham v. Burtchaell,
803 F.2d 1253 (2d Cir. 1986)**

Year	1986
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Katrina Maxtone-Graham published <i>Pregnant by Mistake</i> , a book that consisted of seventeen interviews of women who discussed their unwanted pregnancies. Defendant James Tunstead Burtchaell wrote <i>Rachel Weeping</i> , a book of essays that critiqued published accounts of women's abortion experiences. After being denied permission to quote from plaintiff's work, defendant included quotes from it in one of his essays, including 4.3% of the words in <i>Pregnant by Mistake</i> . Plaintiff appealed the district court's ruling in favor of defendant's fair use defense.
Issue	Whether defendant's direct quotation of plaintiff's work for purposes of comment and criticism constituted fair use.
Holding	The court upheld the lower court's finding that defendant's unauthorized direct quotation of plaintiff's work was fair use. The court held that defendant's criticism of and commentary on plaintiff's work weighed strongly in favor of a finding of fair use. The court reasoned that while <i>Pregnant by Mistake</i> was meant to share the prochoice perspective through anecdotes, <i>Rachel Weeping</i> critiqued and analyzed this perspective in order to engage in the public debate on abortion. The court also found that the commercial aspects of defendant's work were minor when compared with the work's educational elements. The court then determined that plaintiff's book of interviews was factual in nature and that the quantitative and qualitative amount used were minimal enough to favor a finding of fair use. Finally, the court found that there was no demonstrable harm to the market for plaintiff's work because the two works served "fundamentally different functions, by virtue both of their opposing viewpoints and disparate editorial formats."
Tags	Second Circuit; Education/Scholarship/Research; Review/Commentary; Textual Work
Outcome	Fair use found

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