LAW SCHOOL

The National Books: a Case Brief

Copyright in a Nation's works, and the printer who holds it.

The issue

Who owns copyright in the National Books, and on what footing: can Mohawk's Printer hold it as the King's Printer holds Crown copyright; and may others reproduce the books, in whole or in part?

The instruments

Instrument	Date	What it does
Copyright Act, s 12	RSC 1985, c C-42	Crown copyright in works prepared for the Crown
Copyright Act, ss 29–29.2	RSC 1985, c C-42	Fair dealing
Library and Archives of Canada Act, s 10	SC 2004, c 11	Legal deposit
Mohawk's Printer	2026	The Nation's imprint, holding copyright for the Nation

The statutes

Copyright Act, RSC 1985, c C-42, ss 12, 13, 29–29.2.

Library and Archives of Canada Act, SC 2004, c 11, s 10.

The cases

> ***CCH Canadian Ltd v Law Society of Upper Canada***, 2004 SCC 13
> Originality requires skill and judgment; fair dealing is a user's right, assessed by its purpose and fairness.

The arguments

	For a reprinter	For Mohawk's Printer
Ownership	A government's works are public	Copyright arises by authorship and assignment; the Printer holds it for the Nation
Crown copyright	Section 12 governs public bodies	Section 12 is the Crown's; the Nation's footing is ordinary copyright, held by its Printer
Fair dealing	Reprinting serves public interest	Fair dealing permits quotation and study, not wholesale reprinting (CCH)
Integrity	A reprint is the same text	A copy that differs from the fingerprinted edition is not the edition

Weak points to test

For the Printer: proof of authorship and assignment chains. For the reprinter: CCH's wide view of fair dealing for research and education.

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Briefing note

A university library asks whether it may make the National Books available in its digital collection. In 150 to 200 words, advise the library: copyright, licensing, fair dealing, and how to preserve the editions' fingerprints. Write it as a briefing note: purpose, background, considerations, recommendation.

Moot problem

A publisher reprints three National Books without permission, arguing a government's works are free to all and that its edition serves the public. Mohawk's Printer sues for infringement.

For the Printer: authorship and assignment, ss 13 and 27, CCH on fair dealing's limits. **For the publisher:** public interest, fair dealing, and the nature of government works. **For both:** whether the Nation's works are like Crown works.

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A worked outline: IRAC

Step	For the Printer
Issue	Did the reprint infringe the Printer’s copyright?
Rule	The Copyright Act; CCH on originality and fair dealing.
Application	The books are original works whose copyright the Printer holds; wholesale reprinting for sale is not fair dealing.
Conclusion	Infringement; an injunction and damages.

The publisher’s outline runs the same four steps the other way. Students draft it themselves.

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Written assignment: memorandum of argument

The task

Write the memorandum of argument for one side of the moot on this sheet: the Printer or the publisher, as your instructor assigns. Then argue it.

Requirements

- 2,500 words, not counting the list of authorities.
- Every authority cited in McGill Guide form, with pinpoints.
- At least six authorities, including at least two not on this sheet.
- Meet the other side’s best argument in Part III, not just your own case.
- Only facts set out in the moot problem; no new facts.

Structure

- Part I, the facts: a neutral statement, no more than two pages.
- Part II, the issues: each as a single question.
- Part III, the law and argument: issue by issue, the rule, its application, and the other side’s answer met.
- Part IV, the order sought: precisely worded.
- Part V, the list of authorities: statutes, then cases, then secondary sources.

Timeline

- Week 1: research; a one-page outline of your issues and authorities.
- Week 2: the full memorandum, exchanged with the other side.
- Week 3: oral argument.

Oral argument

Fifteen minutes a side, two minutes’ reply for the applicant. Expect questions from the bench from the first minute; the marking guide on the instructor’s page applies.

Integrity

Your memorandum must be your own. If you use an AI tool for research or drafting, verify every authority against the reports and say so in a note; an invented citation fails the assignment.

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For the instructor: standards met

Universal competencies	Identify key facts and claims; Understand perspective and point of view; Analyse and evaluate evidence; Apply: what does this mean for us?. The same everywhere, whatever the curriculum.
TRC Call to Action 28	Indigenous institutions and their intellectual property.
National Requirement	Problem-solving, legal research, and oral and written communication.
Citation	The McGill Guide; pinpoints left for students to supply.
Method	IRAC; a briefing note to a library; a moot on infringement.
Balance	The arguments both ways and their weak points; the brief names its own position.
Time	One class of 90 minutes; the moot as a separate session.

Marking guide: the moot

	Outstanding	Strong	Competent	Weak
Law	Every authority on point, accurately stated and pinpointed	Main authorities correct	Some missed or loose	Wrong or absent
Analysis	Applies the law to the facts and meets the other side’s best point	Applies the law clearly	Applies it in part	States law without applying it
Structure	A clear road map, followed throughout	Clear and mostly followed	Some drift	Hard to follow
Advocacy	Answers the bench directly and returns to the theory	Answers well	Answers with difficulty	Avoids the questions

This brief sets out the Mohawk Nation of Grand River’s position beside others, for study and argument. The case summaries are for teaching: read the reports. It is not legal advice.

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