

## Information Bulletin #5 Copyright for Archivists

### **Posthumous works enter the public domain**

A posthumous work is one which had not been published, performed in public, or communicated to the public by telecommunication during the author's lifetime. Posthumous works of authors who died before 31 December 1948 are now in the public domain. The original version of Bill C-8 (nicknamed the "L.M. Montgomery Copyright Extension Act") proposed to lengthen the term of copyright protection beyond 2003. However this Bill died when Parliament dissolved for an election in December 2003. By the time the Bill was reintroduced in February 2004, the copyright had expired in these works. Thus a large number of posthumous works entered the public domain, as scheduled, on 1 January 2004. These works can now be used freely without obtaining authorization for use or paying royalties. There are four possible situations:

<b>Situation</b>	<b>Rule</b>
<b>An author died with an unpublished work that his/her estate published before December 31, 1998</b>	The work is protected for 50 years from the date it is published
<b>An author died on or after December 31, 1948 with an unpublished work that had not been published as of December 31, 1998</b>	The work is protected until December 31, 2048 (for a period of fifty years following the end of 1998)
<b>An author died before December 31, 1948 with an unpublished work that had not been published as of December 31, 1998</b>	The work was protected until December 31, 2003 (for 5 years following the end of 1998), and is now in the public domain.
<b>An author dies after December 31, 1998 with an unpublished work</b>	The work is protected until the end of the year in which the author dies and for a period of fifty years following the end of that calendar year.

