

My 10 BEST ACCESS HITS

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SINCE the Access to Information Act came into effect 10 years ago, on July 1, 1983, I have made more than 3,000 requests for information.

I am a public-interest researcher. Most of the applications for information I make involve subject areas or issues that I am following closely in my role as a citizens' watchdog. Often, I find information that I pass along to the media, citizens' groups, labour unions, small business and individuals. I also make applications on behalf of those groups for data they are interested in acquiring.

Anyone who uses the access act to the extent I do has learned to be persistent and resourceful. I have had to make 400 complaints to the information commissioner after requests for documents were denied. Moreover, I've been involved in 30 Federal Court actions to challenge decisions to withhold information from me.

Indeed, in over half my applications, I have met with denials, delays and creative avoidance. For example, I have had great difficulty getting the specifics on the true costs for the EH-101 helicopter and frigate programs.

And I'm not the only one who has had difficulty getting records from the federal government. Over the past decade, there have been more than 70,000 applications for information filed, largely by businesses. These have generated about 7,600 complaints and 400 Federal Court actions.

Under the terms of the act, access requests are sent to specific departments, which are supposed to respond within 30 days. Departments that receive such requests, however, have all sorts of rationales for refusing or delaying the release of their records.

But while I have often been thwarted in my efforts to get material, I have also made hundreds of successful applications that have revealed important information that, were it not for the act, would never have been made public.

Here, then, are 10 of my favourite access hits since the act was passed.

1. Canada Food Guide

I obtained data from Health and Welfare Canada early this year (after an initial refusal) that revealed the influence the food industry had on changing the nutritional recommendations contained in the final version of the 1992 Canada Food Guide.

Documents showed that as a result of pressure from both the Canadian Egg Marketing Agency and the Canadian Meat Council, the federal health department increased the recommended daily servings of eggs (from one to two servings) and meat or alternatives (from one to three servings to two to three servings). News stories that appeared following this information search showed the public that the guide is not devoid of politics.

2. Asbestos products

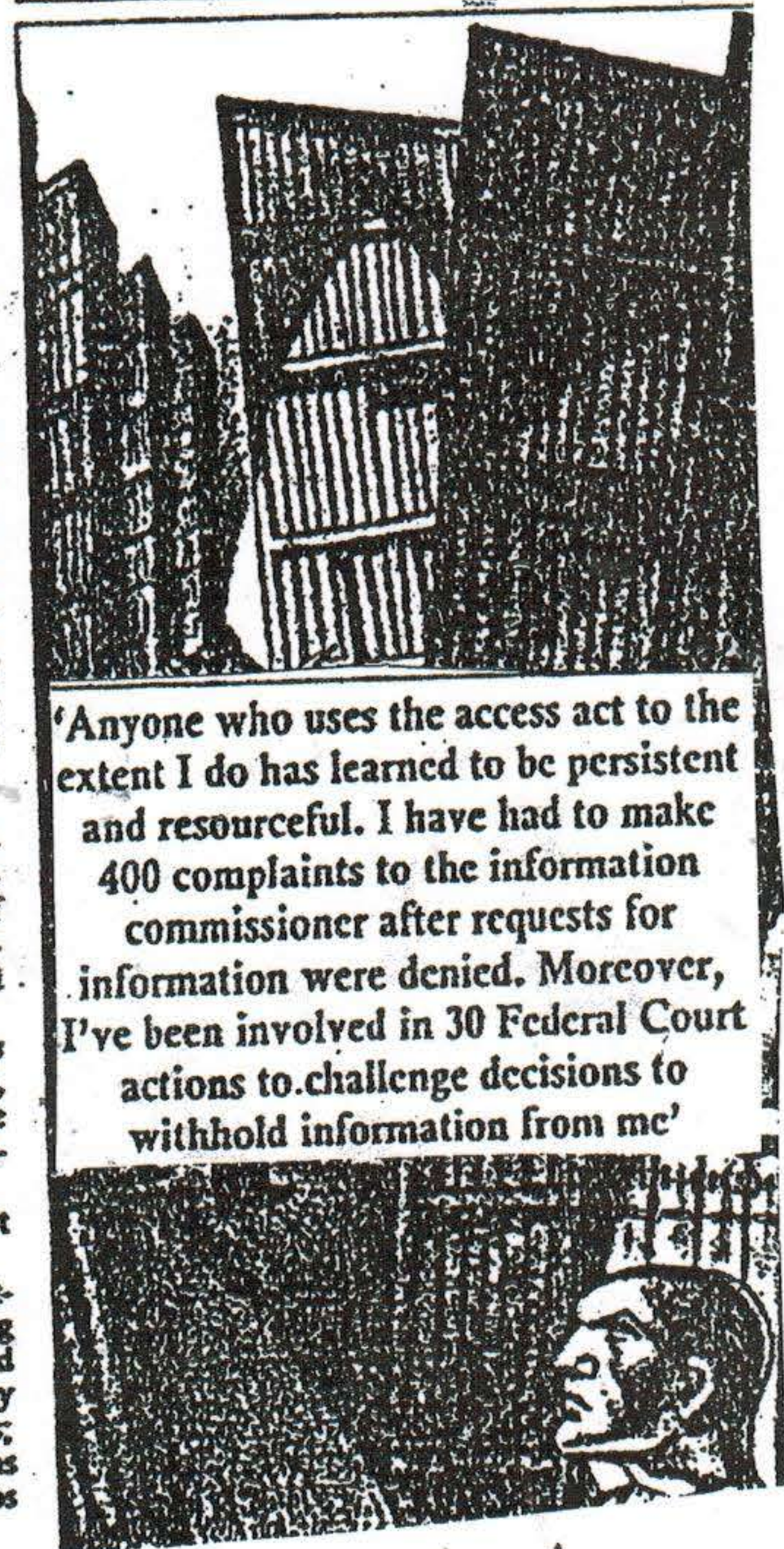
From 1986 to 1989, I pried documents from the Department of Energy, Mines and Resources, the Canadian International Development Agency and the Department of External Affairs showing attempts to sway the U.S. Environmental Protection Agency (EPA) from a proposed ban on asbestos products.

The EPA was concerned about the carcinogenic effects of asbestos. Canadian authorities, on the other hand, wanted the continued "controlled use" of asbestos, since Canada is one of the world's major producers of asbestos.

Despite only receiving some of the documentation that was requested, I determined that:

- the Canadian Embassy in Washington had attempted to challenge the EPA's credibility by lobbying Congress and the White House; the records showed there was direct ministerial intervention by then energy minister Marcel Masse with EPA chairman Lee Thomas;
- with the Quebec government, Ottawa spent millions of dollars annually to fund the Montreal-based Asbestos Institute to lobby U.S. authorities and world opinion.

ON THE 10TH ANNIVERSARY OF THE ACCESS TO INFORMATION ACT, A PUBLIC-INTEREST RESEARCHER LOOKS BACK ON A DECADE OF FIGHTING THE FEDS FOR DISCLOSURE



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3. Advanced cruise-missile testing in Canada

A one-line entry in a long list of ministerial briefing notes obtained in early 1987 from the Department of National Defence revealed that then defence minister Perrin Beatty was briefed in April, 1986, on a proposal by the Pentagon to test the advanced "stealth" version of the nuclear-cruise missile in Canada. I passed this along to Project Ploughshares, the Canadian disarmament group. Subsequent newspaper stories were the first inking the public had that the U.S. had made such an approach to Canada.

4. Prime Minister's Office's "check access release" policy

By 1985, prime minister Brian Mulroney had been the subject of a number of access requests about various activities, particularly charges of lavish overseas travel expenses.

After making an access request to the Privy Council Office, I discovered there were instructions from the Prime Minister's Office about releases of such information. In a Sept. 9, 1986, letter, the Clerk of the Privy Council instructed the deputy ministers of External Affairs and National Defence to consult with a senior adviser to the prime minister "where the records being requested relate to the Prime Minister or to the operations of his Office..."

The idea that potentially embarrassing information about the Prime Minister had to be cleared before release was front-page news, the subject of questions in the House of Commons and editorials and commentaries.

I had been lucky. Often that kind of information doesn't find its way into written documents.

5. The 1988 Air Ontario audit and the 1989 Dryden air disaster

After an Air Ontario plane crashed in Dryden on March 10, 1989, and killed 24 people, a commission was set up to study the circumstances that led to the accident.

Air safety is an interest of mine, and I had applied to Transport Canada for a copy of a 1988 audit of Air Canada's books.

Getting this document was no easy matter. Transport Canada stalled release for several months, claiming the information was commercially protected. Finally, in July, 1989, I managed to get a partial disclosure of the information I'd asked for.

It was horrifying to read this audit report in light of the Dryden crash. The 1988 audit team had raised serious concerns, including careless maintenance, about a variety of the airline's safety practices.

I provided this audit to the media. *For several days...*

lawyers working for the families of the Dryden crash victims.

6. Atomic Energy Control Board

The AECB had been known as one of Ottawa's most secretive agencies. When I made access requests in 1983-84 for the release of the minutes of its meetings, the board tried to discourage me with high preparation fees, and warned me the records it would release would be incomplete. A Federal Court action filed on my behalf by Inger Hansen, then federal information commissioner, helped change AECB's position.

The information I finally received brought to light inadequate safety systems at certain nuclear reactors, waste-disposal problems and the questionable go-ahead given to Eldorado Nuclear Ltd. to construct the Port Hope uranium refinery. I released the information to a wire-service client.

7. Tiananmen Square Massacre

One of the most dramatic accounts of this terrible event in June, 1989, came from the Canadian Embassy in Beijing.

I received partial records from External Affairs in 1990, months after the event, that included graphic eyewitness accounts of people being run over by tanks and mowed down by machine-gun fire.

The documents were used by the media to commemorate the first anniversary of the massacre. I remember this access search in particular because it represents one of the few instances when members of the "access bureaucracy" supported the after-the-event use to which the act had been put.

8. National Capital Commission

I have had a 10-year battle with this agency, which has jurisdiction over a great deal of public land in the Ottawa-Hull region, to obtain the minutes of its meetings. Unlike virtually all other area governments, its meetings are closed to the public.

Over the years, I've filed more than 100 requests for information, and have had to lodge some 35 complaints with the information commissioner when the materials weren't forthcoming. I have also initiated one Federal Court action.

During periods when the NCC issues information to me (a situation that is in a constant state of ebb and flow), I have found:

- the commission was planning to charge user fees at some of the parks in its jurisdiction;
- the details of cost overruns and delays during construction of the Château Laurier Terrace that now houses the Museum of Photography;
- plans to erect a building on the site of the former Daly Building on Rideau Street, despite public interest in retaining it as an open space.

9. Meme breast implants

These controversial medical devices were surgically implanted in more than 14,000 Canadian women but were not first subject to safety and efficacy testing before going on the market. My interest in acquiring documents relating to the Meme implant began in 1988.

The media, politicians and affected women raised the issue of the device's continuing sale following reports of side effects and persistent problems. It was finally withdrawn from the market in 1992. Health and Welfare never admitted any negligence or major concern about its safety.

In the course of more than 10 access-act applications between 1988 and 1992, I was able to document the federal Health Department's continuous refusal to acknowledge potential dangers. A great deal of time seems to have been spent refuting critical research and media and parliamentary probes.

I also found documents describing with obvious relish the perceived wrongdoing of Pierre Blais, the federal scientist who in the eighties told Health and Welfare of his safety concerns about the Meme but whose public criticisms resulted in his being forced out of his job in 1990.

What was challenging for me in this case was not only the fight for material in the public interest, but for information that would be of particular help to Mr. Blais and several of the affected women.

10. Disability tax-credit assistance program
In 1991, I used the act to get an unabridged, unpublished Department of Finance study on the disability tax-credit program. The study had been conducted by a short-lived evaluation unit within Finance set up after repeated pressure from the Commons public-accounts committee and the Auditor-General. The notion that multibillion-dollar tax initiatives should be reviewed by an independent unit was never enthusiastically accepted by Finance.

When I received drafts of the original disability report, I found they were far more critical of Finance's handling of the program than was recorded in the final version released in late 1991.

Among the criticisms that were excluded from the final report:

- over 25 per cent of severely disabled people were left out of the program — this despite the 1985 federal budget, which said they would be included;
- the best tax breaks went to disabled individuals who earned more;
- many legitimate claims were being disallowed.

Several articles were written in early 1992 about this. Subsequently, the results were shared with the public-accounts committee and Canadian disability groups.

The access act, despite its many limitations, has helped in the monitoring of federal government activities in Ottawa. However, it is badly in need of major improvements. There should be far fewer exemptions, quicker and cheaper access, and the terms of the act should extend to more federal organizations.

I remain an unrelenting proponent of greater open government. Many things remained to be uncovered.