

# CHAPTER I

## PLANES, TRAINS, AND HISTORY

Like the country itself, Canada's history has been shaped by its transportation infrastructure. Railways (the Canadian Pacific, the Canadian National), airlines (Trans-Canada Airlines, later Air Canada), waterways (the St. Lawrence Seaway), and highways (the Trans-Canada) have all played central – even mythic – roles in the unfolding drama of nation-building, unifying the country's small and dispersed population across its enormous land mass.

The stories of the construction of these all-important routes have long been a part of our national romance. But the provision of this infrastructure also offers a rather different view of the building (and rebuilding) of our national identity, repeatedly raising the issue of the roles and relations of the public and private sectors in that ongoing enterprise. Simply, building transportation infrastructure requires leading-edge technology, managerial and engineering expertise, and large pools of capital. Thus, the question becomes and remains the appropriate roles of business and government in supplying each of these to any infrastructure project. Generally, the private sector would supply the technology and the expertise. A key risk in providing infrastructure is whether user-generated revenues will be sufficient to cover cost. This risk often necessitated the public sector to subsidize capital, through either grants or loan guarantees. This was demonstrated in the construction of railroads in the nineteenth century, when the public sector subsidized capital through cash and land grants (Hardin 1974, 56). The overbuilding of railroad capacity early in the twentieth century led the federal government to take over the bankrupt Canadian Northern and Grand Trunk, and consolidate them into the Canadian National Railway. Twentieth-century air transportation involved the federal government building and operating the infrastructure (airports and the air navigation system) as well as the largest carrier, Air Canada. Most of the materiel (aircraft, air traffic control technology, airport construction), however, was purchased from the private sector. Provincial governments provided highway infrastructure, with private contractors doing the construction.

The last two decades have seen the federal government divest itself of much of the transportation infrastructure for two reasons. First, the burden of deficits and a growing debt load made it attractive to sell assets and end obligations to provide operating subsidies or renew the capital stock. Second, introducing competition into the operation of both infrastructure and carriers would enhance efficiency and customer service (Advani and Borins 2001). Thus, the federal government privatized Canadian National and Air Canada, transferred the air navigation system to Nav Canada, a stakeholder-owned non-profit corporation (Mylvaganam 1997), and transferred the country's major airports to local airport authorities.

Consider Highway 407 within this historical context. For the past two hundred years, the transportation frontier was the vast space between local populations. Highway 407 is a response to the problems of a new frontier, namely the need to provide quick and uncongested transportation to residents of a densely populated urban area. There is a technological frontier here too: electronic tolling and its associated scanning and imaging capacities. The project was vast in scale and complicated in scope, encompassing the construction of over 100 kilometres of multi-lane divided highway in an urban setting and the provision of the world's most sophisticated tolling technology. Delivering the highway presented a significant challenge to its managers. The project also required raising over \$1 billion in capital at a time when the Province of Ontario was running huge deficits. The project began with public sector management of private sector contractors who were building the road and supplying the tolling technology. Less than two years after the highway was opened, it had been privatized, with the right to charge tolls and obligation to provide service for 99 years sold to a private sector consortium.

Throughout its history, Highway 407 has been the source of considerable public controversy, and the controversies have all focused on different aspects of the relationship between the public and private sectors. When the winning bid to build the road was announced, irregularities in the evaluation process were alleged. In its construction phase, there were accusations that the contractors were jeopardizing safety to reduce cost. The electronic toll system became operational several months after the road itself opened, leading to criticisms of the government's effectiveness at contracting for and managing technology. Privatization has led to criticisms that the Harris government acted too hastily and failed to protect the public

interest. Critics have also claimed that the private sector owners are offering poor service – for example, in their billing practices – while charging rapacious tolls. The McGuinty government, elected in October 2003, has interpreted the privatization agreement differently than its predecessor, asserting that the agreement gives it a veto over toll increases.

This book has two objectives: documentation and evaluation. We will chart the history of Highway 407, from its development to its privatization, as well as its performance since. We will also assess the project, determining the validity of the various criticisms leveled against it. We will identify successful aspects to be emulated, and failures to be avoided. The implications of our findings extend beyond the highway itself to issues such as the management of technology projects, urban transportation policy, and the relationship between the public and private sectors.

While the public controversy surrounding Highway 407 has generated many debates in the Ontario Legislature as well as significant media attention, it has not yet been studied in a scholarly and comprehensive way.<sup>1</sup> There have been two studies to date, and their conclusions are conflicting. The Canadian Council for Public-Private Partnerships (2000) gave Highway 407 its gold award for financial partnerships. Joan Boase (1999) mentioned Highway 407 in an article in *Canadian Public Administration* comparing several private-public partnerships. She came down firmly in the critics' camp, citing cost overruns and delays implementing the technology, the assumption of the entire risk for the project by the Ontario taxpayer, and what she claimed was an absence of democratic accountability.

Our study will provide a more comprehensive perspective on Highway 407 than either of its predecessors. We recount the highway's history in some detail, calling upon not only public sources such as newspaper articles, legislative debates, and the Provincial Auditor's reports, but also the authors' experiences as inside observers of the decision-making process. Chandran Mylvaganam was chief of staff to the Ontario Minister of Transportation from 1990 to 1995 and an adviser to one of the unsuccessful bidders when the highway was privatized; Sandford Borins was a member of the board of directors of the Ontario Transportation Capital Corporation, the Crown corporation responsible for building the highway, from 1995 to 1998. We describe ourselves as observers because neither was a key decision-maker, but we were reasonably

close to the thinking of those who were. We have also interviewed many senior public servants associated with the management of the project. Some of those we have interviewed have also commented on drafts of this book.

We begin with a discussion of the background to Highway 407 in terms of economic growth in the Greater Toronto Area (GTA). Chapter 3 then describes the Ministry of Transportation's standard approach to highway construction, and why it was inappropriate in this instance, outlining how the financial constraints of the recession of the early Nineties led the Rae government to develop this highway by seeking out private sector partnerships and using leading-edge electronic road pricing technology. Chapter 4 describes how the Rae government implemented this new approach to highway development by establishing a process for two private sector consortia to bid on constructing the road, installing the road-pricing technology, and financing the project. Chapter 5 discusses the government's choice of a consortium to build the highway as well as the controversy that the decision created.

While the method of contracting was itself unconventional, the method of monitoring the contract was no less a departure from tradition. Chapter 6 discusses the establishment, functions, and staffing of the Ontario Transportation Capital Corporation, a Crown corporation with the responsibility for overseeing both road construction and development of the electronic tolling system. The chapter also discusses the approach taken to funding the highway. Chapter 7 deals with the building of the highway, in particular, crises that occurred when the road design was criticized as unsafe and the tolling technology was not working. The chapter culminates with the resolution of these crises and the opening of Highway 407 as an electronic toll road. Traffic grew rapidly, and approximately two years after its opening, Highway 407 was privatized; chapter 8 deals with the process and the choice of a consortium to hold a 99-year lease on the highway. Though the privatization maximized immediate revenue to the government, we argue that this was not in the long-term public interest. The chapter also discusses developments after privatization, including the McGuinty government's ongoing dispute with the concessionaire.

Chapter 9 represents our final evaluation of Highway 407 from several points of view. We look at its performance as a large technology-based project and we consider the effectiveness of OTCC

as an organizational structure for managing such projects. We discuss the significance of political and bureaucratic leadership in implementing the 407 project. We review the fairness and transparency of the development and privatization processes and assess the appropriateness of tolls charged. We propose two alternative models of operating Highway 407 that would have been more consistent with the public interest. Finally, as a means of placing this single, complex case in a larger theoretical context, we address the key issues of public management and transportation policy it raises and draw out lessons.

Following chapter 9, we have included a chronological appendix for the reader's reference.