

The Globe and Mail Saturday April 12, 2008

Six jailed leaders deserve better in native land dispute

MURRAY CAMPBELL

mcampbell@globeandmail.com

April 12, 2008

There are a half-dozen reasons why the Ontario government's hope for better relations with aboriginals is not going to be fulfilled soon.

All the reasons are found in jail.

The incarceration of six northern aboriginal leaders as part of a dispute with a mining exploration company has cast a cloud over the government's desire, as it said in last year's Throne Speech, "to forge a stronger, more positive relationship with Ontario's first nations."

The jailing of the leaders from the Kitchenuhmaykoosib Inninuwug First Nation, a fly-in community 580 kilometres north of Thunder Bay, has angered the people Aboriginal Affairs Minister Michael Bryant needs to talk to.

Some leaders have suspended bilateral talks with the government, while others talk of the "outpouring of anger" over the jailing of the KI leaders for contempt of court for failing to obey a court order that would have given junior mining company Platinex drilling rights on their traditional lands.

National Chief Phil Fontaine of the Assembly of First Nations lumps Ontario with governments that have failed to protect the rights of aboriginals established in recent Supreme Court rulings.

Not to be outdone, the Mining Association of Canada charges that the McGuinty government has precipitated the KI crisis by sticking its head in the sand.

The tussle between Platinex and KI has been going on for a decade, but it escalated on the Liberals' watch. The natives are seeking to protect their lands from unwanted development, and the government has allowed the dispute to roll out under outdated rules.

Two years ago, four KI residents walked 2,000 kilometres to Toronto to criticize the government for failing to revise its mining legislation to bring it in line with Supreme Court judgments requiring governments to consult with aboriginals before treaty lands are developed.

The current Mining Act, which dates from 1873, gives the industry free access to lands in search of minerals regardless of who owns the surface rights. Widespread development north of the 51st parallel has been prevented by a moratorium imposed 30 years ago but, in law, native bands are still powerless.

The Liberals recognized the need for a legal overhaul by pledging in 2003 to implement a comprehensive land-use plan, but it never happened, largely because of the intransigence of the Ministry of Northern Development and Mines.

"Had they kept this promise, the whole debacle with KI could have been avoided," said Anna Baggio of the Wildlands League.

Mr. Bryant inherited a bad hand when he took over at the pumped-up Aboriginal Affairs Ministry last fall. He didn't want the KI leaders jailed but that was out of his hands. He talks enthusiastically about working with natives to rewrite the mining law, but the decision by the organization representing 49 native bands in Northwestern Ontario to suspend discussions with the government doesn't make that easy. He wants the KI leaders freed but he has no say on bail conditions.

Mr. Bryant is also dealing with a jailing of a native leader in Eastern Ontario who tried to stop prospectors from surveying on traditional native lands. And then, of course, there's protracted tension over Caledonia. It's no wonder native leaders are nervous about keeping the lid on during the May 29 "day of action."

One course of action is open. The law allows the cabinet to nullify a mining claim, and Mr. Bryant has to persuade the cabinet to pass such a withdrawal order for Platinex so consultations can continue under less-feverish conditions.

Ontario Regional Chief Angus Toulouse doesn't expect Mr. Bryant to perform miracles but says the time is overdue for action on getting new processes. "We've got to get going."

The new era should start with the release of the KI Six.