

**Mokomoko (Restoration of
Character, Mana, and Reputation)
Bill**

**Te Pire mō Mokomoko (Hei
Whakahoki i te Ihi, te Mana, me te
Rangatiranga)**

Government Bill

As reported from the Māori Affairs
Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Mokomoko (Restoration of Character, Mana, and Reputation) Bill and recommends that it be passed with the amendment shown.

Introduction

Mokomoko, a Te Whakatōhea Rangatira, was tried and executed in 1866 for the murder of Carl Sylvius Volkner. Mokomoko maintained his innocence throughout the trial. He was originally buried at Auckland Jail and Courthouse, but was reinterred at Waiaua Marae at Ōpōtiki in October 1989.

Mokomoko was granted a free pardon by the Governor-General in 1992. However this pardon was granted without consulting te whānau a Mokomoko, and differed from the pardon granted to two men of Ngāti Awa for the same event. Te whānau a Mokomoko were concerned that the terms of the 1992 pardon for Mokomoko did not expressly restore his character, mana, and reputation, or those of his uri (descendants).

Te whānau a Mokomoko and the Crown signed an agreement in September 2011 regarding the introduction of legislation to give statutory recognition to the Mokomoko pardon and to further the Crown's objective of building healthy relationships with te whānau a Mokomoko. While the purpose of the bill is to give legal effect to the agreement, its enactment would not preclude the whānau from seeking through the Treaty of Waitangi settlement process to pursue their aspirations in respect of the restoration of the character, mana, and reputation of Mokomoko and his uri; and the settlement of their historical Treaty of Waitangi claims, by means including exploring the possibility of separate settlement negotiations between the Crown and te whānau a Mokomoko.

Preamble

This issue was discussed by Crown officials with te whānau a Mokomoko. The whānau wished for an expanded historical narrative, but this would have required a renegotiation of the previously signed agreement, which in turn would require approval by Cabinet. We acknowledge the whānau's concern about this issue being overwhelmed in a larger Treaty settlement, particularly as their relationship with their potential co-claimants has not always been positive. We are disappointed that the two parties could not come to an agreement on these issues.

We note that the preamble outlines the background to the trial and execution of Mokomoko and its impact on te whānau a Mokomoko, the Waitangi Tribunal findings on the matter, and the details of the 1992 pardon. It includes an acknowledgement by the Crown that the terms of the 1992 pardon did not expressly restore his character, mana, and reputation, or those of his uri. Importantly, the preamble includes a statement of regret by the Crown for any ongoing shame or stigma this has caused his uri.

We are satisfied that the bill acknowledges that the Crown should have consulted te whānau a Mokomoko about the wording of the free pardon. Part 2 of the bill specifically provides that the character, mana, and reputation of Mokomoko and his uri are restored by the passing of the bill.

Apology

We note that te whānau a Mokomoko also requested an apology from the Crown to be included in this bill, but understand that such a step also would require Cabinet approval. Like the requested historical narrative, an apology might be more appropriately included in a Treaty settlement

Te Reo Māori translation

We support the wish of te whānau a Mokomoko and have recommended amending the bill by inserting a Te Reo Māori translation into it. This would allow the uri of Mokomoko to read the legislation in the language of their tupuna. To do so would be a legal first, as it appears that no legislation has previously been enacted including a full translation in Te Reo Māori.

We considered the possibility that a precedent could be set if a full Te Reo Māori translation were inserted into the bill. However, because of the special nature of this particular bill, we do not believe that this would happen.

We are advised that translating this legislation before enactment would have the legal impact that the English and Te Reo Māori versions would be considered equal and any inconsistencies between them would have to be resolved in a court of law.

The committee realises the positive impact that the dual translation could have on future legislation.

We acknowledge the contribution of our friend and colleague Hon Parekura Horomia during the passage of this bill.

Appendix

Committee process

Bill was referred to the committee on 24 October 2012. The closing date for submissions was 6 December 2012. We received and considered six submissions from interested groups and individuals.

A subcommittee was formed to hear submissions. It heard two submissions in Ōpōtiki.

We received advice from the Ministry of Māori Development and the Parliamentary Counsel Office.

Committee membership

Hon Tau Henare (chairperson)

Te Ururoa Flavell

Hone Harawira

Claudette Hauiti

Brendan Horan

Hon Nanaia Mahuta

Katrina Shanks

Rino Tirikatene

Metiria Turei

Nicky Wagner

Jonathan Young

Te Pire (Whakaoranga i te Āhuatanga, Mana, me te Ingoa Pai) o Mokomoko

Pire Kāwanatanga

Tērā nā te Komiti Whiriwhiri Take Māori i
whakatakoto ā-tuhituhi

Ngā Kōrero

Tūtohutanga

Kua āta tirohia e te Komiti Whiriwhiri Take Māori Te Pire (Whakaoranga i te Āhuatanga, Mana, me te Ingoa Pai) o Mokomoko, ā, ka tūtohu kia whakamanahia me te whakatikatika kua oti te whakaatu.

Kupu Whakataki

I te tau 1866, i whakawātia, i whakamatea hoki a Mokomoko, rangatira o Te Whakatōhea, mō te kōhurutanga o Carl Sylvius Volkner. I whakapuaki a Mokomoko i tana haranga kore puta noa i te haerenga o te whakawātanga. I tanumia ia i te tuatahi, ki te Whareherehere me te Kōti o Tāmaki-makau-rau, ā, nō te marama o Whiringa-ā-nuku o te 1989, i tanumia anōtia a ia ki te Marae o Waiaua i Ōpōtiki.

I te tau 1992, i whakaheia tētahi unuhanga hara e te Kāwana-Tiara ki a Mokomoko. Heoi, i whakaheia tēnei wetenga hara me te kore whai whakawhitinga whakaaro i te whānau a Mokomoko, me te rerekē anō o te wetenga hara i whakaheia ki ngā tangata e

rua o Ngāti Awa mō te kaupapa rite. I te māharahara te whānau a Mokomoko, kāore ngā ritenga o te wetenga hara mō Mokomoko i te tau 1992 i whakaora tonu ake i te āhuatanga, te mana me te ingoa pai o Mokomoko, ā, me ērā rānei o ōna uri.

I waitohungia tētahi whakaaetanga e te whānau a Mokomoko me te Karauna, i te māranga o Mahuru 2011 e pā ana ki te whakatakinga o te hanganga ture hei whakarite arotanga ā-ture ki te wetenga hara o Mokomoko, me te kauneke i te whāinga a te Karauna ki te whakapakari hononga whaikiko i te taha o te whānau a Mokomoko. Ahakoa ko te kaupapa kē o te pire he whakamana i te whakaaetanga, kāore tōna whakamanatanga e aukati i te whānau ki te whaiwhai ake i ō rātou wawata mō te whakaoranga o te āhuatanga, te mana, me te ingoa pai o Mokomoko me ērā hoki o ōna uri; ā, me te whakataunga hoki o ō rātou kerēme hītori mō Te Tiriti o Waitangi, tae noa ki te hōpara tērā pea, ka taea he whiriwhiringa whakataunga wehe kē i waenganui i te Karauna me te whānau a Mokomoko.

Tauākī whakatīmata

I matapakia te take nei e ngā kiri āwhina o te Kārauna i te taha o te whānau a Mokomoko. Ko te hiahia ia o te whānau kia whakawhānuitia ake te kōrero hītori ēngari, ko te raruraru kē o tēnei hiahia, ko te hoki anō o ngā taha e rua ki te whiriwhiri anō i te whakaaetanga kua oti kē rā te haina i mua atu. Tua atu i tērā, ka hiahiatia anōtia hoki te whakaaetanga o te Rūnanga Kāwanatanga. Ka whakaae atu mātou ki te māharahara o te whānau mō te take nei, arā, te tāmiatanga e tētahi whakataunga Tiriti rahi rawa atu, i te mea, kāore tō rātou piringa ki ō rātou hoa-kaikereme pūmanawa noho puku kia tauake i ngā wā katoa. Kei te pāpōuri mātou kīhai ngā taha e rua i kaha ki te whakatu-tuki whakaaetanga mō te take nei.

Ko tērā kua kite mātou, whakamārama ai te tauākī whakatīmata i ngā kōrero o muri, mō te whakawātanga me te whakamatenga o Mokomoko me ōna tukinga i te whānau a Mokomoko. Whakamārama ai hoki i ngā kitenga a Te Rōpū Whakamana i te Tiriti o Waitangi mō te take, ā, me ngā taipitopito e pā ana ki te wetenga hara o te tau 1992. Kei roto i te tauākī whakatīmata he whākinga nā te Karauna, kāore ngā ritenga o te wetenga hara o te tau 1992 i tino whakaora ake i tōna āhuatanga, tōna mana me tōna ingoa pai, ā, me ērā hoki o ōna uri. Ko te mea nui rawa atu, kei roto

i te tauākī whakatīmata tētahi tauākī pā pōuri nā te Karauna ki ōna uri, mō tētahi whakamātanga, tau haetanga rānei ka haere tonu ki te tuki i a rātou.

Whakaae ai te pire, ko te tikanga kē kia haere te Karauna ki te rapu tohutohu i te whānau a Mokomoko, mō ngā kupu e pā ana ki te wetenga hara tuku noa. Kei te ngata mātou nā te mea, ko tērā kē te tikanga. Mārama ana te whakatakoto a Wāhanga 2 o te pire, mā te whakaaetanga o te pire e whakaoratia ake te āhuatanga, te mana, te ingoa pai o Mokomoko me ōna uri.

Te whakapāha

Kua kite mātou i tono te whānau a Mokomoko mō te whakapāha a te Karauna, kia raua ki roto i te pire nei ēngari, ki tō mātou mōhio ka whāia ana tērā, me hoki anō hoki ki te Rūnanga Kāwanatanga mō tōna whakaaetanga. Ā, pērā anō ki te kōrero hītori i tonohia, he tika kē ake pea, kia purua tētahi whakapāha ki roto whakataunga Tiriti.

Whakawhitinga ki Te Reo Māori

E tautoko ana mātou i te hiahia o te whānau a Mokomoko, ā, ka tūtohu hoki mātou kia whakatikaina te pire mā te whakauru whakamāoritanga ki roto. Mā tēnei e tukua ai ngā uri o Mokomoko ki te pānui i te hanganga ture i roto i te reo ake o tō rātou tupuna. Inā, ka pēneitia ana tēnei, kua noho mai rā hei mea tuatahi i te aroaro o te ture i te mea me te mea nei, kīhai anō he pire i mua kia purua tētahi whakawhitinga katoa i Te Reo Māori, ki roto.

I uru mai anō hoki ki a mātou te whakaaro tērā pea, he whakatakoranga tauira tēnei mā te whakauru i te katoa o tētahi whakamāoritanga ki roto i te pire. Heoi, nā te motuhake kē o te āhua o tēnei ake pire mātou ka whakapono, kore rawa tēnei e tūpono ake anō.

Ko te whakamaherehere ki a mātou e pēnei ana. Ko te papātanga ki te taha ture o te whakawhiti ā-tuhutuhi i tēnei hanganga ture i mua o te whakamanatanga, he ōrite te mana o ngā taha, arā, tērā mō Te Reo Pākehā, tērā mō Te Reo Māori. Nā, mō ngā maiororo i waenganui i ngā reo e rua, mā tētahi kōti ture ērā e whakatau.

E mōhio ana te komiti ki te pātanga tauake o ngā whakawhitinga ā-tuhutuhi tuarua ka pā ki ngā hanganga tūre kei mua i te aroaro.

Ka whakatau mātou i te āwhina o tō mātou hoa, mema Pāremata hoki a Hōnore Parekura Horomia i te wā haerenga o te pire nei.

Tāpiritanga

Hātepe o te komiti

Ka tonoa mai Te Pire (Whakaoranga i te Āhutatanga, Mana, me te Ingoa Pai) o Mokomoko ki te komiti, i te 24 o Whiringa-ā-nuku o te tau 2012. Ko te 6 o Hakihea 2012 te rā katinga mō ngā tāpaetanga. E ono ngā tāpaetanga i whiwhi, i whakaarohia e mātou mai i ngā kohinga whai pānga me te hunga takitahi hoki.

Ka whakatūria he komiti tuarua hei whakarongo ki ngā tāpaetanga ā-waha. E rua ngā tāpaetanga ā-waha i rongohia i Ōpōtiki.

I whiwhi whakamaherehere mātou mai i Te Puni Kōkiri me Te Tari Tohutohu Pāremata.

Ngā mema o te komiti, ko

Hōnore Tau Hēnare (heamana)

Te Ururoa Flavell

Hone Harawira

Claudette Hauiti

Brendan Horan

Hōnore Nanaia Mahuta

Katrina Shanks

Rino Tirikātene

Mētīria Tūrei

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**Mokomoko (Restoration of Character,
Mana, and Reputation) Bill**
**Te Pire mō Mokomoko (Hei Whakahoki i
te Ihi, te Mana, me te Rangatiratanga)**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

Hon Dr Pita Sharples

**Mokomoko (Restoration of
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Bill**

**Te Pire mō Mokomoko (Hei
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15 June 1992**

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a Mokomoko i te 15 o Hune 1992**

Preamble

- (1) In 1866, Te Whakatōhea Rangatira Mokomoko was tried and executed for the murder of Carl Sylvius Volkner. Following conviction, two of the co-accused of Mokomoko admitted their guilt. Those persons have since been pardoned. Throughout the trial Mokomoko maintained his innocence. 5
- (2) Following his conviction and before execution, Mokomoko composed the following waiata:

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Tangohia te taura i taku kakī, kia waiata au i taku waiata
Kore te tākiri e tute nei ki te moenga
Kei te hori te tangata tēnei au ki te raweke
He pono te kī nei taku rauhia ki te moenga
Koia kei te tangata mate kau au ki a te Uira
Whakarewha te titiro te hukinga ia hau utiti
He wareware noa te eke noa i te kaupuke
He ahi mumura te pānga mai o te whakamā
Me kawē ki tāwhiti hei homai mō te mekameka
Te rerenga o te rā, ko te Kāwana kei Ūropi
Māna e kī mai me tau au ki te tauwati
Hei tūtaki ake mō te kuaha o te pouaka
Haere mai nei au ka turaki mate ki te moenga eeee

Take the rope from my throat so I am able to sing my song
Violent shaking will not rouse me from my sleep
They treat me like a common thief
It is true that I embrace eternal sleep
For that is the lot of a man condemned to die
Shielded from harsh light
With confused view I reflect on the vengeance taken
And question the reason why
Remember how I was taken on board ship
Chained and shackled
The memory of the shame burns within me so deep
That to be taken to a place afar
Right or wrong I am to die
With the passing of time and the Governor of Europe
They decided that I must hang
With the closing of the lid on my box
Only then will I get peace and eternal rest eeee

- (3) Today te whānau a Mokomoko use the opening line of the waiata as a whakatauākī with the following interpretation:

Tangohia te taura i taku kakī, kia waiata au i taku waiata
Have the strength to speak up and the truth will not be silenced

- (4) Mokomoko was hanged and buried at the old Auckland Jail and Courthouse. He was reinterred at Waiau Marae at Ōpōtiki in October 1989, 123 years after his execution: 5

- (5) Reintering Mokomoko in 1989 was the first step for te whānau a Mokomoko towards obtaining justice for their tupuna. The next step for te whānau a Mokomoko was to seek to have the Crown recognise their view that he was innocent:

- (6) In 1988, those persons of Ngāti Awa descent who were arrested, tried, and labelled as rebels in or around 1865 were 10

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Preamble

- given a statutory pardon and their character, mana and reputation were restored to them, their whānau, and Ngāti Awa as a whole. This was given effect through section 11 of Te Runanga o Ngati Awa Act 1988 and that section is set out in the Schedule of Te Runanga o Ngati Awa Act 2005: 5
- (7) On 15 June 1992, the Governor-General issued a free pardon to Mokomoko. The wording of the free pardon was prepared without consultation with te whānau a Mokomoko:
- (8) Te whānau a Mokomoko were concerned that, unlike section 11 of the Te Runanga o Ngati Awa Act 1988, the terms of the pardon for Mokomoko did not expressly restore his character, mana, and reputation, nor the character, mana, and reputation of his uri: 10
- (9) In its Te Urewera (Part 1) Inquiry Report (April 2009), the Waitangi Tribunal found the following in relation to te whānau a Mokomoko claim (Wai 203): 15
- (a) by pardoning Mokomoko in 1992, the Crown acknowledged that its treatment of him had not been consistent with the Treaty of Waitangi; and
- (b) the form and wording of that pardon had not redressed the original Treaty grievance; and 20
- (c) a statutory pardon should be granted to Mokomoko following consultation with the claimants about the wording of the pardon; and
- (d) in addition, the Crown should consult with the claimants about the nature of an appropriate tribute to mark the wrong done by perpetuating the false view that Mokomoko was largely responsible for the raupatu: 25
- (10) The Crown acknowledges with regret that the terms of the pardon granted to Mokomoko in 1992 did not expressly restore his character, mana, and reputation nor the character, mana, and reputation of his uri. The Crown regrets any ongoing shame or stigma this has caused for his uri: 30
- (11) The Crown and te whānau a Mokomoko have negotiated in good faith the terms on which the free pardon granted to Mokomoko in 1992 may now be given statutory recognition and the character, mana, and reputation of Mokomoko and his uri are to be restored: 35

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Kupu whakataki

- (1) I te tau 1866, i whakawākia tētahi rangatira o Te Whakatōhea, ko Mokomoko, ka patua kia mate mō te kōhurutanga o Carl Sylvius Volkner. I muri mai o te whakataunga whiu, tērā tētahi tokorua i whakapaetia ki te taha i a Mokomoko i whāki i tō rāua hara. Nō muri mai, ka tukuna he muru ki ērā tokorua. I waenga i te whakawā, i pūmau a Mokomoko ki tana kore hara. 5
- (2) I muri mai i te whakataunga whiu, i mua i tana whakamatenga, ka titoa e Mokomoko te waiata e whai ake nei:

Tangohia te taura i taku kakī, kia waiata au i taku waiata
Kore te tākiri e tute nei ki te moenga
Kei te hori te tangata tēnei au ki te raweke
He pono te kī nei taku rauhia ki te moenga
Koia kei te tangata mate kau au ki a te Uira
Whakarewha te titiro te hukinga ia hau utiti
He wareware noa te eke noa i te kaipuke
He ahi mumura te pānga mai o te whakamā
Me kawe ki tāwhiti hei homai mō te mekameka
Te rerenga o te rā, ko te Kāwana kei Ūropi
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Right or wrong I am to die
With the passing of time and the Governor of Europe
They decided that I must hang
With the closing of the lid on my box
Only then will I get peace and eternal rest eeee

- (3) I ēnei rā, whakamahia ai e te whānau a Mokomoko te rārangi tuatahi o te waiata hei whakataukākī, me te whakapākehātanga e whai ake nei: 10

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Tangohia te taura i taku kakī, kia waiata au i taku waiata
Have the strength to speak up and the truth will not be silenced

- (4) I tāronahia kia mate a Mokomoko, ka tanumia ki te Whare-
herehere me te Wharekōti tawhito o Tāmaki Makaurau. Nō te
Oketopa o te tau 1989, ka hahua mai ia, ka nehua ki te marae
o Waiaua ki Ōpōtiki, e 123 ngā tau i muri mai i te whaka-
matenga: 5
- (5) Ko te nehutanga tuarua o Mokomoko i te tau 1989 te tapuwae
tuatahi mō te whānau a Mokomoko ki te rapu tika mō tō rātou
tupuna. Ko te tapuwae tuarua mō te whānau a Mokomoko, ko
te rapu whakaaetanga i te Karauna kia mana tō rātou whakaaro
kāore ōna hara: 10
- (6) Nō te tau 1988, ko ngā tāngata o Ngāti Awa i mauhereheretia, i
whakawākia, i tapaina he “tangata hara”, i roto i ērā wā o 1865
ka whakawhiwhia ki tētahi muru-ā-ture me te whakahokinga
o te ihi, te mana, te rangatiratanga ki a rāua, ki ō rāua whānau,
me Ngāti Awa whānui tonu. I whakamanatia ēnei āhuatanga
ki roto i te wāhanga 11 o te Ture o Te Runanga o Ngati Awa
1988, ā, kua whakatakotoria tērā wāhanga ki roto i te Kupu
āpiti o te Ture o Te Runanga mo Ngati Awa 2005: 15
- (7) I te 15 o Hune 1992, i tukuna e te Kāwana-Tianara tētahi muru
herekore ki a Mokomoko. Ko ngā tuhinga kōrero mō tērā
muru herekore i whakaritea ki waho o ngā whiriwhiringa ki
te whānau a Mokomoko: 20
- (8) Ka āwangawanga te whānau a Mokomoko, tērā karekau i rite
ki te wāhanga 11 o te Ture mo Te Runanga o Ngati Awa 1988,
ko ngā whakataunga o te muru mō Mokomoko kāore i āta
whakahoki i tana ihi, tana mana, me tana rangatiratanga, me te
kore hoki i whakahoki i te ihi, te mana, me te rangatiratanga o
āna uri: 25
- (9) I roto i tāna Rīpoata Patapatai mō Te Urewera (Wāhanga 1)
(i puta i te Āperira o 2009) i whakataua e te Taraipiunara o
Waitangi ēnei āhuatanga e whai ake nei e pā ana ki te kerēme
a te whānau a Mokomoko (Wai 203): 30
- (a) i tana tuku muru ki a Mokomoko i te tau 1992, i whakaae
te Karauna ko ana whakawhiu ki runga i a ia, karekau i
ōrite ki ngā whakaritenga o Te Tiriti o Waitangi; ā 35

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cl 1

- (b) ngā whakatakatokoranga o ngā kōrero me ngā kupu o taua muru karekau i aro atu ki ngā haranga Tiriti; ā
- (c) me tuku he muru-ā-ture ki a Mokomoko i muri mai o te whiriwhiringa kōrero me ngā kaikerēme mō ngā kupu tika hei whakauru ki roto i te muru; ā 5
- (d) hei tāpiri, kia kōrero te Karauna me ngā kaikerēme mō te āhua o tētahi tohu whakamihi e whakaatu ana i ngā kōrero hē, arā, nā Mokomoko i pakaru whānui ai te rau-patu:
- (10) E pōuri ana te Karauna mō tāna whakataunga kōrero mō te muru i tukuna ki a Mokomoko i te tau 1992 karekau i āta whakahoki rawa i tana ihi, me tana mana, me tana rangatiranga, me te ihi me te mana me te rangatiranga o āna uri. Kei te tino pōuri te Karauna mō te whakamā me ngā kōrero whakaparahako i pā ki runga ki āna uri: 10 15
- (11) Kua tau ngā whiriwhiringa pono i waenganui i te Karauna me te whānau a Mokomoko mō te muru i tukuna ki runga i a Mokomoko i te tau 1992, arā, me whakatau-ā-ture te whakaaetanga kia whakahokia te ihi, te mana me te rangatiranga o Mokomoko kia rite anō mō āna uri: 20

The Parliament of New Zealand therefore enacts as follows:
Nō reira, ka whakaturetia e te Pāremata o Aotearoa ēnei e whai ake nei:

- 1 Title** 25
This Act is the Mokomoko (Restoration of Character, Mana, and Reputation) Act **2011**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 1 Taitara** 30
Ko tēnei ture, ko Te Ture mō Mokomoko (Hei Whakahoki i te Ihi, te Mana, me te Rangatiranga) **2011**.

**Mokomoko (Restoration of Character,
Mana, and Reputation) Bill**
**Te Pire mō Mokomoko (Hei Whakahoki i
te Ihi, te Mana, me te Rangatiratanga)**

cl 2

2 **Tīmatatanga**

Ka whai mana tēnei Ture i te rā i muri tonu mai o whakaaetanga a te Kāwana-Tianara.

Part 1

Preliminary provisions

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3 **Purpose**

- (1) The purpose of this Act is to give legal effect to the agreement between the Crown and te whānau a Mokomoko dated 28 September 2011 relating to statutory recognition of the free pardon dated 15 June 1992 granted to Mokomoko by the Governor-General in exercise of the Royal prerogative of mercy. 10
- (2) To that end, this Act—
- (a) reproduces the text of the free pardon granted to Mokomoko; and
 - (b) acknowledges with regret that the free pardon did not expressly restore the character, mana, and reputation of Mokomoko nor the character, mana, and reputation of his uri and expresses the Crown’s regret for any ongoing shame or stigma this has caused for his uri; and 15
 - (c) acknowledges that the Crown should have consulted te whānau a Mokomoko about the wording of the free pardon; and 20
 - (d) restores the character, mana, and reputation of Mokomoko and the character, mana, and reputation of his uri; and 25
 - (e) does not prevent te whānau a Mokomoko from seeking through the Treaty settlement process the settlement of their historical Treaty of Waitangi claims.

4 **Interpretation**

In this Act, unless the context otherwise requires,— 30

agreement means the Agreement to Introduce Legislation to Give Statutory Recognition to the Mokomoko Pardon between the Crown and te whānau a Mokomoko dated 28 September 2011 and signed by—

- (a) the Minister of Māori Affairs, the Honourable Dr Pita Sharples, for the Crown; and 35

(b) Tuiringa Mokomoko for te whānau a Mokomoko
Crown has the meaning given by section 2(1) of the Public
Finance Act 1989

free pardon means the free pardon dated 15 June 1992
granted to Mokomoko by the Governor-General, Dame 5
Catherine Tizard, in exercise of the Royal prerogative of
mercy and reproduced in the **Schedule**

uri, in relation to Mokomoko, means those persons who de-
scend from Mokomoko by any of the following:

- (a) birth: 10
- (b) legal adoption:
- (c) whāngai (Māori customary adoption) in accordance
with tikanga.

5 Act binds the Crown

This Act binds the Crown. 15

Part 2

**Crown acknowledgements and restoration
of character, mana, and reputation**

6 Crown acknowledgements

- (1) The Crown— 20
 - (a) acknowledges with regret that the free pardon granted
to Mokomoko did not expressly restore his character,
mana, and reputation, nor the character, mana, and repu-
tation of his uri; and
 - (b) expresses its regret for any ongoing shame or stigma 25
that this has caused for his uri.
- (2) The Crown acknowledges with regret that it should have con-
sulted te whānau a Mokomoko about the wording of the free
pardon.
- (3) The Crown acknowledges that nothing in this Act prevents te 30
whānau a Mokomoko from seeking through the Treaty settle-
ment process the settlement of their historical Treaty of Wai-
tangi claims.

**7 Character, mana, and reputation of Mokomoko and his
uri restored**

It is declared that on and after the passing of this Act, the character, mana, and reputation of Mokomoko are restored and the character, mana, and reputation of his uri are restored.

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Wāhi 1
Tuhinga hukihuki

3 Kaupapa

(1) Ko te kaupapa o tēnei Ture, ko te whakamana-ā-ture i ngā whakaaetanga i waenga i te Karauna me te whānau a Mokomoko i te rā 28 o Hepetema 2011 e pā ana ki te whakamananga-ā-ture i te muru herekore i tukua ki a Mokomoko i te 15 o Hune 1992 e te Kāwana-Tianara i runga i te tikanga e kīia nei ko te whakataunga aroha o te Karauna.

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(2) Hei whakatutuki i ēnei āhuatanga, ka riro mā tēnei Ture hei—

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(a) whakatakoto anō i ngā kōrero mō te muru herekore i whakawhiwhia ki a Mokomoko; ā

(b) whakaatu, me te tino pōuri, karekau i tuhia ki roto i te muru herekore he kupu hei āta whakahoki i te ihi, te mana, me te rangatiratanga o Mokomoko me te ihi,

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te mana, me te rangatiratanga o āna uri, hei whakaatu hoki i te tino pōuri o te Karauna mō te whakama me

ngā mahi whakaparahako e tau ana ki runga i ngā uri; ā

(c) whakaatu, ko te tikanga me kōrero te Karauna ki te whānau a Mokomoko mō ngā kupu tika mō te muru herekore; ā

25

(d) whakahoki i te ihi, te mana, me te rangatiratanga o Mokomoko, hei whakahoki anō i te ihi, me te mana me

te rangatiratanga o āna uri; ā

(e) kore e aukati i te whānau a Mokomoko ki te rapu i te whakataunga o ā rātau kerēme Tiriti hītori ki roto i ngā

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tikanga mō te whakatau kerēme e pā ana ki Te Tiriti o Waitangi.

4 Whakamāoritanga

Kei roto i tēnei Ture, mei kore rānei i ngā tuhinga kōrero,—

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whakaaetanga ko te Whakaaetanga ki te Whakauru Ture hei Whakamana-ā-Ture i te Muru a Mokomoko i waenga i te Karauna me te whānau a Mokomoko i oti i te 28 o Hepetema 2011, ā, i hainatia e—

(a) te Minita mō ngā Take Māori, te Hōnore Tākuta Pita Sharples, mō te Karauna; me 5

(b) Tuiringa Mokomoko mō te whānau a Mokomoko

Karauna ko ngā whakamāramatanga kei roto i te wāhanga 2(1) o te Ture Pūtea Tūmatanui 1989

Te Muru Herekore ko te muru herekore i tukuna i te 15 o Hune 1992 ki a Mokomoko e te Kāwana-Tianara, e Kahurangi Catherine Tizard, i runga i te tikanga e kīia nei ko te whakataunga aroha o te Karauna, ā, e takoto ana ki roto i te 10

Kupu āpiti

Uri, e pā ana ki a Mokomoko, ko te tikanga ko te hunga i whakaheke whakapapa mai i a Mokomoko mai i etahi o ēnei e whai ake nei: 15

(a) whānau:

(b) whāngai-ā-ture:

(c) whāngai (whāngai tikanga Māori). 20

5 Ture here i te Karauna

Ka herea te Karauna e tēnei Ture.

Wāhi 2

**Ngā whakaaetanga a te Karauna me
te whakahoki i te Ihi, te Mana, me te
Rangatiratanga** 25

6 Ngā whakaaetanga a te Karauna

(1) E mea ana te Karauna—

(a) e whakaae ana, me te tino pōuri, kāore te muru herekore i whakawhiwhia ki a Mokomoko i āta whakahoki rawa i tana ihi, tana mana, me tana rangatiratanga, kāore hoki i āta whakahoki i te ihi, te mana, me te rangatiratanga o āna uri; ā 30

(b) e tino pōuri ana mō te whakamā me ngā kōrero whakaparahako i tau ki runga i āna uri. 35

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Part Wāhi 2 cl 7

(2) E whakaae ana te Karauna, me te tino pōuri, ko te tikanga ia kua kōrero ki te whānau a Mokomoko mō ngā kupu tika mō te muru herekore.

(3) E whakaae ana te Karauna karekau he mea kei roto i tēnei Ture e aukati ana i te whānau a Mokomoko ki te rapu i te whakataunga o ā rātau kerēme Tiriti hītori ki roto i ngā tikanga mō te whakatau kerēme e pā ana ki Te Tiriti o Waitangi. 5

7 **Te whakahoki i te ihi, te mana, me te rangatiratanga o Mokomoko me āna uri**

E kīia ana, hei te wā e whakamanatia ai tēnei Ture, ā, hei muri ake nei, kua whakahokia te ihi, te mana, me te rangatiratanga o Mokomoko, ā, kua whakahokia anō hoki te ihi, te mana, me te rangatiratanga o āna uri. 10

Schedule

s 4

**Text of free pardon granted to Mokomoko
dated 15 June 1992**

The text of the free pardon granted to Mokomoko dated 15 June 1992 is as follows:

Free Pardon

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Governor-General

To all whom these presents shall come:

WHEREAS on the 4th day of April 1866 Mokomoko was convicted in the Supreme Court at Auckland of the murder of Carl Sylvius Volkner and sentenced to death, and was subsequently executed:

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And whereas the said Mokomoko was of Whakatohea descent:

And whereas three other persons were also convicted with Mokomoko on the 4th day of April 1866 of the murder of Carl Sylvius Volkner, those three persons being of Ngati Awa descent:

And whereas section 11 of the Te Runanga o Ngati Awa Act 1988 restores the character, mana and reputation of the persons of Ngati Awa descent who were arrested, tried and labelled as rebels in or about 1865 and grants to them a full pardon in respect of all matters arising out of the land wars of 1865:

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And whereas it appears that one of the incidents of section 11 of the Te Runanga o Ngati Awa Act 1988 is to pardon the three persons convicted with Mokomoko of the murder of Carl Sylvius Volkner:

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And whereas it appears to me just and expedient that a pardon should also be granted to Mokomoko:

Now therefore I, Catherine Anne Tizard, Governor-General of New Zealand, acting upon the advice of the Minister of Justice, do hereby in the name and on behalf of Her Majesty, grant to the said Mokomoko a free pardon in respect of the said crime.

25

Kupu āpiti

s 4

**Ko ngā kōrero o te muru herekore i
whakawhiwhia ki a Mokomoko i te 15 o
Hune 1992**

Ko ngā kōrero mō te muru herekore i whakawhiwhia ki a Mokomoko
i te 15 o Hune 1992 ko ēnei e whai ake nei: 5

Muru Herekore

Kāwana-Tianara

Ki a koutou katoa ka whai wāhi ki ngā koha e rārangi iho nei:

NŌ TE MEA i te 4 o ngā rā o Āperira 1866, i whiua a Mokomoko i
te Kōti Hūpirīmi i Tāmaki Makaurau mō te kōhuru i a Carl Sylvius
Volkner, ka whakatauria kia mate, ā, ka whakamatea: 10

Ā, nō te mea hoki he uri taua Mokomoko nō Te Whakatōhea;

Ā, nō te mea hoki e toru atu ano ngā tāngata i whiua me Mokomoko
i te 4 o Āperira 1866 mō te kōhuru i a Carl Sylvius Volkner, ā, nō
Ngāti Awa ērā tokotoru: 15

Ā, nō te mea hoki, i te wāhanga 11 o te Ture mo Te Runanga o Ngāti
Awa 1988 ka whakahokia te ihi, me te mana, me te rangatiratanga o
ngā tāngata katoa o Ngāti Awa i mauhereheretia, i whakawākia, i kīia
he tangata hara i te wā tata ki te 1865 ka whakawhiwhia he muru ki a
rātou mō ngā whakawhiua hara ki runga i a rātou i pakaru mai i ngā
pakanga whenua i te tau 1865: 20

Ā, nō te mea hoki ko tētahi tikanga i kitea kei roto i te wāhanga 11 o
te Ture mo Te Runanga o Ngāti Awa 1988, ko te muru i ngā tokotoru
i whiua me Mokomoko mō te kōhuru i a Carl Sylvius Volkner: 25

Ā, nō te mea hoki, i kitea e ahau he tika te whakawhiwhi muru ki a
Mokomoko:

Nō reira ko ahau ko Catherine Anne Tizard, Kāwana-Tianara o
Aotearoa, e whai ana i ngā tohutohu a te Minita mō te Ture, e
mahi ana ki runga i te ingoa o Te Arikiniui, ka whakawhiwhi ki a
Mokomoko he muru herekore mō te hara e kōrerotia ake nei. 30

**Mokomoko (Restoration of Character,
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**Te Pire mō Mokomoko (Hei Whakahoki i
te Ihi, te Mana, me te Rangatiratanga)**

Legislative history

12 December 2011
24 October 2012

Introduction (Bill 343–1)
First reading and referral to Māori Affairs
Committee
