



**Mokomoko (Restoration of
Character, Mana, and Reputation)
Act 2013**

**Te Ture mō Mokomoko (Hei
Whakahoki i te Ihi, te Mana, me te
Rangatiratanga) 2013**

Public Act 2013 No 150
Date of assent 17 December 2013
Commencement see section 2

Contents—Rārangi take

	Page
Preamble	2
1 Title	7
2 Commencement	7
1 Taitara	7
2 Tīmatatanga	8
Part 1	
Preliminary provisions	
3 Purpose	8
4 Interpretation	8
5 Act binds the Crown	9
Part 2	
Crown acknowledgements and restoration of character, mana, and reputation	
6 Crown acknowledgements	9

	Mokomoko (Restoration of Character, Mana, and Reputation) Act 2013	
	Te Ture mō Mokomoko (Hei Whakahoki i te Ihi, te Mana, me te Rangatiratanga) 2013	2013 No 150
Preamble		

7	Character, mana, and reputation of Mokomoko and his uri restored	10
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**Wāhi 1
Tuhinga hukihuki**

3	Kaupapa	10
4	Whakamāoritanga	10
5	Ture here i te Karauna	11

**Wāhi 2
Ngā whakaaetanga a te Karauna me te whakahoki i te
ihi, te mana, me te rangatiratanga**

6	Ngā whakaaetanga a te Karauna	11
7	Te whakahoki i te ihi, te mana, me te rangatiratanga o Mokomoko me āna uri	12

	Schedule	13
	Text of free pardon granted to Mokomoko dated 15 June 1992	

	Kupu āpiti	14
	Ko ngā kōrero o te muru herekore i whakawhiwhia ki 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:
- (2) Following his conviction and before execution, Mokomoko composed the following waiata:

**Mokomoko (Restoration of Character,
Mana, and Reputation) Act 2013**
**Te Ture mō Mokomoko (Hei Whakahoki i te
Ihi, te Mana, me te Rangatiratanga) 2013**

2013 No 150

Preamble

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) 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

**Mokomoko (Restoration of Character,
Mana, and Reputation) Act 2013**
**Te Ture mō Mokomoko (Hei Whakahoki i te
Ihi, te Mana, me te Rangatiratanga) 2013**

Preamble

2013 No 150

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 Ngāti Awa Act 1988 and that section is set out in the Schedule of Te Runanga o Ngāti Awa Act 2005:

- (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 Ngāti 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:
- (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):
 - (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
 - (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:
- (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:
- (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:

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:
- (2) I muri mai i te whakataunga whiu, i mua i tana whakamatenga, ka titoa e Mokomoko te waiata e whai ake nei:

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Me kawē ki tāwhiti hei homai mō te mekameka
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Remember how I was taken on board ship
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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) 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:

**Mokomoko (Restoration of Character,
Mana, and Reputation) Act 2013**
**Te Ture mō Mokomoko (Hei Whakahoki i te
Ihi, te Mana, me te Rangatiratanga) 2013**

Preamble

2013 No 150

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 Whareherehere 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 whakamatenga:
- (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:
- (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 āhuetanga 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:
- (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:
- (8) Ka āwangawanga te whānau a Mokomoko, tērā karekau i rite ki te wāhanga 11 o te Ture o 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:
- (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 āhuetanga e whai ake nei e pā ana ki te kerēme a te whānau a Mokomoko (Wai 203):
 - (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

- (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
 - (d) hei tāpiri, kia kōrero te Karauna me ngā kaikerēme mō te āhua o tētahi tohu whakamihī e whakaatu ana i ngā kōrero hē, arā, nā Mokomoko i pakaru whānui ai te raupatu:
- (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 rangatiratanga, me te ihi me te mana me te rangatiratanga o āna uri. Kei te tino pōuri te Karauna mō te whakamā me ngā kōrero whakaparahako i pā ki runga ki āna uri:
- (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 rangatiratanga o Mokomoko kia rite anō mō āna uri:

**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

This Act is the Mokomoko (Restoration of Character, Mana, and Reputation) Act 2013.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

1 Taitara

Ko tēnei ture, ko Te Ture mō Mokomoko (Hei Whakahoki i te Ihi, te Mana, me te Rangatiranga) 2013.

2 Tīmatatanga

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

Part 1 Preliminary provisions

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.
- (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
 - (c) acknowledges that the Crown should have consulted te whānau a Mokomoko about the wording of the free pardon; and
 - (d) restores the character, mana, and reputation of Mokomoko and the character, mana, and reputation of his uri; and
 - (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,—

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

(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 Catherine Tizard, in exercise of the Royal prerogative of mercy and reproduced in the Schedule

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

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

5 Act binds the Crown
This Act binds the Crown.

Part 2
**Crown acknowledgements and restoration
of character, mana, and reputation**

6 Crown acknowledgements

- (1) The Crown—
 - (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 reputation of his uri; and
 - (b) expresses its regret for any ongoing shame or stigma that this has caused for his uri.
- (2) The Crown acknowledges with regret that it should have consulted te whānau a Mokomoko about the wording of the free pardon.
- (3) The Crown acknowledges that nothing in this Act prevents te whānau a Mokomoko from seeking through the Treaty settlement process the settlement of their historical Treaty of Waitangi 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.

**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.
- (2) Hei whakatutuki i ēnei āhuatanga, ka riro mā tēnei Ture hei—
- (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, te mana, me te rangatiratanga o āna uri, hei whakaatu hoki i te tino pōuri o te Karauna mō te whakamā 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
 - (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 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,—

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
- (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 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:

- (a) whānau;
- (b) whāngai-ā-ture;
- (c) whāngai (whāngai tikanga Māori).

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**

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

- (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.

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.

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

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:

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:

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:

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.

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:

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:

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:

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:

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

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.

Legislative history

12 December 2011	Introduction (Bill 343–1)
24 October 2012	First reading and referral to Māori Affairs Committee
28 June 2013	Reported from Māori Affairs Committee (Bill 343–2)
22 October 2013	Second reading
10 December 2013	Committee of the whole House, third reading
17 December 2013	Royal assent

This Act is administered by Te Puni Kōkiri.
