



Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana

157—1

Te pūrongo a te Komiti Whiriwhiri Take Māori
Whiringa-ā-Rangi 2019

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Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana

Tūtohutanga

Kua tirohia e te Komiti Whiriwhiri Take Māori Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana, ā, tūtohu ai kia whakamanatia, kia kaua e menemanatia.

Mō te pire i whakaurua rā

He poropiti Māori, he kaiwhakaora ā-whakapono, he kaiporotēhi tikanga whenua hoki a Rua Kēnana. I te tau 1916 ka mauheretia ia mō te kaikawaiū i te whakaeketanga o Maungapōhatu. Ko tāna tētahi o ngā kēhi i āta tirohia rawatia i te hītori o Aotearoa mai anō i te taenga mai o tauīwi.

Kapohia ai ki te pire ko te murunga hara ā-ture mō Rua Kēnana, ko te whakaaetanga me te whakapāha a te Karauna ki a Rua Kēnana me ōna uri. Ka whakamana te pire nei i te whakaaetanga i waenga i te Karauna me *Ngā Toenga o Ngā Tamariki a Iharaia me Ngā Uri o Maungapōhatu Charitable Trust* i waitohua i te 9 Mahuru 2017.

Ko te pūtake o te pire ko te hāpai anō i te āhua, te mana, me te ingoa o Rua Kēnana me ōna uri; me te whakapāha mō te mamae, te whakamā, me te poapoataunu i pā nā runga i te whakaeketanga o Maungapōhatu. I whakahoahoatia te pire hei whakamārirī i te mamae e pā tonu ana ki ngā uri o Rua, ā, ka hāngai hoki ki ngā whāinga a te Karauna, arā ko te whakahau i te hounga o te rongo i muri mai i ngā hara hītori.

Ngā kōrero hītori

Rua Kēnana

He poropiti Māori, he kaiwhakaora ā-whakapono, he kaiporotēhi tikanga whenua hoki a Rua Kēnana (1869–1937). Nāna anō ia i tapa ko Te Mihaia Hōu, ā, i kī ia koia te piki tūranga o Te Kooti Arikirangi, ko Hepetipa, māna e kerēme anō ngā whenua o Tūhoe i ngaro atu rā ki ngā ringa o te Pākehā. I te tau 1907 i whakatū a Rua i te hāpori ririkore, te hāpori whakapono (te whakapono Iharaia) ki te maunga tapu o Tūhoe, ki Maungapōhatu, i te Urewera.

Te whakapaetanga o Rua Kēnana

I te Hongongoi 1916 ka whakapaetia a Rua Kēnana mō te “ātetetanga ā-matatika” ki te mauherenga ōna e te pirihimana i te Huitanguru 1916. Ko te pūtake o taua mauherenga ko ngā wārati i whakaputaina e te Kaiwhakawā i te Kohitātea 1916, e herea ai a Rua ki te whareherehere mō ngā whakataunga whakapae i te Haratua o te tau ō mua, arā mō te hoko waipiro, ā, kāore he raihana. Kāore i te mārāma te take i whakaohongia anō ai te whakawhiu, he kore nō Rua i whakapaetia ki tētahi atu hara hou i waenga i te ākinga o te whakawhiu tārewa i te Haratua 1915, me te whakaohonga anō o te whakawhiu i te Kohitātea 1916. I whakapono a Rua kua whiua kētia ia mō aua hara. Ka haere iho ngā pirihimana ki te

mauhere i a ia, ka whakamōhiotia e Rua ki taua take, ā, ka kore ia e haere i te taha i a rātau. Nā tēnei hinonga i whakapaetia anō ai a ia mō te ātetetanga mauherenga, me te whakahua kupu kaikaiwaiū.

I te 2 Paengawhāwhā 1916, e 70 ngā pirihihana mau pū i tae atu ki Maungapōhatu ki te mauhere i a Rua. Me te aha ka pakō ngā pū a tēnā taha me tēnā taha, ka mate te tamaiti a Rua, a Toko Rua, me tētahi atu tāne rangatahi, a Te Maipi. Tokotoru atu ngā kainoho, ā, tokowhā ngā āpiha pirihihana i taotū. E 31 ngā tāne o Maungapōhatu i mauheretia, ā, e toru rā rātau i mau rā. I te 5 Paengawhāwhā, ka wehe ngā pirihihana i Maungapōhatu i te taha o Rua me ētahi atu mauhere tokorima. E 18 marama a Rua e mau ana i te whareherehere i runga i taua whakataunga whakapae. Ka makere noa ngā whakapaetanga o ētahi atu tāngata tokorima i te Mahuru 1916, i muri mai i te maunga ō rātau ki te whareherehere mō ētahi marama huhua.

I muri mai i ngā hinonga i puta ake i te mauheretanga o Rua, ka heke te Whakaponoharaira i tētahi auheke roroa tonu.

Te whakatau a Te Rōpū Whakamana i te Tiriti o Waitangi

I roto i tana pakirehua i te tau 2012, ka whakatau Te Rōpū Whakamana i te Tiriti o Waitangi he kaha rawa te pā a te ringa o te pirihihana ki te hapori o Maungapōhatu. Ka whakatau hoki te Rōpū i wāhia te Tiriti o Waitangi, he kore nō ngā mahi a te Karauna e pai ki te hapori e pā ana ki āna mahi mauhere i a Rua. Ka whakatau hoki te Rōpū he wāwāhi ture te mauheretanga o Rua, nā te mea i mahia i te Rātapu, te rangi kotahi e kore nei te wārati e āhei kia tukuna.¹

Te tautoko mō te pire

Ka kite mātou he tautoko, tautoko ake nei tā ngā kaitāpae e pā ana ki te pire kia kōkiri te pire, hāunga ētahi kaitāpae tokotoru i kore nei e whāki i te whakaae, i te kore e whakaae rānei. I rongo mātou mai i ētahi kaitāpae tokomaha e hiahia ana kia whakamanatia te pire i mua i te mutunga o te tau 2019. He uri nō Rua Kēnana te nuinga o ngā kaitāpae.

I kimi ētahi kaitāpae i ētahi atu mahi kāore nei e kapohia ki te whakaaetanga i takea mai ai te pire. Ko ēnei ētahi:

- te hora o ētahi hinonga whakamōhio tūmatanui huri noa i te motu
- he whakapāha tūmataiti me tētahi whakapāha i ngā whaitua tūmatanui
- he hararei tūmatanui hei whakamaharatanga ki a Rua Kēnana
- te whakaakoranga o te hītori o Rua Kēnana ki roto i ngā kura
- he tohu whakamaharatanga ki a Rua Kēnana
- he reta whakamihi
- he utu paremata.

¹ <https://waitangitribunal.govt.nz/news/wai-894-te-urewera-pre-publication-part-iv-released-2/>.

Ka whakapono mātou kei waho ēnei marohitanga i te poutarāwaho o te pire.

Te whakaaro kāore te pire e eke ki te pae

I kī mai tētahi kaitāpae me nui atu tā te Karauna mahi i te muru noa iho i te hara o Rua mā te whāki i hēhē te kawenga o te ture. I rongu mātou he wāwāhi ture, he hē hoki te āhua o te whakaekenga me te kāho kōti hoki i whai atu, inā rā hoki te whakatau a te kaiwhakawā.

I tohua e te kaitāpae te rārangi 6(7) o te pire, e mea nei “kāore i te mārama he aha te whakawhiu i whakaohonga anō ai”, e pā ana ki te whakaohonga o tō Rua whakawhiu i te Kohitātea 1916. Ki te tirohanga o te kaitāpae, i panoni rawa te āhuatanga ā-hapori, ā-tōrangapū o Aotearoa i waenga i te 1911 me te 1915, nā te pakanga i piki rawa ai te aroha ki te motu, kātahi ka whiua rawatia te hunga i whakahē i te urunga ki te Hokowhitu a Tū. I kīia mai kāore a Rua i kite i te take e uru ai a Tūhoe ki te Pakanga Tuatahi o te Ao, ā, ka whakaohonga te whakawhiu i runga i aua waiaro, inā hoki i roto i te Kāwanatanga.

Ki te whakaaro o te kaitāpae, ehara tō Rua whakataunga whakapae, arā te “ātete ā-matatika i te mauheretanga”, i te hara whai mana e whakapaetia ai te tangata. I kīia mai ka whakamahia e te kaiwhakawā ngā kupu kia hāngai ai ki taua kāho, ā, me te aha ka kawea hētia te ture. I whakaaturia mai ki a mātou e te kaitāpae ngā kupu “ātete i te āpiha” i roto i te *Police Offences Act 1908*, ā, ka kī mai kei te horopaki o te ātete ā-tinana, kua ko te ātete ā-matatika², ko te whakamārama e tika ana.

Hoatu ai e te rārangi 8 o te pire te wāhi mō te whakapāha a te Karauna. I marohi te kaitāpae kia tāpirihia he rārangi hāmuri 8(c), e whāki ai te Karauna i te hēhē o te kawenga o te ture i roto i te pūnaha ture, ā, ko te pūtake ko ngā mahi a ngā pirihihama.

I marohi hoki te kaitāpae me whāki te rārangi 6(5), kāore i puta ake i ngā matenga o ngā tāne rangatahi, tae atu ki te tamaiti a Rua, ko tētahi pakirehua e pā ana ki ō rāua matenga, ko tētahi tangihanga rānei.

E kōkiri ai te pire

Ahako i kaingākau mātau ki te tāpaetanga ō runga ake nei i roto i tā mātau whiriwhiringa i te pire, e kaikā ana mātau ki te whakatutuki i ngā hiahia o wō Rua uri, e hiahia nei kia kōkiri te pire mā roto i te hātepe komiti whiriwhiri take, kia kakama rā hoki.

Taukī ai te rārangi 3 ko tana pūtake ko te whakamana ā-ture i te whakaaetanga i waenga i te Karauna me te Poutiaki. He nui tonu ngā rangahau, ngā kōrero, me ngā whiriwhiringa kia ea ai te whakaaetanga nei nā. Ka tuhia ki reira te wāhi e tatū ai ngā rōpū nei e pā ana ki ngā kōrero hītori, ngā whākitanga a te Karauna, te whakapāha a te Karauna, me te unuhanga o te hara hoki.

Ka whakaaro mātau me whakauru ngā tūtohutanga ki te pire nei mehemea ka mātua whiriwhiria anō, ka whakarerekētia hoki te whakaaetanga i waenga i te Karauna me te Poutiaki.

Ki tō mātau tirohanga, ka whakatōroatia ana te unuhanga hara me te whakapāha, ka pā anō te mamae ki ngā uri o Rua. Mehemea ka hiahia te Karauna me te Poutiaki ki te whiriwhiri

² <http://www.enzs.auckland.ac.nz/docs/1908/1908C146.pdf>.

anō i te whakaaetanga, ka taea ngā menemana te whakaaro e te Pāremata ki roto i te wāhanga o te hātepe whakatureture o te Komiti o te Whare Katoa.

Nō reira, e manawa reka ana mātau me kōkiri te pire ki te pānuitanga tuarua i tana āhua ōnaianeī.

Tāpiritanga

Hātepe komiti

I tukuna Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana ki te komiti i te 12 Mahuru 2019. Ko te rā kati mō ngā tāpaetanga ko te 30 Whiringa-ā-Nuku. E 60 ngā tāpaetanga i whiwhi, i whakaarohia e mātou mai i ngā rōpū whai pānga me te hunga takitahi. I rongo taunakitanga ā-waha mātau mai i ngā kaitāpaetanga tokoono i ngā whakawānga i Te Whanganui a Tara.

I whiwhi kupu tohutohu mātou mai i Te Puni Kōkiri.

Mematanga komiti, ko

Rino Tirikatene (Heamana)
Marama Davidson
Dan Bidois
Joanne Hayes
Matt King
Adrian Rurawhe
Hon Nicky Wagner
Hon Meka Whaitiri

Te kupu tohutohu me te taunakitanga i whiwhi

Kei te paetukutuku o te Pāremata ngā tuhinga i whiwhi ai mātau hei kupu tohutohu, hei taunakitanga hoki, kei www.parliament.nz.



Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana / Rua Kēnana Pardon Bill

157—1

Report of the Māori Affairs Committee

November 2019

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Rino Tirikatene
Chairperson

Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana / Rua Kēnana Pardon Bill

Recommendation

The Māori Affairs Committee has examined Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana / Rua Kēnana Pardon Bill and recommends that it be passed without amendment.

About the bill as introduced

Rua Kēnana was a Māori prophet, faith healer, and land rights activist. He was arrested in 1916 for sedition during a raid at Maungapōhatu. His case is one of the most studied episodes in New Zealand's colonial history.

This bill would provide a statutory pardon for Rua Kēnana, as well as a Crown acknowledgement and apology for him and his descendants. It would give effect to an agreement between the Crown and Ngā Toenga o Ngā Tamariki a Iharaia me Ngā Uri o Maungapōhatu Charitable Trust signed on 9 September 2017.

The purpose of the bill is to restore the character, mana, and reputation of Rua Kēnana and his descendants, and apologise for the deep hurt, shame, and stigma suffered as a result of the invasion of Maungapōhatu. The bill is designed to alleviate the ongoing suffering of Rua's descendants, and aligns with the Crown's objectives to promote reconciliation in the wake of historical wrongs.

Historical background

Rua Kēnana

Rua Kēnana (1869–1937) was a Māori prophet, faith healer, and land rights activist. He called himself Te Mihaia Hōu, the New Messiah, and claimed to be Te Kooti Arikirangi's successor Hepetipa (Hephzibah) who would reclaim Tūhoe land that had been lost to Pākehā ownership. In 1907 Rua formed a non-violent religious community (the Iharaia/Israelite Faith) at Maungapōhatu, the sacred maunga of Tūhoe, in the Urewera.

The conviction of Rua Kēnana

Rua Kēnana was convicted of "moral resistance" in August 1916 after a police attempt to arrest him in February 1916. The attempted arrest was based on warrants a Magistrate had issued in January 1916 committing Rua to prison for convictions in May of the previous year for selling alcohol without a licence. It is unclear why this sentence was reactivated, as Rua was not charged with any new offence between the imposition of the suspended sentence in May 1915, and the reactivation of the sentence in January 1916. Rua believed he had already been punished for these crimes. He informed the police of this when they sought to

arrest him in February, and would not accompany them. This incident led to further charges for resisting arrest and using seditious language.

On 2 April 1916, a police contingent of 70 armed men arrived at Maungapōhatu to arrest Rua. This led to an exchange of gunfire in which Rua's son, Toko Rua, and another young man, Te Maipi, were killed. Three other residents and four police officers were wounded. Thirty-one Maungapōhatu men were arrested, and held for up to three days. On 5 April 1916, the police left Maungapōhatu with Rua and five other prisoners. Rua spent 18 months in prison because of his conviction. The charges against the five other men were dropped in September 1916 after they had spent several months in prison.

After the events arising from Rua's arrest, the Ihairaira Faith went into a long decline.

Waitangi Tribunal decision

The Waitangi Tribunal concluded in its 2012 Te Urewera inquiry that the police used excessive force against the Maungapōhatu community. It also found that Te Tiriti o Waitangi was breached because the Crown did not act in a reasonable manner towards the community in its actions to arrest Rua. The Tribunal found that the arrest of Rua was also unlawful, taking place on a Sunday, a day when arrest warrants were not allowed to be issued.³

Support for the bill

We note that submitters on the bill are overwhelmingly in favour of it proceeding, aside from three submitters who did not state a position. We heard from many submitters that they would like to see the bill passed into law before the end of 2019. Most of the submitters are descendants of Rua Kēnana.

Some submitters sought additional actions, which are not included in the agreement that the bill is based on. These include:

- public information forums around the country
- a private apology and an apology in public forums
- a public holiday to commemorate Rua Kēnana
- the history of Rua Kēnana to be taught in schools
- a memorial to Rua Kēnana
- a letter of recognition
- financial compensation.

We consider that these suggestions are outside the framework of this bill.

³ <https://waitangitribunal.govt.nz/news/wai-894-te-urewera-pre-publication-part-iv-released-2/>.

Suggestion that the bill does not go far enough

One submitter said that the Crown should do more than pardon Rua; it should also acknowledge that a miscarriage of justice occurred. We heard that the method of the raid and the following court case, especially its conclusion by the judge, were unlawful and wrong.

The submitter referenced clause 6(7) of the bill, which reads “it is unclear why this sentence was reactivated”, relating to the reactivation of Rua’s sentence in January 1916. The submitter believes that the social and political climate in New Zealand changed significantly between 1911 and 1915. In his view, the war brought about a wave of patriotism, followed by an extreme backlash against those who spoke out against conscription. He said that Rua saw no need for Tūhoe to volunteer for the First World War, and that the sentence was reactivated due to these changing attitudes, particularly in Government.

The submitter considered that Rua’s conviction for “morally resisting arrest” was not a recognised crime to be convicted for. We were told that the judge took words and applied them in a way that suited the situation, and in doing so, caused a miscarriage of justice. The submitter brought to our attention the wording “resisting a constable” in the Police Offences Act 1908, and told us it should have been understood in the context of physical, not moral resistance.⁴

Clause 8 of the bill provides for a Crown apology. The submitter suggested adding a new subclause 8(c), where the Crown could acknowledge that a miscarriage of justice occurred in the judicial system, and explain the police actions that were the catalyst.

The submitter also suggested that clause 6(5) should note that the deaths of the two young men, including Rua’s son, did not result in an inquest into their deaths, or a tangi.

Progressing the bill

While we found the above submission of interest in our consideration of the bill, we are also eager to meet the needs of Rua’s uri (descendants) who told us they would like to see this bill proceed through the select committee process as soon as practicable.

Clause 3 of the bill states that its purpose is to recognise in statute the agreement between the Crown and the Trust. This agreement took considerable research, discussion, and negotiation. It records the position reached by the parties as to the historical background, the acknowledgements by the Crown, the apology from the Crown, and the pardon to be granted.

We consider that any proposals to amend this bill should only proceed if the agreement between the Crown and the Trust were first changed through renegotiation.

We are of the view that delaying the pardon and apology could cause further pain for Rua’s descendants. If the Crown and the Trust would like to renegotiate the agreement, any amendments could be considered by Parliament during the Committee of the whole House stage of the legislative process.

Therefore, we are satisfied that the bill should proceed to a second reading in its current form.

⁴ <http://www.enzs.auckland.ac.nz/docs/1908/1908C146.pdf>.

Appendix

Committee procedure

Te Pire kia Unuhia te Hara kai Runga i a Rua Kēnana / Rua Kēnana Pardon Bill was referred to the committee on 12 September 2019. The closing date for submissions was 30 October 2019. We received and considered 60 submissions from interested groups and individuals. We heard oral evidence from six submitters at a hearing in Wellington.

We received advice from Te Puni Kōkiri.

Committee members

Rino Tirikatene (Chairperson)

Marama Davidson

Dan Bidois

Joanne Hayes

Matt King

Adrian Rurawhe

Hon Nicky Wagner

Hon Meka Whaitiri

Advice and evidence received

The documents that we received as advice and evidence are available on the Parliament website, www.parliament.nz.