

be forever relegated to the category of Galliformes incertae sedis. Moreover, Göhlich & Mourer-Chauviré did not even try to identify the scapula fragment MNHN Av-2895, which they proposed as a neotype for *Palaeortyx phasianoides* (family PHASIANIDAE).

7. Göhlich & Mourer-Chauviré (BZN 60: 212) tried to show that *Palaeortyx phasianoides* is a 'universally accepted and much used' name and cited 11 references in support of this suggestion. However, subsequent to its description, the specific name *phasianoides* was applied to fossil birds only twice: to Middle Miocene quails of Grive-Saint-Alban in France (Ballmann, 1969a), and to Early Miocene quails from Wintershof-West in Germany (Ballmann, 1969b). In addition, the name was tentatively applied to Early Miocene quails from Dolnice in Czechia (Švec, 1980) and to late Miocene quails of Rudabánya in Hungary (Jánossy, 1993). All other publications cited by Göhlich & Mourer-Chauviré (BZN 60: 212) in this respect are either catalogues (Lydekker, 1891; Lambrecht, 1933; Brodkorb, 1967; Bocheski, 1997) or the name has been merely mentioned in other palaeontological literature (Gaillard, 1908; Cheneval, 2000; Mourer-Chauviré, 2000). Göhlich & Mourer-Chauviré also overlooked the fact that *Palaeortyx longipes* Milne-Edwards, 1869 and *Palaeocryptonyx gaillardi* Ennouchi, 1930 have been applied to this species (Mlíkovský, 2002, pp. 154–155). If the scapula fragment MNHN Av-2895 is designated as the neotype of *Palaeortyx phasianoides*, and even if it is identified as the species under discussion, as believed by Göhlich & Mourer-Chauviré, then *Palaeortyx phasianoides* Milne-Edwards, 1869 would compete with *Palaeocryptonyx longipes* Milne-Edwards, 1869 for priority. Because both these names were published in the same livraison of the same book, the selection of the valid name for the given taxon depends on the decision of the first reviser (Article 24.2.2). Mlíkovský (2002, p. 154), as first reviser, used the name *P. longipes* as valid therefore *P. phasianoides* would become a subjective junior synonym of *P. longipes*.

8. The Commission is accordingly asked not to approve the proposals by Göhlich & Mourer-Chauviré (BZN 60: 213).

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#### Comment on the proposed conservation of *Viverra maculata* Gray, 1830 (currently *Genetta maculata*; Mammalia, Carnivora) (Case 3204; see BZN 60: 45–47)

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I oppose the proposal by Gaubert et al. to conserve the specific name of *Genetta maculata* (Gray, 1830) for the species commonly known as the Rusty-spotted Genet.

1. *Genetta maculata* (Gray, 1830) is a nominal species whose identity was not in doubt at the time when the 'neotype' was designated and was not involved in any complex zoological problem. The application did not mention that Gaubert et al. (2003) had designated a neotype for this nominal taxon. Some workers have regarded the name *G. maculata* (Gray, 1830) as a nomen nudum, but it is actually invalid as a junior primary homonym of *V. maculata* Kerr, 1792. Gaubert et al. (2003) did not expressly state that there was an exceptional need for the designation of a neotype. Therefore, according to Article 75.2 of the Code, the purported 'neotype' has no name-bearing status. Additionally, knowing that the nominal taxon was invalid would suggest that there was no 'exceptional need' to designate a neotype (Article 75.3). Prevailing usage seemed to ignore the fact that *G. maculata* (Gray, 1830) was an invalid name.

2. While it is generally agreed that Gray (1864; 1869) and Matschie (1902) mistakenly associated *G. maculata* (Gray, 1830) with *G. genetta* (Linnaeus, 1766), the name *G. maculata* was commonly used as a senior synonym of *G. pardina* I. Geoffroy Saint-Hilaire, 1832, either as a name mistakenly thought to be valid (Schwarz, 1930; Allen, 1939; Kuhn, 1965; Michaelis, 1972; Schlawe, 1980, 1981; Honacki et al., 1982; Meester et al., 1986; Fuller et al., 1990) or as a name recognised as invalid (Coetzee, 1967; 1977; Rosevear, 1974; Ansell, 1978; Grubb et al., 1998). Crawford-Cabral (1969, 1970, '1981' correctly 1982) treated *G. maculata* as a nomen dubium. Gaubert et al. (2002, 2003, BZN 60: 45–47) did not regard *G. maculata* as a synonym of *G. pardina*.

3. The 'neotype' of *G. maculata* is a specimen of the taxon usually known as *G. rubiginosa* Pucheran, 1855, and if its designation were a valid action, the name *G. maculata* would become a senior but invalid synonym of this nominal species. Gaubert et al. (2003, p. 7) stated that 'the designation of the neotype was done in order to clarify the taxonomy of the Large-spotted Genets [a group of species] by fixing a species name in use for the Rusty-spotted Genet . . . and a type locality'. They did not state that the 'neotype' was designated with the express purpose of clarifying the taxonomic status of the nominal species *G. maculata* (Gray, 1830) (Article 75.3.1). Therefore, the 'neotype' was not validly designated under Article 75.3 in addition to the point made in para. 1 above.

4. Gaubert et al. (2003, p. 3) indicated that 'the purpose of the paper was to stabilise the classification within the Large-spotted Genet complex and provide a definitive base for naturalists and field decision-makers'. They further stated (Gaubert et al., 2003, p. 6) that neither *G. fieldiana* Du Chaillu, 1860 nor another more junior synonym should become the valid name for what had usually been termed *G. rubiginosa* because the names 'have never been used for designating populations of the species since the work of Matschie (1902)' and their use 'would be even more confusing for the taxonomy of the Large-spotted Genets'. In fact, *G. fieldiana* has been in use as a subspecific name (Allen, 1924; Schouteden, 1945; Cansdale, 1948; Perret & Aellen, 1956; Crawford-Cabral, 1970) and had been regarded as a synonym of the species that is usually called *G. rubiginosa*. The notion expressed by Gaubert et al. (2003) was that *G. rubiginosa*, if not a valid name for the taxon to which it usually has been applied, should not be replaced by the next available name and that this reasoning was behind their designation of a neotype for *G. maculata*. Gaubert et al. (2003, p. 6) stated that *G. maculata* 'is commonly in use

to designate—partially or strictly—the Rusty-spotted Genet' ('partially', when this invalid name was used to include both *G. pardina* and *G. cf. rubiginosa* in one species, and 'strictly' when the authors alone used the name solely for *G. cf. rubiginosa*, a minority usage, as indicated above).

5. The choice of the particular specimen as neotype for *G. maculata* by Gaubert et al. (2003) has created a situation that is not in accord with the prevailing use of this name. In the literature *G. maculata* is widely known as a synonym of *G. pardina*. I would therefore argue that the neotype for *G. maculata* was designated to provide a different name for a taxon widely known as *G. rubiginosa* for which *G. fieldiana* had been suggested to be the valid name (see Crawford-Cabral, 1970). Stability is not maintained by this action because it causes two distinct taxa to appear under the same name, hence failing to ensure that the name of each taxon is unique and distinct, contrary to the Preamble of the Code.

6. Gaubert et al. (2003) noted that the type specimen associated with *G. rubiginosa* had been found to belong to another species that is currently known as *G. thierryi* Matschie, 1902. The name *G. rubiginosa* has been consistently treated as a valid South African taxon, ranked as a subspecies of *G. tigrina* (Schreber, 1777) or *G. pardina*, or regarded as a full species, *G. rubiginosa*, but never as a senior synonym of *G. thierryi*. The holotype of the nominal species *G. rubiginosa* is not in accord with the prevailing usage of the name and stability is threatened thereby. As an alternative to the proposals in BZN 60: 46, I propose, under Article 75.6, that the holotype of *G. rubiginosa* be set aside and the holotype of *G. letabae* Thomas & Schwann, 1906, consisting of the skin and skull of a male specimen (registration number 1905.12.9.15 in the Zoology Department, The Natural History Museum, London), from Klein Letaba, 23°21' S, 30°40' E, in the former northern Transvaal (now Limpopo Province), South Africa, be designated as neotype.

7. The International Commission on Zoological Nomenclature is accordingly asked:

- (1) to use its plenary power to set aside all previous type fixations for *Genetta rubiginosa* Pucheran, 1855 and to designate the male specimen in The Natural History Museum, London (registration number 1905.12.9.15) described in para. 6 above as the neotype;
- (2) to place on the Official List of Specific Names in Zoology the name *rubiginosa* Pucheran, 1855, as published in the binomen *Genetta rubiginosa* and as defined by the neotype designated in (1) above;
- (3) to place on the Official Index of Rejected and Invalid Specific Names in Zoology the name *maculata* Gray, 1830, as published in the binomen *Viverra maculata* (an invalid junior primary homonym of *V. maculata* Kerr, 1792).

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