

THE INTERNATIONAL CODE OF ZOOLOGICAL
 NOMENCLATURE
 RESULT OF VOTE ON PROPOSALS FOR SUBSTANTIVE
 AMENDMENTS (FIFTH INSTALMENT). Z.N.(S.) 2342

By the Secretary, International Commission on
 Zoological Nomenclature

This report presents the result of the Commission's vote on the proposal that names published with the notation 'var.' or 'form' before 1961 are to be treated as having subspecific rank unless it is clear from the context of the work that the author used one of those terms to denote an infrasubspecific taxon. This proposal figured as Article 45g(i) of the Sixth Draft of the Third Edition of the Code (November 1977) and was published in *Bull. zool. Nom.* vol. 36, p. 217 as paragraph 19 of the Commission's report to the Section on Zoological Nomenclature at Helsinki. It was approved by the Special Session of the Commission at Stensoffa, by the General Meeting of the Commission at Helsinki, and by the Section on Zoological Nomenclature and the Division of Zoology at Helsinki.

On 5 September 1980 the members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (1980)30 for or against the proposal presented in the following form:

Code Article Commission Report to Section on Zoological
 Nomenclature at Helsinki, 1979, Section B

- 45e(i) 19. That the use of either of the terms 'variety' or 'form' with a name of the species-group published before 1961 is to be interpreted as denoting subspecific rank unless it is clear from the context of the work in which the name was first published that the author was using the name to denote an infrasubspecific taxon. The status of names treated as subspecific by authors observing the mandatory provisions of Article 45e(i) of the Code concerning the interpretation of the terms 'variety' and 'form' would be maintained. The Code Article 45e(i) currently makes it mandatory for names published before 1961 with the terms 'variety' or 'form' to be treated as of subspecific rank. In some groups large numbers of names were used to characterize mere colour variants and their

introduction into nomenclature would greatly complicate homonymy without any benefit. The provision permits discretion in the case of such names.

The following background note was sent out with the voting paper.

V.P.(80)30 — APPENDIX

Background to the proposal

This proposal modifies Article 45e(i) adopted at Monaco, 1972, concerning the interpretation of the terms 'var.' and 'form'. The London (1961) Code said that the use of either of those terms before 1961 was not to be interpreted as an express statement of either subspecific or infrasubspecific rank. Many zoologists took this to mean that they could apply their judgment to a given use of either term in its context, and decide whether the author who had used the term intended it for a taxon of one rank or the other. However, the London Code also said, in Article 45d(i), that the rank of a taxon was to be interpreted as subspecific if, before 1961, the author did not clearly state its rank. The Monaco decision stated that the terms 'var.' and 'form', if used before 1961, were to be interpreted as denoting subspecific rank.

The proposal in the 6th Draft, Article 45g(i), was that 'Use of either of the terms "variety" or "form" before 1961 is to be interpreted nomenclaturally as denoting subspecific rank unless the author made it clear that he was using the name to denote an infrasubspecific category or a population within a subspecies'. No separate attention was drawn to this in the articles published in *Bull. zool. Nom.* vol. 34, part 3, or vol. 35, part 2. No comments were received from the zoological public.

The subject was very fully discussed by the special meeting at Stenoffa, which concluded that zoologists should have discretion to treat such names as having infrasubspecific rank where it was clear from the context that that had been the original author's intention. At the same time, the meeting resolved that such names published before 1961 and adopted before 1980 as the valid names of subspecies should continue to be available names in the species group.

It is a mere matter of historical fact that the term 'variety' has been used in many different ways. In some cases it denotes an individual variant, in others a seasonal form, in yet others an undoubted subspecies. However, in groups where polymorphism is widespread (e.g. Lepidoptera, Coleoptera, Bivalvia, Gastropoda) it has been extensively used at infrasubspecific level. To confer

automatic availability on all such names would lead to nomenclatural chaos.

The proposal was accepted by the Section on Zoological Nomenclature at Helsinki.

DECISION OF THE COMMISSION

On 5 September 1980 the members of the Commission were invited to vote under the Three-Month Rule for or against the proposal contained in paragraph B.19 of the Commission's report to the Section on Zoological Nomenclature at Helsinki. At the close of the voting period on 5 December 1980 the state of the voting was as follows:

Affirmative Votes — seventeen (17) received in the following order: Melville, Willink, Cogger, Hahn, Bernardi, Brinck, Ride, Tortonese, Corliss, Habe, Lehtinen, Alvarado, Welch, Heppell, Halvorsen, Nye, Bayer

Negative Votes — five (5): Holthuis, Mroczkowski, Starobogatov, Trjapitzin, Sabrosky

Vokes was on leave of absence. No votes were returned by Binder, Dupuis and Kraus.

The following comments were sent in by members of the Commission with their votes:

Starobogatov: 'The original text in the 6th Draft is clearer and does not lead to endless confusion as this text does. Many "infrapopulational" variants of old authors have now become good species in Mollusca and Insecta. The new text of the provision leads the specialist to establish new names for well-known species.'

Lehtinen: 'Article 45e(i) concerns one of the central problems of zoological nomenclature. It should be modified in a logically acceptable and at the same time, absolutely unequivocal form. The current form adopted at Monaco, seems to be unequivocal, but its principle certainly is not generally accepted. The leading principle of the London Code obviously was more sound, and the same is true for the proposal made at Helsinki, but their practical application is difficult and not unequivocal.'

The proposal made at Helsinki, 1979, is clearly better than the two preceding forms of this article, but still its interpretation may be disputable. I prefer the proposed form of Article 45e(i) in relation to the present Code, but I should like to leave this article for further discussion and later improvement.

In my opinion, the bulk of obscure infrasubspecific names in many groups, published before 1961, have already been revised and treated in the best possible way. The status of all such names should be maintained as they are now, applying the valid Code. The

situation may be different in a number of groups, but it will never be the same in all animal groups. Therefore I suggest that the possibility should be discussed to accept from some date onwards only subspecific names that have originally been published in the category of species-group names, even in regard to all unrevised names published before 1961.

Polymorphic species with a few, morphologically distinct and discontinuous morphs is a type of infraspecific variation that belongs under Article 45e. The morphs clearly represent a category, the names of which are not available among the species-group names. However, the subspecies of some groups are or can be defined mainly according to presence or relative abundance of some morphs, and morphs in many groups have been repeatedly confused with subspecies or species. In my opinion, the Code needs some specified recommendations for treating of polymorphic species in general and geographically balanced cases separately. The presence of a nomenclaturally valid subspecific name simultaneously as an infrasubspecific name of another subspecies of the same species is highly confusing. This is possible, when a morph has originally been described as the oldest available name for a subspecies, although the same morph is present in populations of more than one subspecies.

The above mentioned instance clearly shows that there are cases of infrasubspecific variation which are not infrasubspecific, but represent a category hierarchically parallel to subspecies. An active statement of such cases is necessary in a revised Code.'

Sabrosky: 'Voting on this subject is subject to ruling by the Council on my ruling in the matter and your appeal (Sept. 15) [see below]. I have delayed this long in the hope that the result would be available. However, if the Council has ruled against me, but the result has not yet been communicated to me, then I should record a vote that can be counted. I would object that the "Background to the Proposal" is entirely one-sided and does not present arguments for the other side.'

THE PRESIDENT'S RULING

On 15 September 1980 I received a copy of a letter from the President to the Editorial Committee. In the first three paragraphs he restated the formal position established by the London and Monaco decisions on Article 45e(i) of the Code as it is stated in the 'Background to the Proposal' herein. He then continued:

4. Is the present proposed wording a substantive change? Yes, unquestionably, in my opinion. Instead of "grandfathering" into availability all var. and form names proposed before 1961, it relegates some of them to infrasubspecific status and also introduces

a subjective element meaning that all the numerous var. and form names will have to be re-examined to see whether infrasubspecific rank was suggested — in whatever shades of grey or interpretation that may involve. Some will no doubt prove to be infrasubspecific. But that will not be the end of the matter: one must then seek to find out whether such a name has been treated before 1961 as having subspecific rank. What a time-waster!

'5. Has this substantive change been duly published, one year in advance of a vote, for comment by zoologists? The Editorial Committee published substantive proposals for general debate in *Bull. zool. Nom.* for November 1977, October 1978, July 1979 and August 1979. Nowhere in these announcements is there any mention of the var. and form problem.

'It is true that a revision of this provision appeared in Draft 6, and Ride and Melville maintain that this satisfied the requirement for publication at least one year before voting. In my view this is not consistent with our separate publication of the major issues in the four parts of the *Bulletin* noted above, in which the Secretary, for the Editorial Committee, pointed out that proposals of a major character "must be opened for general debate before the Commission can vote on them". Obviously, such major proposals for substantive changes needed to be highlighted to focus discussion on them. This has never been done with the var. and form problem, and it seems to me that the Editorial Committee can now be charged with gross negligence or oversight, or at worst for trying to slip something through by not making zoologists aware of the fact that something has been changed. Protests are certain to develop, just as Townes has long regarded — and with some justice, I believe — some Commission actions as illegal, and as I have so regarded Commission actions on the yucca moths and on the family name ATTACIDAE, neither of which I recognise as legitimate.

'6. Am I biassed because I am opposed to the present var. and form provision? No doubt I am, but I have tried to be as objective as possible in considering the position of the Commission vis-à-vis zoologists and the image of the Commission.

'7. Can one now consider this a major change, after it was accepted at Stensoffa and Helsinki? In my opinion, any member at any stage in the proceedings can challenge a procedural error or inadequacy, especially one as serious as a failure to publish a major change of comment. Certainly this is true as long as the Code has not been finally adopted (it is still subject to a vote by the full Commission). Even after adoption, a charge of failure to observe proper procedure would be cause for challenge and demand for reconsideration, which could result in (1) reversal, or (2) affirmation of what had been adopted, or perhaps (3) adoption of some compromise.

'8. Conclusion: as President of the Commission, acting under Bylaw 16, I rule that the proposed var. and form change is a major change that was not properly published as such and therefore cannot be included in the new Code, and that the Monaco provision, with such editorial work as may be appropriate, is all that we can legitimately use at this time.'

The President went on to explain that any member of the Commission could appeal to the Council against his ruling, under Bylaw 25. I therefore did so on 15 September 1980, explaining that I agreed with the President's interpretation of what the London Code said and of the Monaco amendment. I went on:

'I disagree with the President, first, on the procedural issue. We never formally bound ourselves to publish all proposals for substantive changes in the *Bulletin* and in the *Bulletin* alone. The point at issue was published in Draft 6, much more than a year before the voting paper — V.P.(80)30 — was issued. I consider that that voting paper was legitimately issued under the authority of the decision taken by the Section on Zoological Nomenclature at Helsinki as ratified by the Division of Zoology. A challenge to the correctness of our procedure therefore amounts to a challenge to the Helsinki ruling by the Section and Division, by which alone we are authorised to continue working on the Third Edition of the Code and take it to publication. Such a challenge can obviously only be dealt with when those bodies next meet, at Ottawa in 1982.' I accordingly urged the Council to reject the President's ruling.

In a later letter received on 26 September 1980, the President indicated that he would abstain from voting on the issue. Professor Dr Holthuis had already indicated that he supported the President's position. The remaining members of Council at that time (Heppell and Brinck) supported the Secretary's position. The President's ruling was accordingly rejected.

DECLARATION OF RESULT OF VOTE

I hereby declare that the votes cast on V.P.(80)30 and in the subsequent Council vote were cast as set out above and that the proposal contained in that voting paper will be incorporated into the Code by the Commission, in accordance with the authority given to it by the Division of Zoology of IUBS at Helsinki, in words to be prepared by the Editorial Committee.

R. V. MELVILLE

Secretary

International Commission on Zoological Nomenclature

London

3 March 1981



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