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| <p>PROPOSALS TO AMEND THE CODE</p> |
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Edited by Dan H. Nicolson

(37-39) Three proposals to reduce the need to conserve names

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The following proposals try to save names of two categories for which, under the present *Code*, separate conservation proposals would be necessary. I do not know of an example in which conservation of a name of the first category actually took place. The second category of names has been recognised as problematical since c. 1985 and several such names have since been conserved.

(37) *At the end of Art. 6.4, insert the words “, or is made available for use by the side-effect of an act of conservation”, and add an example:*

“*Ex. 0.* When *Anisothecium* Mitten was published in 1869, it included the previously designated type of *Dicranella* Müll. Hal. 1856. When *Dicranella* was conserved with a different, conserved type, *Anisothecium* became legitimate.”

This proposal concerns names that are illegitimate due to inclusion of the type of an earlier name, whose type was subsequently changed by conservation. Two such cases are found in proposals by Margadant & Geissler (in *Taxon* 44: 613-624, 1995): *Anisothecium* and *Andoa*.

Conservation of *Dicranella* Müll. Hal. 1856 was considered necessary because its type *D. varia*, designated in 1860, is usually treated as belonging to *Anisothecium*. Therefore *D. heteromalla* was proposed as a conserved type. The proposers stated that *Anisothecium* is an illegitimate synonym of *Dicranella*, but thought that conservation of *Dicranella* with another type would enable the continued use of *Anisothecium*. It is evident that the proposers (and During and Isoviita, two additional authors on behalf of whom the proposal was submitted) thought that when *Dicranella* would be conserved with another type, *Anisothecium* would be saved as well. A Note added by the Editors of *Taxon* explains, however, that “*Anisothecium* will remain illegitimate under Art. 6.4 unless it is itself conserved.”

The case of *Andoa* Ochyra 1982 is identical, although the proposers did not explicitly state that *Andoa* is illegitimate, being based on the previously designated type of *Gollania* Broth. 1908, and the *Taxon* Editors failed to add an appropriate comment. When the Committee for Bryophyta discussed the proposal to conserve *Gollania* with a different type, only one member realised at a late stage that *Andoa* would remain illegitimate upon conservation of *Gollania*.

I was brought up in nomenclature with the idea that the conserved type of a conserved name functions as its type from the beginning, irrespective of the fact that a different type might have existed previously. I therefore never took notice of such

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cases in the past, or thought that a problem might exist, so that I have no list of cases analogous to *Anisothecium* and *Andoa*.

(38) *At the end of Art. 6.4, insert the words “, or is made available for use by the side-effect of an act of rejection”, delete the phrase “and names illegitimate because of inclusion of the type of a rejected name (Art. 52)” in the last sentence of the introductory matter to Appendix IV, and add a second example under Art. 6:*

“*Ex. Obis. Goodyera* R. Br. as published in 1813 included the type of *Epipactis* Ség. 1754. When *Epipactis* Ség. was rejected against *Epipactis* Zinn 1757 (*nom. cons.*), *Goodyera* became legitimate.”

At present this proposal concerns substitute names for rejected earlier homonyms. Under the present *Code*, almost all such substitutes were illegitimate when published, because at that moment the homonymy had not yet been revealed, so the substitute character of those names was not evident. Later on homonymy was detected and the earlier homonym rejected. Many names that have the same type as such now rejected homonyms remained in use.

Calypogeia Raddi 1818, a *nomen conservandum* since 1987, is a case in point. Even in the eighties it was not realised that *Calypogeia* was illegitimate by inclusion of the type of *Mnium* L. 1753 (*nom. rej.*), even though *Calypogeia* was mentioned in the conservation proposal. The only reason why *Calypogeia* was conserved was its original spelling ‘*Calypogeja*’.

The problem arose when at the Berlin Congress a motion from the floor was accepted to add a phrase in Art. 14 (now Art. 14.10): “An earlier homonym of a conserved name is not made illegitimate by that conservation but is unavailable for use; if legitimate, it may serve as basionym of another name or combination based on the same type”. This addition was a modification of Art. 14, Prop. G, which only concerned sanctioning, not conservation (see the discussion in Englera 9: 172-174. 1989). No example was given to illustrate the need of that kind of basionyms.

When Stafleu trained me in nomenclature, he taught me that in the cases of the (H) and (≡) *nomina rejicienda* the rejected names are illegitimate, thus their substitutes are legitimate. In 1985 I understood that another interpretation exists, thus I started a list of cases, now including several dozens of names that are in use. If the above proposal is adopted, *Goodyera* and other names on that list will not require conservation.

For species names, the proposal will become useful as Appendix IV grows, following the expanded possibilities to reject species names.

(39) *In Art. 52.1, delete the phrase “unless conserved (Art. 14) or sanctioned (Art. 15)”;* *at the end of Art. 52.1, add a second reference, so that the parenthesis reads: “(but see Art. 52.3 and 52.4).”;* *and add a paragraph at the end of Art. 52:*

“52.4. A name that was nomenclaturally superfluous when published can become legitimate by conservation (Art. 14), by sanctioning (Art. 15), or through the side-effect of an act of conservation or rejection (Art. 6.4).”

This proposal follows from acceptance of at least one of the two previous proposals.