

Points of view

Acacia: what did happen at Vienna?

by

Paul van Rijckevorsel

Dipteryx, Postbus 4047, NL-3502 HA Utrecht. dipteryx@freeler.nl

The Nomenclature Section of the XVII International Botanical Congress (IBC) at Vienna in 2005 discussed the disposition of the name *Acacia* and took a vote on this. In view of the account given as “Conserving *Acacia* Mill. with a conserved type. What happened in Vienna?” (Smith & al., 2006) it appears desirable to put some of the actual facts on record.

The conservation of a name results in the alteration of the relevant Appendix of the *Code*, either the inclusion of a new entry or the change of an existing entry. Technically, such an alteration is a form of “modifying the *Code*”, governed by Div. III.1 of the *International Code of Botanical Nomenclature*: “Div. III.1. The *Code* may be modified only by action of a plenary session of an International Botanical Congress on a resolution moved by the Nomenclature Section of that Congress¹.” (Greuter et al., 2000: 103).

Conserving a name has been possible since the Vienna Congress of 1905 (Briquet & al., 1906: 135-137). Over time the procedure has been well-established.

It is noticeable that initially proposals-to-amend and proposals-to-serve were submitted together, often in the same manuscript. This did not change immediately even when, after the advent of that journal in 1951, all proposals to modify the *Code* were published in *Taxon*. For example, the “Propositions pour le Congrès de Paris” (Anon., 1953) and the “Proposals for the Paris Congress” (Anon., 1954) were gatherings of both proposals-to-amend and proposals-to-serve. The last such mixed set of proposals (“Proposal No. 4 submitted to the 9th International Botanical Congress, Montreal 1959”; St. John, 1957) was in *Taxon* 6(7). After this, all proposals-to-serve were

published separately, in a feature initially named “*Nomina conservanda proposita*”.

The *Code* makes no distinction, either. The present Div. III.1 (cited above) came in with the *Paris Code* (Lanjouw & al., 1956), based on the deliberations in Stockholm. The proposal at Stockholm was that “these *nomina generica conservanda* should be dealt with by the various Special Committees concerned, and that the committees be given acting power.” When this was questioned, Merrill moved that the actual power of decision remained with the Congress: “*Committees have power to select names for conservation* but the list will be tentative until the next Congress. [new paragraph] This was *carried* by a large majority.” (italics in original, Lanjouw, 1953: 539). This basic principle, the Committees do the actual work but the Nomenclature Section has the power of decision, was not questioned at Paris (Anon., 1955: 164-166).

What has changed over time is the procedures not set by the *Code*. The procedure for the Committees was last changed in 1996, with the procedure on conservation becoming: “(3) In order to recommend for or against acceptance of proposals to conserve or reject names, a majority of 60% of Committee membership is required.” (Nicolson, 1996: 526).

This newly adopted percentage of 60% was presumably inspired on the procedure followed by the Nomenclature Section, which traditionally makes its decisions by a 60% majority.

The Nomenclature Section itself does not follow a fixed procedure *per se*: it is a rule-giving body, a parliament: it sets its own working procedure. However, starting with the 1964, Edinburgh Congress it has always required a 60% majority to make a change in the

Code. From the 1975, Leningrad Congress the exact procedure has always been the same: decisions to make a change in the *Code* require a 60% majority, except in those cases where it was explicitly agreed (by a 60% majority) that a change was going to be made and that a simple majority (of more than 50%) would decide which change this was going to be (Stafleu, 1966: 8; Stafleu & Voss, 1972: 4-5; Voss, 1979: 132; Greuter & Voss, 1982: 8-9; Greuter & al., 1989: 14; Greuter & al., 1994: 12; Greuter & al., 2000b: 14-15).

This procedure was set at Vienna as well: "The Section also adopted the by now traditional procedure of requiring a 60% majority of the votes cast for any proposal to amend the *Code* to be accepted, ..." (McNeill & al., 2005: 1058). So, when faced with the question on whether to include *Acacia* Mill. as a conserved name with a conserved type into the *Code* there were two options open to the Nomenclature Section:

1) The Nomenclature Section could regard this as a matter no different from any other. In that case a 60% majority in favour was required for the name *Acacia* with a conserved type to pass into the *Code*. Or

2) The Nomenclature Section could decide (by a 60% majority) to make an exception. In that case a normal majority (*i.e.* more than 50%) in favour would be sufficient for the name *Acacia* with a conserved type to pass into the *Code*.

Instead, what did happen was that the Chair stated that in this case a 60% majority was required to reject this recommendation by the General Committee. The statement was later represented as "as this involved an entry that could already be included in the *Code* a 60% majority would be required [to reject the report]" (McNeill & al., 2005: 1059) or as "The President noted that this would require a 60 per cent majority, as this was analogous to a proposal to amend the *Code*, ..." (McNeill, 2006).

This statement was not challenged by the Section, but neither was there an explicit decision to accept this. Presumably this was because it was presented as an explanation of established procedure, rather than as a matter open to debate, or to decision.

As far as can be ascertained this statement by the Chair was not explained then and there, but only a week later at the closing plenary session: "... the reason for the requirement of a 60 % vote to overturn the decision of the General Committee was that Art. 14.14 of the *Code* makes clear that the de facto decision on conservation and rejection of names rests with the General Committee, in that botanists are authorized to adopt such names in the sense of the conservation, pending the decision of a later IBC, and that such names often appear in editions of the *Code*, pre-

fixed by an asterisk (see, e.g. the Berlin *Code-Regnum Veg.* 118: 111. 1988). Whereas the Nomenclature Section has the final decision, overturning a decision of the General Committee is clearly a momentous step and, like an amendment to the *Code*, is not to be taken lightly." (italics in original; McNeill, 2006).

This is a highly curious statement as Art 14.14 has no bearing whatsoever on making changes in the *Code*, but only on the users of names:

"14.14. When a proposal for the conservation of a name, or of its rejection under Art. 56, has been approved by the General Committee after study by the Committee for the taxonomic group concerned, retention (or rejection) of that name is authorized subject to the decision of a later International Botanical Congress."

That Rule came in with the 1930, Cambridge Congress (Briquet, 1931: 576-577): no doubt the participants of that Congress were highly aware that there had been a twenty year interval since the previous, 1910, Brussels Congress. A war can disrupt the scheduling of an IBC for a long period, in which no final decision can be made, but a Committee is much less affected, can do much of the actual work, and can publish tentative results. Thus, continuity could be served, even in the face of a horrendous war.

What is true is that names approved by the General Committee have appeared in Appendixes, prefixed by an asterisk. The asterisk for example in the *Berlin Code* being explained: "Conservation approved by the General Committee; use authorized under Art [14.14] pending final decision by the next Congress." (Greuter & al., 1988: 90, 111)." This appearance does not mean that asterisked entries are part of the *Code*: the Preface and the Indexes also appear in this book, as do the name of the publisher (in some previous editions also the address of the printer), the ISBN number and a copyright statement: these are not part of the *Code*. Interestingly such asterisked entries appeared in the 1966, *Edinburgh Code* with the asterisk being explained as "Conservation still subject to approval by the General Committee and by the next International Botanical Congress." (Lanjouw & al. 1966: 226). In that case an asterisked entry did not enjoy the status of being authorized by the (then) equivalent of Art 14.14.

The idea that an asterisked entry in an Appendix might be part of the *Code*, merely because it appears in the same volume, is explicitly precluded by Div.III.1. ("The *Code* may be modified ONLY by ..."; capitals for emphasis): no possible action by the General Committee can effect an inclusion in the *Code*. As shown above, this was intentionally phrased so.

In addition it is worth pointing out that the report of the General Committee *per se* has no formal status. A comparable case is the way the General Committee deals with the reports submitted to that body: “(1) The General Committee awaits the recommendations of the Special Committees but does not necessarily await publication of the recommendations since it, technically, is acting on the original published proposals.” (Nicholson, 1996: 526). There is a demonstration of how this works when Report of the Committee for Spermatophyta: 43 is “... reviewed by the General Committee and approved (18 yes, 3 not voting).” while at the same time the General Committee singles out a recommendation in that report for further consideration “... before reporting on those proposals.” (Nicholson, 1996: 527).

Approving the report of the General Committee rather than the recommendations on proposals-to-approve (and reject) is merely a matter of dealing with these quickly and ceremoniously. It is interesting to see this ceremony develop over time in the proceedings of Congresses since 1975, a period in which neither the procedure laid down in the *Code* nor the working procedure of the Nomenclature Section was changed. In 1975: “The rapporteur clarified the procedures relating to nomina conservanda, which must first be studied by the Special Committees and then the General Committee. He called for ratification of such names as had been recommended by the General Committee as indicated in the Synopsis. Motion to accept these was seconded and carried.” (Voss, 1979: 173); in 1981: “A motion to accept proposals to conserve and to reject names, as approved by the General Committee, was seconded and carried” (Greuter & Voss, 1982: 105); in 1987: “The Report of the General Committee, including the additional points introduced by Voss, was **approved** by the Section [implying acceptance of conservation and rejection proposals approved by the General Committee]. This, as **Stafleu** pointed out, meant that the tomato was saved. [Laughter and applause.]” (Greuter & al., 1989: 215); in 1993: “The **Report** of the General Committee, inclusive of the General Committee’s action on *nomina conservanda et rejicienda proposita*, as published ... was **approved** by the Section.” (Greuter & al., 1994: 253); in 1999: “The **Report** of the General Committee was **approved**, ...” (Greuter & al., 2000b: 238) (square brackets, italics and bold face in respective originals).

Summing up, the statement by the Chair that a 60% majority would be required to reject the report was:

1) against the standing procedure on making changes in the *Code* as adopted by the Nomenclature

Section at Vienna (which was the procedure as adopted by every Nomenclature Section from 1964 onwards),

2) not submitted for the approval of the Nomenclature Section,

3) not explicitly accepted by the Nomenclature Section,

4) based on an imaginative interpretation of a Rule that does not bear on the procedure at hand

5) based on an interpretation explicitly precluded by the Rule that does bear on the procedure at hand.

A vote was taken. The result was 55% against the idea of conserving the name *Acacia* with a conserved type. Maybe this vote can be taken as insufficient to reject the report of the General Committee on this matter, in which case the report was not rejected. That by itself does not mean that the name *Acacia* was accepted into the *Code*. It may be worth pointing out that the General Committee itself evaluates its own votes three ways: 60% or more against (“not recommended”), less than 60% either way (“unresolved”) and 60% or more in favour (“recommended”).

The Plenary Session of the IBC merely resolved “that the decisions of its Nomenclature Section... be accepted” (Stuessy, 2006: 246). Is it possible that the Nomenclature Section made a decision to modify the *Code*, *i.e.* to include the name *Acacia* with a conserved type, by voting 55% against?

What exactly the consequences should be only the Nomenclature Section of a future IBC is competent to say. The world has entrusted the care for the world’s botanical nomenclature to the Nomenclature Section: a grave trust indeed.

Acknowledgements

This paper benefitted when the author was allowed to read a manuscript, discussing the same event, by Dr. G. Moore of the Brooklyn Botanic Garden.

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