Proposal (71) to Change Article 61 of the International Code
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Proposal (71) to change Article 61 of the International Code.

Art. 61 is possibly the most ignored Article in the Code. Many experienced taxonomic botanists would be prepared to say that a name never has priority outside its own rank, but Art. 61 makes it quite clear that this is not so at the ranks of family and subdivision of a family. In fact the name of a subtribe may dictate what the name shall be of any taxon published later at any higher rank up to family, and *vice versa*. The wording is "When a taxon of a rank higher than genus and not higher than family is changed in rank, the stem of the name is to be retained and only the termination altered (*-inae, -eae, -oideae, -aceae*), unless the resulting name is rejected under Art. 63 or 64." This contrasts markedly with Art. 60 which refers to names at generic rank and below.

The case which brought this Article to our attention involves the tribe *Achariteeae* Briquet of the family Verbenaceae (Pflanzenfam. IV, 3a: 160. 1897), which included the genera *Acharitea, Nesogenes* and two others. There appears now to be a good case for sinking *Acharitea* into synonymy of *Nesogenes* and referring the latter to its own new family (Marais in *Kew Bull.*, in press). The question then arises as to the correct name for this family. *Nesogenaceae* would appear to be the obvious name, but Art. 61 dictates that, because of the existence of the name *Achariteeae*, the family must be called *Achariteaceae*, even though the genus *Acharitea* is no longer recognised. It may seem doubly undesirable because of the existence of another family name *Achariaceae* in current use. If one could have a free choice of name at ranks above genus, as one has at ranks of genus and below, such unfortunate consequences could be avoided.

There seems to be no doubt about the intention of the Article, but it may be that the consequences were not fully appreciated when it was introduced into the Code at the 1950 Stockholm Congress. In the preceding 1935 Amsterdam Code the relevant Article was 58, which implied that at all ranks names do not have priority outside their own rank. However, the Recommendation under this Article, Rec. XXXVI, paragraphs, 1, 2 and 3, actually recommended one to retain the stem of the name at ranks above genus, or to retain the name or epithet at rank of genus or below, when a change of rank was made. In that the Article allowed a free choice while the Recommendation preferred that one's choice be dictated by existing names, the Article and Recommendation seem to have been in some conflict with each other.

A proposal to convert Recommendation XXXVI into a new Article 58 bis, made by Lam & Lanjouw as proposal X in the *Additions and Amendments to the International Rules of Botanical Nomenclature proposed by Dutch Botanists* (J. Lanjouw, mimeographed, May 1948), concerned the nomenclature of three categories of taxa: 1) the family and its subdivisions, 2) the genus and its subdivisions, and 3) the species and its subdivisions, each of which was dealt with in a separate paragraph. The intention was apparently to give priority *outside* their own rank to all names within each category. Acceptance of this would have meant that the new Article would have completely contradicted the old Art. 58. The proposal was discussed at the unofficial conference held at Utrecht in June 1948, where objections were raised only at the level of species and below (see Chronica Botanica 12: 47–48. 1950), but the principle was accepted at higher ranks.

When the proposal was put to the Stockholm Congress in 1950, each of the three categories of names was considered separately and accepted without objection for the first one to be discussed, concerning families and their subdivisions (see *Regnum Vegetabile* 1 : 515–516. 1953). However, when it was discussed at generic level it was observed that if retroactive this principle would throw overboard established usage and lead to many changes of names of genera. Professor Lanjouw then agreed to withdraw categories 2 and 3 from the proposal, the relevant parts of the Code thus remaining only as a Recommendation and not part of an Article, but he maintained that the important part of the proposal was the first paragraph, which should stand. Although Professor Hochreutiner then spoke at some length against the whole proposal, and even wished to delete Rec. XXXVI entirely as being contrary to earlier rules, it was decided that the Lam & Lanjouw proposal had already been accepted at family level and the vote could apparently not be reversed.

The following day the remaining two paragraphs were discussed again, and, despite further lengthy argument by Hochreutiner for complete deletion of the Recommendation, there was a unanimous vote to keep the existing paragraphs 2 and 3 as recommendations, but not as an

Article (see loc. cit., 517). As a result the former Art. 58 became split into two as Articles 70 and 71 of the 1952 Stockholm Code, subsequently renumbered to become 60 and 61 of the present Code, and the priority rules above the rank of genus are different from those at genus and below.

It may be noted that the acceptance of the first paragraph of the Lam & Lanjouw proposal, which gave names priority outside their rank at level of families and their subdivisions, was quite contrary to proposal 5 under Art. 58 by Hylander (see J. Lanjouw, *Synopsis of Proposals Seventh Internat. Bot. Congr. Stockholm:* 167. 1950), which had already been accepted earlier the same day. Hylander's proposal referred to all ranks, and ruled that "in no case has a name or epithet any claim to priority outside its own rank." Its acceptance was, however, subject to decisions on Art. 58 bis, discussed above, and in the final wording adopted by the Editorial Committee Hylander's wording was restricted to the new Art. 70 applying only to ranks of genus and below. This now appears as the final sentence of Art. 60 in the 1978 Code, and emphasises the fundamental difference in application of the principle of priority of names outside their own rank between names at genus level or below and at higher ranks. However, we strongly suspect that this difference has not been appreciated by botanists concerned with nomenclature of families and their subdivisions in recent years, for many colleagues and experienced nomenclaturists elsewhere to whom we have mentioned it have been very surprised to have this Article pointed out to them. Indeed application of the present Art. 61 will probably throw overboard established usage above the rank of genus every bit as much as it would have done at generic level and below in 1950. Three of our colleagues at Kew with whom we have discussed the matter have found that upsets of well-known tribal or subfamily names in important families will be caused by application of the Article, but they are so apprehensive of the repercussions that they have asked us not to quote the actual examples.

The significance of Art. 61 was not appreciated when re-wording of Art. 35 was proposed to and accepted by the Leningrad Congress (see Brummitt, Chater & Greuter in Taxon 23: 859. 1974), but could have considerable relevance. Under Art. 35 names of subdivisions of families published before 1953 for which the rank was not clearly stated by the author are validly published but are inoperative in questions of priority (except for homonymy). But Art. 61 implies that such names would have priority at all ranks above genus up to family, and Arts. 35 and 61 are thus at present in conflict. Either one or the other must be changed.

It may perhaps be thought that Art. 61 simply indicates how terminations should be interchanged *if* one wishes to maintain the same stem, without implying that one *must* retain the same stem, but if this were the case it would surely appear as part of Art. 19 and not in Chapter 5 section 5 entitled 'Choice of names when the rank of a taxon is changed.' The question does arise of what is meant by "When a taxon . . . is changed in rank," and perhaps the important factor here is whether or not the type genus of an earlier name is included in the circumscription of the taxon being named at a new rank. If the type of an earlier name is included, then the rank of the earlier taxon is effectively changed. In the case of *Nesogenes* could one adopt the name *Nesogenaceae* if one made no mention of *Acharitea?* Apart from the fact that it would be ludicrous to have an Article of the Code which promoted such taxonomic dishonesty, such an interpretation would eventually prove ineffective. As soon as *Acharitea* were later sunk into *Nesogenes* it would carry with it the prior claim as the stem of the family name and publication of *Achariteaceae* would be obligatory, just as combining a variety bearing an early varietal name with a species bearing a later specific name would upset the latter if names had priority outside their own rank at this level. This is quite clear from the history of Art. 61 outlined above, from its position in a separate section of the Code together with Art. 60, and from the fact that the statement "In no case does a name or epithet have priority outside its own rank" is restricted to Art. 60 and is conspicuously absent from Art. 61.

Art. 61 is illogical since, for no apparent reason, it makes the principle of priority at family level different from that at generic and specific levels. It is in conflict with Art. 11.2. It has never to our knowledge been applied, and if it were applied it might well serve only to upset well-established names. It might be possible simply to delete the whole Article without causing any inconvenience beyond a blank space in the Code. However, rather than propose such a drastic course of action, we prefer that some minor change of wording be made, effectively to make application of the Article optional instead of obligatory. Other non-mandatory Articles, serving

more as a guide to acceptable practice than a rule, already exist elsewhere in the Code—see for examples Arts. 28.2, 47.1 and 51.1.

Proposal (71). In Art 61.1 delete "is to" and substitute "may".

As an alternative, which would be equally acceptable, the Editorial Committee might prefer to reword the Article completely to make it more comparable with Art. 60, as follows: "When a taxon at the rank of family or lower is changed to another such rank, the correct name is the earliest legitimate one available in the new rank".

On acceptance of either one or other of the above wordings the Editorial Committee might consider adding a further sentence "In no case does the stem of a name have priority outside its own rank".

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Proposals (72-75) affecting Articles 72 and 75 and Recommendations 73C and 73F of ICBN, 1978.

Proposal (72). Art. 72. Add an additional Note, as follows:

The publication of a new name *(nomen novum)* based on the same type as the rejected name is not appropriate for the replacement of superfluous names.

Comment. Some names are rendered superfluous by an element in the protologue which is of a subsidiary nature, and the central element may then require a name. If a *nomen novum* is proposed, it will in many cases be typified by the type of the name which ought to have been adopted (Art. 7.11); the new name will therefore be superfluous in exactly the same sense as the one it is intended to replace.

Proposal (73). Art. 75.1. Alter to read as follows:

When two or more generic names are so similar that they are likely to be confused, they are to be treated as variants, which are homonyms when they are based on different types. In judging the degree of likelihood that names will be confused, the relationship of the taxa concerned and other relevant factors may be taken into account.

Comment. The existing wording gives similarity as the *reason* for likely confusion but then continues with a "because" clause. It seems more logical to separate the similarity factor from the circumstantial ones.

Proposal (74). Rec. 73C.1. Replace "may be latinized" in line 1 by "may be given latinized endings".

Comment. L. C. Leach (Taxon 28: 602–604, 1979) offers two alternative proposals (40 and 41) for clarifying the Code concerning substantive epithets based on personal names ending in a vowel. His problem is whether the original spelling *Euphorbia monteiri* Hook. f. is to be retained or altered to *E. monteiroi* in accordance with Art. 73.10. A similar case is provided by *Cephalotaxus fortuni* Hook. in Curt. Bot. Mag. 76, t. 4499 (1850). This is usually changed to *C. fortunei* but in some recent publications the original spelling has been used.

Leach's conclusion is that the spelling *monteiri* is correct because it is governed by Art. 73.7, which says that intentional latinizations are to be retained. In my opinion, however, the examples to Art. 73.7 show that this paragraph is not relevant to these cases. All non-Latin personal names have to be provided with a Latin termination in order that they may be declined. This necessary bit of latinization has to be done according to the rules (Art. 73.10 and Rec. 73C.1.). The spelling *monteiri is* a wrong use of a termination because Rec. 73C.1. tells us how the *end* of the