

Comments on *Spracklandus* Hoser, 2009 (Reptilia, Serpentes, ELAPIDAE): request for confirmation of the availability of the generic name and for the nomenclatural validation of the journal in which it was published

(Case 3601; see BZN 70: 234–237)

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Case 3601 seeks to perpetuate false nomenclature. Those unfamiliar with the controversy over Raymond Hoser's taxonomic contributions to herpetology should take a look at several issues of the *Australasian Journal of Herpetology* (hereafter, *AJH*; available through the website www.smuggled.com/AJHIP1.htm) as well as associated webpages (see the list at www.smuggled.com/faq1.htm) so that they can better appreciate the situation he has created for herpetologists. These names place a significant burden on herpetological nomenclature and, as of this writing, add up to 604 taxon names beyond *Spracklandus*, across all groups of reptiles. Hoser produces taxon names by the dozen in a manner that he proclaims to be compliant with the Code yet which are clearly crafted without the constraints of due scientific process, thus failing to meet the criteria of Article 8.1.1 of the Code (a work 'must be issued for the purpose of providing a public and permanent *scientific* record'; emphasis added).

One may ask how it is even possible that one author, working without examining museum specimens or input from experts in the field and generating insufficient data, produces so many taxonomic decisions across such a wide taxonomic arena in such a short period of time (2012: $n = 280$; 2013: $n = 255$). Examination of the issues of *AJH* shows the pattern: start with one very basic taxon naming section devoid of sections on methodology, specimen lists, new data, original interpretations or illustrations, which is filled with a single text block that includes all the literature on the particular group available; then, after copying and pasting as needed, the listing of literature is changed as appropriate for each treated group, specimens are picked from the lists of others when needed, and an extensive etymology is composed. As a consequence, Hoser's taxon names, *Spracklandus* among them, are almost entirely dubious in their inception, and it is no wonder that this methodology has been heavily and formally criticized in many publications (e.g. Aplin, 1999; Wüster et al., 2001; Borrell, 2007; Wallach et al., 2009; Zaher et al., 2009; Bates et al., 2013; Kaiser, BZN 70: 293–302, December 2013), and by the herpetological community at large (Kaiser et al., 2013).

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The genus name *Spracklandus* Hoser, 2009, was clearly presented chronologically ahead of *Afronaja* Wallach et al., 2009. Therefore, should its publication be judged to be Code-compliant, there is no argument regarding Article 23 (the Principle of Priority). However, given that serious questions were, and continue to be, raised

regarding the circumstances under which this particular issue of the *AJH* was published (Wallach et al., 2009), a close examination of the facts is in order.

After a review of photographs of the copy of Issue 7 of the *Australasian Journal of Herpetology* held by the Australian National Library, which is unquestionably an original copy of the document under scrutiny, it becomes clear that this document does not meet the requirements of Article 8.1.3. Based on the photographs, the following can be stated:

(1) As clearly visible on the first page (Fig. 1A), there is a printer-produced pattern embedded in the black emblem. This pattern is also easily visible on p. 12, which has white writing on a black background. In a normal printing company run of 100 copies or more, such a pattern would be detected as part of the regular quality-control process and suitable adjustments would be made. However, if someone were to home-print individual double-sided copies, as appears to have been the case here, such a pattern may not be detected. A similar almost identical ink pattern is visible on the single-sided copy later received by Van Wallach (Fig. 1B). I believe this shows that there really was no print run of 'numerous identical and durable copies' (Article 8.1.3), as Hoser asserts.

(2) With an ink defect present on a document, such patterns will vary slightly from copy to copy, meaning that it is not possible to produce visually identical copies. Furthermore, the online issue includes colour in its layout, whereas the printed copies are black-and-white with grayscale images. While I think the spirit of the Code should be interpreted here to mean 'identity of content,' I feel it is prudent to include all details.

(3) The position of the staple in the upper portion of the document (Fig. 1C), horizontal near the top of the page and not in the upper left hand corner, as Hoser claims, shows once more that this document was not produced in an edition and that Hoser himself is no longer sure how he produced 'original copies.' There is no printing machine that places staples in the position where these original staple holes are (the library appears to have re-stapled the pages in the exact location of the original staple). Incidentally, the staple in Wallach's copy is vertical along the left margin in the upper left hand corner of the page (Fig. 1D).

(4) The presentation of this work does not reflect the level of durability expected from a 21st Century work compliant with Article 8.1.3. If someone were to request a 'durable copy' of a given document and then received what we can see in the images, I contend that this would be unacceptable. The hallmark of a 'durable' item is that it can withstand repeated handling and the test of time. If this document were to be handled frequently, even if only to open it for reading, there are potential problems with the fastening and the paper itself (showing some fraying after only a few years in a library).

(5) Based on the condition of the copy in the Australian National Library, which all acknowledge is currently the only accessible original copy of this issue, there can be no doubt that the work was printed on a desktop printer and hand-stapled. While the printing medium itself may conform to the Code, much of the initial production of Issue 7 clearly does not. Furthermore, I have seen no proof that there were ever more than a handful of copies produced around the publication date (receipts confirmed only for the Australian National Library, *Zoological Record*, and Robert Sprackland).

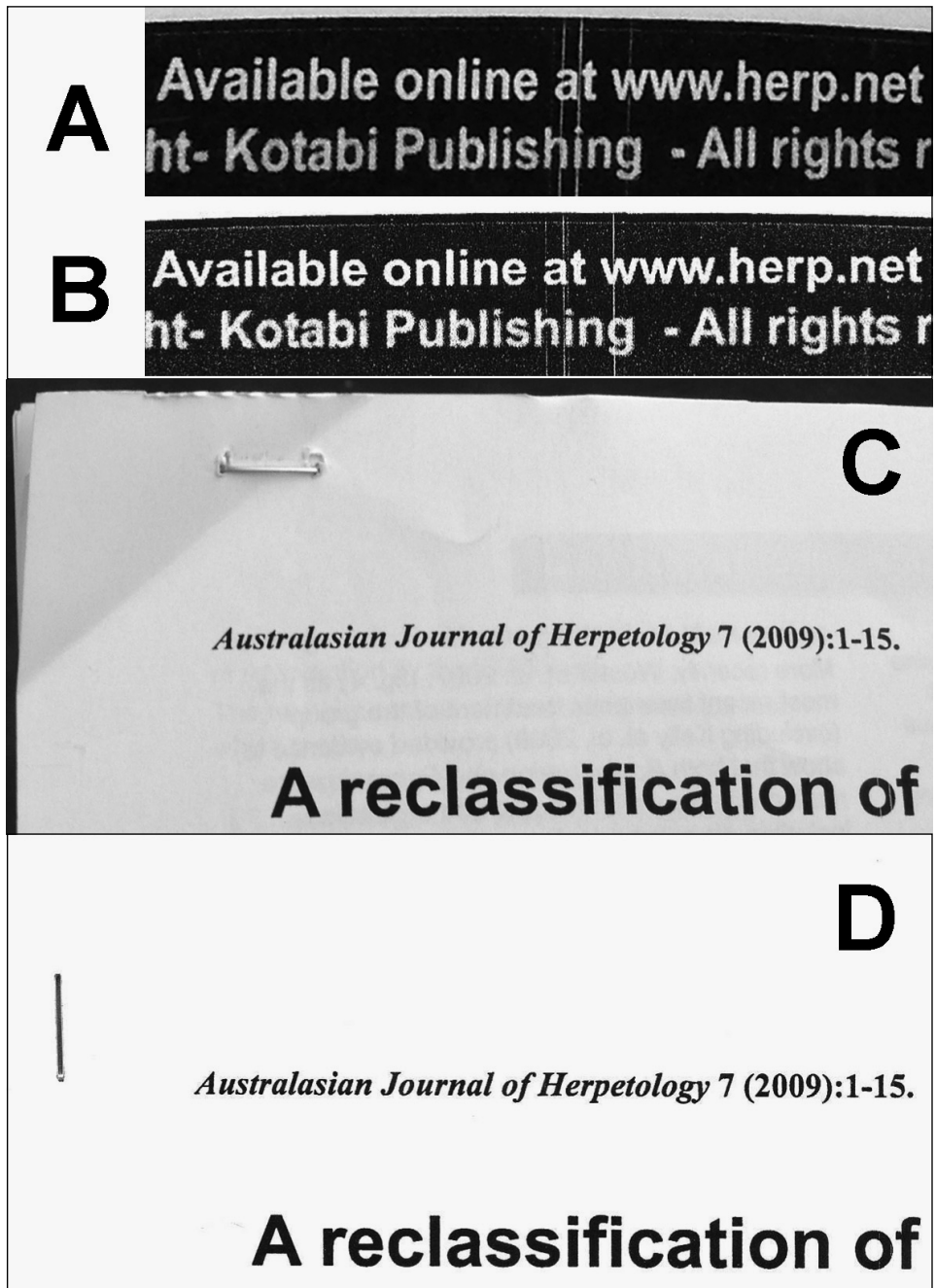


Fig. 1. Details of an original (A, C) and a Van Wallach's copy (B, D) of Issue 7 of the *Australasian Journal of Herpetology*. (A, B) The streaking in the ink running through the logo is very similar, and was probably caused by a worn print roller. (C, D) The position of the staple in (C) demonstrates that the original was hand-stapled. The position and direction of the two staples is different. (A, C) From photographs by Phil May. (B, D) Scans provided by Van Wallach.

I conclude that in addition to violating Article 8.1.1 this work contravenes four tenets of Article 8.1.3. (i) The work cannot be considered as having been published ‘in an edition,’ in the usual meaning and understanding of this word; (ii) there is no evidence that ‘numerous’ copies were made, as ‘numerous’ is commonly understood to mean ‘great in number, many’; (iii) the copies are not ‘identical’; (iv) the copies are not ‘durable’ in the commonly accepted meaning of the word. Therefore this work is not Code-compliant and appears instead to conform to the description in Article 9.12 of the amendment to the Code (ICZN, 2012; formerly Article 9.7) for an item explicitly considered unpublished by the Code. Given that, for decisions relating to the availability and priority of names, key articles of the Code must be adhered to, this work fails several critical aspects. Therefore, taxon names based on taxonomic decisions presented in Issue 7 of *AJH* must be excluded from zoological nomenclature. It also appears to have been the intent of the author to validate the nomenclatural availability of the entire run of the *AJH* (see the title of Case 3601), although the Editor has assured me that such a request was not intended and cannot be part of the Commission’s voting.

A Momentous Decision

The Commission has now been asked to rule on the proposals in Case 3601. I have previously proposed in the pages of this journal (Kaiser, BZN 70: 293–302) that taxon names produced outside of scientific process after the year 2000 (i.e. in violation of the Best Practices proposed by Kaiser et al., 2013) should be considered non-existent for the purposes of nomenclature. If this proposal were to be accepted by the Commission, such names, including *Spracklandus*, would fall outside of the scope of the Code, and the Commission could then formally reject the Case as being outside its jurisdiction, now that it has been formally presented.

I have also argued that the presentation of pseudoscience is but one of many ethical problems besetting science in general and taxonomy in particular (Kaiser, BZN 70: 293–302). While I do not dispute that a wide variety of transgressions against generally accepted scientific norms or ethical scientific conduct occur throughout the sciences, I contend that the problem of errant taxonomy occupies a unique place. Unlike in non-taxonomic situations, where the scientific community can quickly and informally discredit and ignore bad science and freely condemn misconduct, taxonomists are restricted in their response because a formalized set of rules exists in the form of the Code, and because dealing with bad science and misconduct may, as in this case, require an interaction with a council of peers, the Commission. As stated by Dayrat (2005, p. 410), ‘The current codes make taxonomy a peculiar discipline: all taxonomic work is permanent, regardless of its scientific rigor.’ The impact of this unique, Code-generated situation is that the strict application of the Principle of Priority without regard for other factors requires scientists to honour the output of substandard works that would be ignored in other disciplines, while simultaneously incentivizing those seeking scientific immortality without scientific accomplishment to abuse the system.

It may be instructive to investigate possible outcomes of Case 3601, and how the scientific community and the public will perceive them. If the Commission rules in favour of the case, then two taxonomies will emerge in herpetology, one system created, supported, and used by the herpetological community working according to

scientific Best Practices (as formalized through the votes taken by several major herpetological societies; see Kaiser et al., 2013), and one dissident system created by a single person, demonstrably not based on rigorous taxonomic research. The presence of two mutually exclusive taxonomic systems based on completely different premises will doubtlessly result in confusion among users, and it may lead to perpetual nomenclatural instability. It may also lead to the perception that there is a schism in the system, pitting those who uphold the Code in a supportive role for scientific taxonomic principles against those who uphold the Code as a pure, standalone entity unencumbered by those principles. Let me be clear: the current edition of the Code gives the Commission the power to set aside any provision of the Code in the pursuit of stable nomenclature (Article 81 of the Code). If the Commission rules against Case 3601, this would show that nomenclatural stability trumps taxonomy rejected by the herpetological community. The Commission could then also respond favourably to a case brought before it to suppress the *AJH* by using its plenary power, because this would align the trajectory followed by the herpetological community with the Code, avoid the potential for nomenclatural instability, and place those wishing to work outside of scientific principles and the Code of Ethics, on notice that the scientific community will not accept their involvement in taxonomy and the resulting nomenclature unless their taxonomic decisions are produced in accordance with scientific principles (scientific Best Practices). A ruling by the Commission merely to satisfy the Principle of Priority, in my opinion, would constitute too narrow an application of the Code to an issue that ultimately is much broader than the question of what to do with the genus name *Spracklandus*. In the interest of long-term stability in herpetological taxonomy, I believe it is time for the Commission to officially discard its policy of neutrality towards the merit of taxonomic decisions (see Harvey & Yanega, BZN 70: 216–217), and, as it begins to deliberate on Case 3601, I urge the Commission to join the worldwide herpetological community in opposing this flawed work.

The International Commission on Zoological Nomenclature is accordingly asked to:

- (1) confirm that Issue 7 of the *Australasian Journal of Herpetology* was not Code-compliantly published, failing to meet the criteria set forth in Article 8.1.1 of the Code;
- (2) confirm that Issue 7 of the *Australasian Journal of Herpetology* was not Code-compliantly published, failing to meet the criteria set forth in Article 8.1.3 of the Code;
- (3) place the name *Spracklandus* Hoser, 2009 on the Official Index of Rejected and Invalid Generic Names in Zoology.

Additional references

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1. In his submission to the Commission, Hoser seeks to not only have the generic name *Spracklandus* Hoser, 2009 conserved for a group of African cobras by the Commission but implicitly asks the Commission to decide whether or not his Issue 7 (2009) of his self-published journal, the *Australasian Journal of Herpetology (AJH)*, fully complies with the Code thus making several names and nomenclatural acts published therein available. However, there are several problems with this journal and specifically with the issue concerned. I therefore advocate the suppression of the name *Spracklandus* Hoser, 2009 and the placement of *AJH* on the Official Index of Rejected and Invalid Works in Zoological Nomenclature.

2. *AJH* is a self-published journal of which Raymond Hoser is the publisher, editor and, since its founding in 2009, the exclusive author. Within three months of the first publication, seven issues of *AJH* were produced naming 14 species and subspecies and 3 genera and subgenera, including *Spracklandus* Hoser, 2009. The existence of this outlet was primarily proclaimed in herpetoculture internet forums, and zoologists unlikely to participate in such forums were widely unaware of its existence (see the Code, Appendix B.8, General recommendations).

3. Article 8.1.1 of the Code states that works '... must be issued for the purpose of providing a public and permanent scientific record'. Given that publishers, editors and the scientific community as whole make great efforts to retain the integrity of the scientific record by preventing inadequate or unethical works to enter, Article 8.1.1 implies that works must have been produced in a way that enables them to enter the scientific record. Thus, works can only comply with this article if they also comply with the generally agreed and most basic standards in scientific writing, and hence are adequate to make a meaningful contribution to the scientific record. Adherence to these standards lies within the responsibility of authors, editors, and publishers, with the latter two functioning as gatekeepers of the scientific record. Contrary to this, works of poor science, little scientific merit, or produced in violation of scientific principles do not qualify to enter the scientific record and should be rejected immediately by an independent editorial board.

4. Case 3601 states that Issue 7 of *AJH* was made available on 23 March 2009 but parts of the original print run had been distributed a few days earlier to a small group of institutions and individuals. This statement must be seen as evidence for the existence of paper copies, and therefore Article 21.4 of the Code, ‘Date incorrect’ applies and the publication date must be advanced to the date of the first distribution (see Glossary of the Code for ‘date of publication’). However, on the date the issue was distributed, it was not obtainable by the public. The Code explicitly does not recommend the distribution of original works on other than the specified date. Recommendation 21A of the Code states that an author, editor or publisher ‘should not publish, permit to be published, or distribute a work, in whole or in part, for the first time other than on the specified date of publication. . .’.

5. In regard to the first seven issues of *AJH*, it is evident that these issues were produced by printing files on a domestic printer rather than having been professionally produced. While this itself does not render the status of the work noncompliant with the Code, it is impossible to determine the original source from which the printout was generated because both the paper and the online editions include the ISSN for both versions. In the absence of evidence to the contrary, it is not possible to determine whether or not the copies were printed in accordance with Article 8.1.3 or ‘printed on demand.’ The latter would be explicitly excluded by Article 9.7. One of the underlying principles of the Code is to ‘. . .effectively ensure that, irrespective of when and where they were published, names and the descriptions of new taxa would be permanently accessible and could be consulted most easily; moreover, there would be no doubt as to whether any name had been publicly presented in a form identical to all zoologists. . .’ (the Code, Introduction: Development and underlying principles). Although the introduction is not a mandatory part of the Code, it reflects the spirit of the Code and helps to interpret the meaning of its provisions. Taken together the above evidence suggests that *AJH* must be considered as not published and the names presented therein must be considered de facto non-existent for the purpose of zoological nomenclature.

6. If the Commission, however, were to vote in favor of Case 3601 and declare the name *Spracklandus* Hoser, 2009 available, the Commission would thereby compromise the scientific record by opening a backdoor for works not published in adherence to scientific principles to enter the scientific record. This would be an inappropriate action by the Commission and might thereby diminish the influence of the Code in terms of its use in zoological taxonomy and generate user nomenclature that deviates from that compliant with the Code, causing even more confusion and nomenclatural instability. Very few zoologists will readily use the scientific names and concepts coined in the pages of *AJH*. I predict that the majority of herpetologists will follow the recommendations of Kaiser et al. (2013) and continue to ignore *AJH* as a reliable source for nomenclatural and taxonomic information.

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In March 2009, Raymond Hoser published Issue 7 of the *Australasian Journal of Herpetology* (hereafter *AJH*), of which he was then, and has remained since, the sole editor and sole contributing author. In this issue, he proposed the genus *Spracklandus* for the African spitting cobras (type species *Naja nigricollis* Reinhardt, 1843).

At the time of publication of Issue 7 of the *AJH*, Wallach and others were working on a manuscript detailing the division of *Naja* into four subgenera, *Naja*, *Boulengerina*, *Uraeus*, and a new subgenus, *Afronaja*, for the African spitting cobras.

On the *AJH* website, Hoser claimed the availability of a printed version of the journal free of charge at the time of the publication of Issue 7. This changed to a substantial fee shortly after publication of that issue in 2009. Ordinarily, it would be normal practice to assume journal publisher statements of this nature to be correct, however previous experience with this publisher led us to question the wisdom of relying on this assumption. Consequently, Wallach and others made enquiries with Australian libraries (through the Libraries Australia search system of the Australian National Library, which searches all major Australian libraries) and colleagues in Australian museums who we expected would have seen or received hard copies of the journal if indeed they existed. Our enquiries revealed a single hard copy, registered in the Australian National Library, Canberra. The second Australian library copy mentioned by Hoser (BZN 70: 234–237, December 2013), the State Library of Victoria, confirmed that its hard copy Issue 7 of the *AJH* was only received on 28 October 2009, i.e. after the publication of Wallach et al. (2009). This therefore does not constitute evidence for the existence of multiple copies at the time of the original publication. Since the copy Hoser sent to Van Wallach upon his request showed evidence of having been printed on demand, we concluded that there was no evidence to suggest the existence of a hard copy journal compliant with the requirement of Article 8.1.3. of the Code that ‘it must have been produced in an edition containing simultaneously obtainable copies by a method that assures numerous identical and durable copies.’ In the absence of clear evidence of *Spracklandus* being published within the meaning of the Code, Wallach et al. (2009) proposed the subgenus *Afronaja* for the African spitting cobras (type species *Naja nigricollis* Reinhardt, 1843), and considered the name *Spracklandus* to be unpublished.

Following the publication of Wallach et al. (2009), Hoser made representations to the editors of *Zootaxa* regarding the priority of his genus *Spracklandus*. He was invited to submit a rebuttal of Wallach et al. on three separate occasions by *Zootaxa*’s subject editors David Gower and Aaron Bauer, and Editor-in-Chief Zhi-Qiang Zhang, but failed to submit a manuscript to the journal (D. Gower, pers. comm.).

We maintain that Issue 7 of the *AJH* cannot be considered published within the meaning of the *Code*. Article 8.1.3, as in force in 2009, specifically required that any new name ‘must have been produced in an edition containing simultaneously obtainable copies by a method that assures numerous identical and durable copies.’ In our view, any publication ‘held together with a staple at the top left corner’, as described by Hoser (2013b) for Issue 7 of the *AJH*, fails the requirement of durability specified by Article 8.1.3; such documents are likely to fall apart with minimal handling. In this context, we also note that Recommendation 8 of Appendix B of the *Code* firmly places the responsibility for ensuring that new names are ‘self-evidently published’ on the author(s) of the names.

Finally, we submit that Hoser’s case needs to be assessed not solely on its own technical merits, but against the wider background of a very large number of poorly based names introduced by Hoser (Kaiser et al., 2013; Kaiser (BZN 70: 293–302, December 2013). The over 500 names (Kaiser et al., 2013; Kaiser (BZN 70: 293–302)) proposed by Hoser have been criticized by numerous authors (Aplin, 1999; Bates et al., 2013; Branch in Li Vigni, 2013; Kaiser et al., 2013; Schleip & O’Shea, 2010; Williams et al., 2006; Wüster et al., 2001; Zaher et al., 2009).

The point of view proposed by Kaiser et al. (2013), that these names should not be considered part of the scientific record, has received support from numerous individual herpetologists and most major scientific herpetological societies, including the World Congress of Herpetology. A Commission Opinion favouring Hoser’s case will place the Commission and the *Code* at odds with the clearly stated wishes and practices of the scientific herpetological community, and carries the risk that the authority and universal acceptance of the *Code* will be undermined.

The International Commission on Zoological Nomenclature is accordingly asked:

- (1) to confirm that Issue 7 of the *Australasian Journal of Herpetology* is not published in the sense of the *Code* as a result of failing to meet the criterion of durability of Article 8.1.3;
- (2) to place on the Official Index of Rejected and Invalid Generic Names in Zoology the name *Spracklandus* Hoser, 2009;
- (3) to place on the Official Index of Rejected and Invalid Works in Zoological Nomenclature Issues 1–21 of the *Australasian Journal of Herpetology*.

Additional references

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Comment on the proposed conservation of usage of *Touit* G.R. Gray, 1855 and *Prosopeia* Bonaparte, 1854 (Aves, PSITTACIDAE)
(Case 3640; BZN 70: 245–248)

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This case has been submitted owing to a paper by Gregory & Dickinson (2012) and the fact that we, the authors, failed to dig deeply enough into the precise origin of the name *Pyrrhulopsis* Reichenbach, 1850. In the light of the deeper research by Schodde et al. (2013) we are happy to state that we support their application.

Comment on the proposed conservation of usage of CORCORACIDAE Mathews, 1927 (Aves) and the spelling *melanorhamphos* Vieillot, 1817 for the valid name of the type species of its type genus
(Case 3630; see BZN 70: 238–244)

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I am in support of the proposal to conserve the family name CORCORACIDAE. By contrast I see no sufficient reason to abandon the original spelling *melanoramphos* in favour of *melanorhamphos*. Granted it might be in prevailing usage. However, there is, I think, general agreement that the Glossary definition in the 1999 Code does not provide a clear and unambiguous methodology for determining prevailing usage. There is a need for such a methodology; however, I believe any debate on the subject should start from a re-examination of that need, and then examine whether the background has changed since the time when prevailing usage seemed like the only solution. I believe zoologists generally would agree that the original concept arose in the context of wholly different names when earlier applicable but forgotten names were being ‘rescued’ from synonymy. By contrast I think that the ‘mission-creep’ which has extended that original concept to one where minor spelling changes are seen in the same light was, and is, unfortunate. This is ever more true; the Biodiversity Heritage Library makes access to old works, and thus original spellings, more and more easy. Original spellings should be seen as the right basis for stability because they remain before us. As the Code now describes prevailing usage any declaration that a given spelling is in prevailing usage could be revised within a matter of years due to the ease of rediscovery of use of the original spellings. The relevance of ZooBank to this should be considered. Wherever possible changes to original spellings should be avoided and not inflicted on ZooBank with the requirement that the change be recorded therein. I am not suggesting that the Articles in the Code that