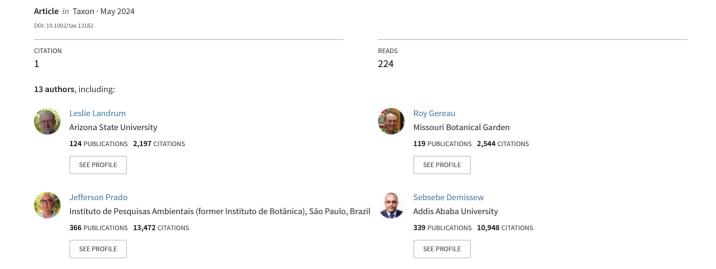
In defense of the primacy of the Nomenclature Section in decision-making in botanical nomenclature: A reply to the Rapporteurs' comment on Proposal 193 to amend the Shenzhen Code





# PERSPECTIVE ARTICLE

# In defense of the primacy of the Nomenclature Section in decision-making in botanical nomenclature: A reply to the Rapporteurs' comment on Proposal 193 to amend the *Shenzhen Code*

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**Abstract** A response is provided to the Rapporteurs' comments on Proposal 193 to amend the *Shenzhen Code*. If adopted, Prop. 193 would amend Div. III, Prov. 5 of the *Code* so as to require a simple majority to approve—as opposed to the current 60% majority to reject (and thus 40% + 1 vote to approve)—General Committee recommendations on conservation, protection, or rejection of names, suppression of works, and binding decisions. We regard the requirement of a simple majority in the affirmative to *approve* recommendations of the General Committee to be the fairest and most easily understood procedure available. It is also one that is consistent with the compromise worked out and published in 2016 by the Special Committee on By-laws that reported to the Nomenclature Section at Shenzhen and would restore the procedure used at all nomenclature sections prior to the Nomenclature Section at Vienna in 2005.

Keywords General Committee; International Botanical Congress; nomenclature section; plenary session

### **■ INTRODUCTION**

The Rapporteurs (Turland & Wiersema, 2024: 399) made the following comment regarding Proposal 193 (Smith & al., 2022) to amend Div. III, Prov. 5 of the *Shenzhen Code* (hereafter the *Code*; Turland & al., 2018):

Prop. L [193] would change the current qualified majority (at least 60%) of votes required to reject recommendations of the General Committee on conservation, protection, or rejection of names, suppression of works, or binding decisions. Instead, a simple majority (more than 50%) would be required to accept these recommendations. The proposers of Prop. L [193]

argue that requiring a majority of at least 60% to reject a General Committee recommendation is undemocratic because if, say, 55% voted to reject, it would not be rejected and would in effect be approved by a 45% minority. However, current Art. 14.15, 34.2 and 56.4 stipulate that when proposals have been approved by the General Committee, conservation, protection or rejection of a name or suppression of a work is authorized subject to the decision of a later International Botanical Congress. On this authority, asterisked entries are made to the online Appendices to the *Code*, available to all users, so reversing such a decision amounts to amending the *Code*, which otherwise requires a qualified majority to accept (Prov. 5.1(a)).

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We disagree with the Rapporteurs' characterization of Prop. 193 for the reasons given below.

### ■ HISTORY OF PROPOSAL 193: A COMPROMISE YEARS IN THE MAKING

Proposal 193 (Smith & al., 2022) was also made in 2016 (Prop. 286 in part) by the Special Committee on By-laws for the Nomenclature Section (Knapp & al., 2016a: 663). The Special Committee on By-laws arrived at a simple-majority requirement after considerable debate (Knapp & al., 2016b: 668). The simple-majority requirement represented a compromise between those special committee members who supported requiring a 60% majority for approving conservation, protection, or rejection of names, suppression of works, or binding decisions requests and those who supported requiring a 60% majority to reject such proposals or requests by the General Committee (Knapp & al., 2016b: 668).

Considering procedures used before 2017, approval by a simple-majority vote in the affirmative is consistent with how such proposals had been handled at all nomenclature sections (Moore, 2007: 111; Knapp & al., 2016b: 668; Turland & Wiersema, 2017: 268) prior to the Nomenclature Section at the XVII International Botanical Congress (IBC) in Vienna, 2005, when a 60% threshold for rejection of recommendations by the General Committee was adopted for the first time. However, the hard-fought compromise of the Special Committee (Knapp & al., 2016a: 663) was lost at the Nomenclature Section at the XIX IBC in Shenzhen, 2017, when the By-laws Committee's proposal was amended (floor amendments proposed by Kevin Thiele and John McNeill; see Lindon & al., 2020: 220-223) to restore the 60% threshold to reject the General Committee's recommendations (Turland & al., 2017: 1242, specifically Table 4; 1244, specifically third paragraph in endnote 46) used at the Vienna Nomenclature Section (McNeill & al., 2005: 1059) and the subsequent Nomenclature Section at the XVIII IBC in Melbourne (McNeill & al., 2011: 1508).

Back in 2017, the Rapporteurs made the following comment (Turland & Wiersema, 2017: 268, 269) concerning the portion of Prop. 286 that is now Prop 193:

A simple majority (more than 50%) of votes cast is required at the Nomenclature Section to accept recommendations of the General Committee. This was (tacitly) the case prior to the Vienna Congress of 2005, at and after which controversy raged over requiring a 60% majority to *reject* a recommendation of the General Committee (to conserve the name *Acacia* with a conserved type). This 60% majority to reject was again adopted on a motion from the floor of the Nomenclature Section at the Melbourne Congress in 2011. This issue was the most controversial in the Special Committee's discussions, but, after much discussion, and two rounds of voting, with ranked preferences in the second round, at least 70% of the Committee members voting supported the simple majority option (see p. 668 in the

report of the Special Committee: Knapp & al. in Taxon 65: 665–669. 2016).

[Prov.] 5.3. Provides a mechanism for the Nomenclature Section to vote separately on an individual recommendation of the General Committee. [...]

The General Committee almost unanimously supports the general principle of the new Div. III (votes 24:0:1) [...].

Whereas the Rapporteurs' comment from 2017 on Prop. 286 was supportive of the compromise reached by the Special Committee on By-laws, the Rapporteurs' recent comment on Prop. 193 (Turland & Wiersema, 2024: 399; reproduced in the "Introduction", above) appears to support the Thiele and McNeill amendments at Shenzhen that abandoned this compromise and restored the procedure to that used at the Vienna Nomenclature Section (McNeill & al., 2005: 1059) requiring proposals recommended by the General Committee to require a 60% majority to reject and thus only 40% + 1 vote to approve. Even the Rapporteurs of the Vienna Nomenclature Section acknowledged afterward that the procedure used on Prop. 1584 on *Acacia* was "unusual, and probably not one to be adopted again" (McNeill & Turland, 2010: 613).

# ■ RELATIVE AUTHORITIES: COMMITTEES RECOMMEND, NOMENCLATURE SECTIONS DECIDE, PLENARY SESSIONS RATIFY

The Rapporteurs (Turland & Wiersema, 2024: 399) assert that if a Nomenclature Section rejects a General Committee recommendation, such a decision is "reversing" the "decision" made by the General Committee. This is not true. The *Code* clearly states (Turland & al., 2018: Div. III, Prov. 1.2) that it "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 Congress". There is no sharing of decision-making authority between the General Committee and a Nomenclature Section. In summary, Committees recommend, a Nomenclature Section decides, and a Plenary Session of an IBC ratifies.

Therefore, Art. 14.15, 34.2, and 56.3 authorizing General Committee recommendations to be followed "subject to the decision of a later International Botanical Congress" do not further authorize the addition of provisional or asterisked entries into the appendices of the Code. Any such provisional entries that are added are certainly not part of the de jure Code and their removal is not tantamount to amending the Code. Such provisional entries have been added (e.g., Greuter & al., 1988; Wiersema & al., 2018-) or not (e.g., Greuter & al., 1994, 2000; McNeill & al., 2006) to the appendices of the Code at the discretion of the editors. Mycologist John Ramsbottom (1885-1974), the lead author of the proposal (Ramsbottom & al., 1929) to amend the Code to add the language that is now found at Art. 14.15 (later included in Art. 34.2, 56.4), made clear the status of names recommended by the General Committee for conservation or rejection but not approved by the Nomenclature Section: they were to "be accepted informally in the interim, the list to be tentative until formally approved by the next Congress" (Lanjouw, 1953: 539).

## ALWAYS APPROVING WITH A MAJORITY VOTE: CONSISTENCY, CLARITY AND FAIRNESS

As the Rapporteurs acknowledged (Turland & Wiersema, 2017: 268), and unlike the current process specified for the Specialist Committees and General Committee (see Div. III, Prov. 7.14, 7.15), the current process for the Nomenclature Section only allows it to *reject* recommendations of the General Committee on conservation, protection, or rejection of names, suppression of works, and binding decisions (see Div. III, Prov. 5.1(e), (f)). There currently is no mechanism for the Nomenclature Section to *accept* or *approve* these General Committee recommendations. When the Nomenclature Section fails to reject a General Committee recommendation then that recommendation is treated as effectively approved, and it will appear in one of the *Code*'s appendices. Such a "rejection-only" procedure is inconsistent with all other motions that come before the Nomenclature Section.

Such inconsistency can and has led to confusion. When this procedure was first used at the Vienna Nomenclature Section, there was confusion as to what was occurring (Moore, 2007: 112–114). Also, at the Shenzhen Nomenclature Section, some seemed puzzled when the General Committee report was "accepted" by not rejecting it (Lindon & al., 2020: 259–260):

**Knapp** moved on to the next item of business, which was to accept the recommendations of the General Committee reports. These were the things that went into the Appendices. Based on earlier agreement, there was no percentage with which to *accept* the General Committee reports. She explained that the Section was voting to *reject* the General Committee reports. If there was a 60% majority to reject the General Committee reports, they would be rejected in their entirety. If there was not a 60% majority to reject the General Committee reports, they would be accepted.

[Unanimous show of hands against rejecting the General Committee reports; laughter.]

Besides being inconsistent and potentially confusing, the "approving by not rejecting" process is inconsistent with most standards of procedure, including *Robert's Rules of Order* (Robert & al., 2000: 100):

It is preferable to avoid a motion containing a negative statement even in cases where it would have meaning, since members may become confused as to the effect of voting for or against such a motion. [...] In this connection, it should be noted that voting down a motion or resolution that would express a particular opinion is not the same as adopting a motion expressing the opposite opinion, since—if the motion is voted down—no opinion has been expressed.

Therefore, a Nomenclature Section's failure to reject a General Committee's recommendation cannot be taken as an acceptance or approval of that recommendation by the Nomenclature Section. Those who are defending the current process are trying to have it both ways by claiming the Nomenclature Section has the final say even though there is no way currently for the Nomenclature Section to *approve* General Committee recommendations.

Lastly, the current procedure is perceived by many as particularly unfair because it allows a General Committee recommendation to be taken as accepted or approved even though it receives less than majority support. Therefore, the will of the majority of a small committee (the General Committee currently has 26 members) can supersede the will of the majority of a large Nomenclature Section with hundreds of members to which the General Committee reports. While the controversy leading up to the Vienna IBC regarding Prop. 1584 on Acacia (Orchard & Maslin, 2003) focused on the proposal itself (e.g., Maslin, 2004; Maslin & Orchard, 2004; Pedley, 2004; Luckow & al., 2005), the controversy that raged on afterward (e.g., Rijckevorsel, 2006; Smith & al., 2006; McNeill & Turland, 2010; Moore & al., 2011; Rico-Arce, 2011) largely focused on the controversial procedure used at Vienna that allowed it to be accepted even though a majority of votes cast at the Nomenclature Section opposed Prop. 1584.

### **■** CONCLUSION

Adoption of Prop. 193 will put into place the compromise originally agreed to by the Special Committee on By-laws that reported to the Nomenclature Section at Shenzhen. This compromise will re-establish the long-standing procedure of requiring a majority vote in the affirmative to accept General Committee recommendations on conservation, protection, or rejection of names (as well as suppression of works and binding decisions) used prior to the Nomenclature Section at Vienna in 2005. Having the Nomenclature Section act on the General Committee reports directly through a simple-majority vote will: (1) respect the longstanding separation of authorities of Committees (recommending), Nomenclature Sections (deciding), and plenary sessions [of an IBC] (ratifying); (2) be consistent with how the Nomenclature Section acts on other items before it; and (3) certainly be fairer and more reasonable than the unprecedented (at the time) and controversial procedure used at Vienna for Prop. 1584 on Acacia.

#### **■ AUTHOR CONTRIBUTIONS**

All authors contributed to the writing of this opinion essay regarding the Rapporteurs' comments on Proposal 193 to amend the *Code*. All authors of this opinion were also authors of Proposal 193.

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