



ICZN ARTICLE 9.1 – WHY?

Richard E. Petit

806 St. Charles Road, North Myrtle Beach, SC 29582 r.e.petit@att.net

Article 9.1 first appeared in the Third Edition of the *International Code of Zoological Nomenclature* in 1985. Article 9 is headed “What does not constitute publication,” followed by a list of procedures, “none [of which] constitutes publication within the meaning of the Code.” The first of these, 9.1, is: “after 1930 handwriting reproduced as such by some mechanical or graphic process.” The wording in the Fourth Edition of 1999 is slightly emended to: “after 1930 handwriting reproduced by facsimile by any process.” The reason for difference in the wording is not evident but that is not the subject of this note.

In an attempt to determine the reason Article 9.1 was introduced, the Secretariat was contacted in January, 2001. Dr. Tubbs, then Executive Secretary, responded that he could not “without considerable effort ... uncover the background arguments which were presented.” Dr. Tubbs further stated that “the proposal was made in the 1970’s [sic] and was part of the need to take account of the then relatively new techniques such as electrostatic copying (xerography): valid publication had previously required ‘printing by ink on paper’” and that “there was no expressed opposition to it, so far as I know.” How “ink on paper” relates to “handwriting in any form” was not explained. More recently (December 2004) the Secretariat was again contacted about the background of Article 9.1, advised of Dr. Tubbs’ earlier remarks and presented with a specific request that the correspondence files of two past Commissioners be checked to determine if they held any pertinent information. A reply was received from Dr. Andrew Polaszek, then

Executive Secretary, advising that he was “not aware of the ‘background’ to which you refer and trawling old correspondence could be extremely time-consuming.” He suggested that a query be posted on the ICZN discussion list, something that had already been done.

Former Commissioner Dr. Christian Thompson was the only person to reply to the query. He kindly advised that some information might be found in the records of the late Dr. Curtis Sabrosky, who was active in the 1985 revision of the Code. However, he also advised that Dr. Sabrosky’s nomenclatural notes are stored in boxes and cannot be searched at present.

It seems strange that no mention of this change appears in the *Bulletin of Zoological Nomenclature* or in any other source located. No one with whom this matter was discussed was aware that it had any effect. That brings up the question why the Article was introduced if there was nothing for it to affect? Why only “after 1930”?

One very large body of literature that was affected by Article 9.1 was the Japanese molluscan journal *Yume-hamaguri*. This journal was published monthly from 1946 to 1959 and contains about 3,500 pages not including plates and covers. The text is entirely in Japanese, but Latin names are given for the included taxa, both previously described and newly proposed. The work is mimeographed and the stencils were produced by hand. The calligraphy of the *kanji* varies but is good; extremely good in some issues. It includes drawings of shells, radulae, anatomy *etc.* that are exceptionally well-delineated, some equal to engravings. Some issues have tipped in photo-

graphs. The *Yume-hamaguri* contains descriptions of hundreds of new genera and species of mollusks (and at least one non-mollusk) written by various distinguished Japanese malacologists (Tetsuaki Kira, Dr. Tokubei Kuroda, Dr. Tadashige Habe, Dr. Masao Azuma, Dr. Katsura Oyama, Dr. Takashi Okutani et al.). Most of these new names have been validated in later literature, but often not by the original author. Other taxa remain to be made available or have been described under other names. The *Yume-hamaguri* is entirely binominal and was written by, and for, professional scientists. It was not the production of a group of collectors, nor was it produced for profit of either the journal or the authors, in contrast to the proliferation of slick-paper publications now being published to describe “new species” without any semblance of peer review that must nevertheless be accepted under the Code.

Everyone who has worked with Japanese molluscan literature is familiar with the great number of nomina with the author’s name followed by “MS.” The *Yume-hamaguri* is the source of most such nomina. The reason for this is that many Japanese workers did not consider the *Yume-hamaguri* to be valid for publication, although it actually was until 1985. This writer thinks that the reason for it being considered invalid is that it was mimeographed. This was demonstrated by Inaba & Oyama (1977) when they listed some of Habe’s taxa in the *Yume-hamaguri* as “(mimeograph, nomen nudum).” Until recent years some American systematists (e.g., Clench & Turner, 1957: 243) did not consider mimeographed works to be valid for nomenclatural acts, and it is highly likely that this misinformation was passed on to their Japanese colleagues. It is considered that this is the reason why some of the new names in the *Yume-hamaguri* are followed by “MS” although others are described as “sp. nov.” or “n. sp.” Workers publishing on species described in the *Yume-hamaguri* showed the names as being of their original authors and as “MS” rather than take credit for them. In doing so many names were unintentionally validated. The *Yume-hamaguri* is not the only work affected by Article 9.1 but it is by far the largest, at least in malacology.

Under Article 9.1 the *Yume-hamaguri* is not only unacceptable for new taxa but as it does not exist as a “publication” under the Code it cannot be used, for example, as a reference for validation under Article 13.1.2 or for any other nomenclatural purpose. However, the *Yume-hamaguri* is cited extensively in the Japanese regional literature (e.g., *Hitachiobi*, *Kyushu no Kai*, *Kai-Nakama*, etc.) and is referenced in the scientific literature (e.g., Hayami, 1984; Callomon & Snyder, 2004, 2006, 2007).

It is little known to those not working with the Japanese fauna that in addition to the Latin name for each Recent species there also exists a Japanese name, usually written in *kana*. The *Yume-hamaguri* is often cited as the origin of the Japanese names of mollusks originally named therein. As these names are not governed by the Code, such citation of the *Yume-hamaguri* is acceptable.

In the third Edition of the Code (1985: p. xx) there is a list of “Basic Dates in the Code.” Under 1930/1931 is listed: “Status of manuscripts reproduced by any method, 9(1).” Was the Commission concerned about manuscripts being photocopied in quantity and then becoming valid? If so, Article 9.1 did nothing to prevent that contingency other than for handwritten manuscripts, surely a rarity as late as 1985! This difference in wording (“manuscripts reproduced by any method” contrasted to “handwriting reproduced as such”) is striking, giving the appearance of a change in thinking or intent between the times the parts were written. Neither “manuscript” nor “handwriting” is defined in the Glossary of any edition of the Code, but they are not synonymous. Is it possible that what the Commission intended to restrict were handwritten manuscripts and just omitted “manuscripts” not knowing that some prior literature did consist of reproduced handwriting? Surely finely written *kanji* is more esthetic (and legible) than is some available literature produced on antiquated out-of-alignment manual typewriters of the sort that produce the letters e and o as solid black round blobs! In addition to the question of “why was Article 9.1 introduced” there is the question of the selection of 1931 as its starting date. Was the use of 1930/1931

a fortuitous accident or deliberate? That date was probably chosen as it is the date used in Articles 12 and 13 and corollary provisions of other Articles (see ICZN, 1985: p. xx). If that was the reason, it was most fortuitous. To have declared invalid all names introduced by “handwriting in any form” would have severely damaged our system, as all of the thousands of names in current usage that date from a name on a lithographed or engraved plate would thereby become unavailable. The entire two volumes of Bayan’s beautiful 1870–1873 lithographed work on Tertiary mollusks would be thrown out as it is, of course, handwriting.

If the choice of dates was deliberate, it would be interesting to know what handwritten literature the authors of the Code were targeting.

That the Commission considered Article 9.1 to be unimportant is demonstrated in the only notice given of the new Code in the *Bulletin of Zoological Nomenclature*. It appeared in the *Bulletin* published on November 30, 1984 (B.Z.N. 41(4): 196) and is stated to be “notice of the most important new provisions that will come into force on 1 January 1985.” The last item is a discussion of Article 8, and no mention is made of Article 9.

It is not clear from Article 9.1 whether the prohibition against handwriting applies only to the nomenclatural part of a work or if a work containing any handwriting is thus “unpublished” in its entirety. Works that are in part handwritten, or have handwriting reproduced therein, are not addressed. Many works printed before the use of computer programs to add numbers to photographic plates have plate figure numbers written by hand. Surely the Commission does not intend for such works to be invalid, but where is the line drawn? Some mimeographed works, published under the Code, containing new names that are in current widespread use, contain varying amounts of handwriting. Granted that there are no descriptions of taxa in handwriting in the mimeographed works examined, but the Code is far from clear as to what is, or is not, permissible. Does the proscription against handwriting apply to a single paper, to a journal issue, or to an entire journal in which handwriting appears? A literal and legalistic

reading of Article 9.1 would render invalid a work containing any “handwriting reproduced in any form.” A work that is not consistently binominal is not available (Article 11.4). Does it thereby follow that a work not consistently free of “handwriting in any form” is not a published work?

The importance of the above distinctions should not be ignored. The proscription in Article 9.1 makes a work unpublished and therefore totally without use as it cannot even be used as an “indication” under Article 12.1, although a non-binominal work is not totally suppressed. At the risk of repetition, it is necessary to state that it is not just the description of an animal by “handwriting in any form” that is proscribed but it is the entire work that is relegated to oblivion. For that reason it is considered that under Article 9.1 a work containing **any** handwriting reproduced in any form is not a published work. This is an extreme position that cannot be maintained as it is disruptive, but the point is stressed that the Code needs to be amended to permit certain “handwriting.”

The Commission will not be petitioned to rescind Article 9.1 as that would be an even bigger mistake than was its introduction. Making names available from the *Yume-hamaguri* at this late date would cause extensive upheaval in the nomenclature of western Pacific Mollusca. All systematists with whom this has been discussed, especially those in Japan, would strenuously object to making the *Yume-hamaguri* available now. The purpose of this paper is simply to demonstrate that at least one 12-volume set of taxonomic literature was effectively erased by Article 9.1, to show the injustice done to a group of Japanese malacologists who received bad advice about the Code, and to call attention to the fact that Article 9.1 is unclear about works containing some handwriting.

A work describing the *Yume-hamaguri* and cataloging its taxa is now in preparation.

References

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- Note 1: This paper was submitted to the I.C.Z.N. on August 22, 2005 together with another short paper. On November 8, 2005 Dr. Andrew Polaszek, Executive Secretary, wrote that: “We had an office meeting to discuss your papers and it was unanimously agreed that unfortunately they would not be suitable for publishing in BZN. ... As you know, many amendments and changes are going to be necessary when preparing the next version of the Code, but we feel that a) the subject matter is so specialized as to be of interest to a very small readership, and b) we don't want to start a deluge of general articles pointing out problems with the fourth edition of the Code. To publish ‘Article 9.1 – why?’ would set a precedent.”
- Note 2: Although no nomenclatural actions are taken in this paper, this note is to declare that is being published for the permanent scientific record and copies are being sent to numerous systematists and institutions. It will also be sent to any individual who requests a copy. It is being reproduced by ink on paper in over 50 simultaneously produced identical copies. It will also be made available as an electronic file.