

Comment on the proposed establishment of availability of *Balintus* d'Abrera, 2001, *Gulliveria* d'Abrera & Bálint, 2001, *Salazaria* d'Abrera & Bálint, 2001, *Megathecla* Robbins, 2002 and *Gullicaena* Bálint, 2002 (Insecta, Lepidoptera, LYCAENIDAE)
(Case 3458; see BZN 65: 188–193; 66: 271–272, 349–351; 68: 206–211)

Robert K. Robbins

*Smithsonian Institution, National Museum of Natural History, Stop 105,
PO Box 37012, Washington, DC 20013–7012 U.S.A.*
(e-mail: RobbinsR@SI.edu)

Gerardo Lamas

*Museo de Historia Natural, Universidad Nacional Mayor de San Marcos,
Apartado 14–0434, Lima-14, Perú* (e-mail: glamasm@unmsm.edu.pe)

This is a response to the comments of Bálint & d'Abrera (BZN 68: 206–210) and of Craig (BZN 68: 210–211). The core issue of Case 3458 is whether the eight generic names proposed by d'Abrera and Bálint (d'Abrera, 2001) satisfy Article 13.1 of the Code. In the original application and subsequent comment, we noted that the words in these generic descriptions differentiate the type species, not the genus. The characters differentiate the type species, not the genus. Since Article 13.1 was not satisfied, we proposed a solution in which all names that were in use were to be considered to be available and those that were not in use were to be considered to be unavailable. Evidence as to which names were in use was presented in the original application.

The purpose of this comment is to show (briefly using representative examples) that the recent comments on Case 3458 by Bálint & d'Abrera are not relevant to the core issue of Case 3458 and that the recent comments on Case 3458 by Craig are not accurate.

Paragraphs 1–7 and 10–11 in the comments of Bálint & d'Abrera make the case that these authors intended to make their generic names available. No one has argued otherwise, so far as we are aware, but it is not relevant because intent, by itself, does not satisfy Article 13.1.

Paragraph 8 in the comments of Bálint & d'Abrera makes the point that four generic names that were published in 1973 by Eliot were worded similarly to the descriptions of d'Abrera and Bálint, but have been considered to be available. In response, the 1973 generic names were made available under the Second Edition of the Code (1964), which had a different wording from the Fourth Edition of the Code (1999). Further, the wording of the 1973 descriptions is not identical to that used by d'Abrera and Bálint and, in evident contrast to d'Abrera and Bálint, Eliot provided generic differentiating characters for his new genera. For these reasons, each case needs to be decided on its own merits, and a conclusion in one case need not apply to the other.

Paragraph 9 in the comments of Bálint and d'Abrera reinterprets their original verbal description to say that they distinguished the genus, not the type species. But this verbal reinterpretation is falsified by their proposed characters, which distinguish the type species, not the genus.

Paragraphs 12–16 & 18 in the comments of Bálint & d'Abrera refer to a range of perceived ethical issues. The first response is that these comments are not relevant because the Code of Ethics states that 'the Commission is not empowered to

investigate or rule upon alleged breaches of [ethical principles]'. The second response is that we view the ethical issues raised by this case very differently than do Bálint and d'Abrera, as alluded to in an earlier comment, but these comments are not an appropriate forum to discuss ethical issues, as just noted. The third response is that the Preamble of the Code states that all Code provisions and recommendations, including the Code of Ethics, are subservient to the promotion of stability and universality. In each of our publications related to Case 3458, we have made clear that this shared core value is our guiding principle. The fourth response is that the Commission has considered three applications by Lamas during his term as a Commissioner. In every one of these cases Lamas has recused himself (abstained) from voting on the application.

Paragraphs 17 & 19 in the comments of Bálint & d'Abrera contain words like tumult, chaos, destabilising, manipulative, and agenda. We are at a loss to see how the arguments of which these 'emotive' words are a part are relevant or appropriate to a simple case of nomenclatural availability.

The recent comments of Craig are inaccurate. For example, Craig refers to d'Abrera and Bálint's 'eight new genera, that nobody has yet questioned with regard to the soundness of the concepts involved.' The lack of nomenclatural soundness is the reason for the original application in Case 3458. The lack of taxonomic soundness is the reason that the seven species placed in *Salazaria* d'Abrera and Bálint (in d'Abrera, 2001) were later treated as members of four different genera, as noted in the original application. Regardless of which taxonomy is correct, Craig's statement is not true.

Other recent comments by Craig make unsubstantiated allegations. As an example, 'For reasons that the applicants have never fully explained, the Commission is being asked to make five (supposedly unavailable) names available, two of which are to be immediately suppressed and thus made unavailable, along with six others, five of which have barely been discussed in the application and appear to represent taxa for which there would then be no alternative generic names.' We make no pretense of being able to understand this sentence, but in the original application we explained the reasons for our proposal and gave the evidence to support it. To be blunt, we are troubled that Craig accuses us of not fully explaining our proposal without specifying those issues that were not fully explained.

In short, the core issue of Case 3458 is whether the eight genera proposed by d'Abrera and Bálint in 2001 satisfied Article 13.1 of the Code. The recent comments of Bálint & d'Abrera and of Craig do not address this simple issue.

Comment on the proposed precedence of *Sematura Dalman*, 1825 over *Mania*

Hübner, 1821 Lepidoptera, SEMATURIDAE

(Case 3531; see BZN 68: 184–189)

Vitor O. Becker

Instituto Uiraçu, P.O.Box 01, 45880-000 Camacan, Bahia, Brazil

(e-mail: vitor.o.becker@gmail.com)

I believe it is not fair for any author to ignore the laws of priority. In this case, is it Huebner's fault that subsequent authors made mistakes or ignored his work?