

(087–088) Proposals to amend Arts. 37 & 46

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Art. 37.6: an unenforceable requirement for valid publication. — Art. 37.6 declares that for valid publication “the single herbarium collection or institution in which the type is conserved must be specified” (emphasis added). Such specification is, of course, exceedingly desirable. But what happens if the type is in fact at the time of publication not in that collection or institution? The author has validated a name by stating a falsehood. Many instances occur where a type has not (yet) been sent to the institution where it is said to be. Is the name therefore not validly published? Is the date of valid publication then the date when the specimen is actually received by the institution? (If Art. 45 applies in this way, how can the last sentence of 45.1 be effected and the actual date of publication made known?) On the other hand, if the requirement of Art. 37.6 cannot be enforced, the provision should return to the status of a strong Recommendation – as it was (Rec. 37B) prior to the Berlin Congress of 1987.

(087) Change the status of Art. 37.6 to that of a Recommendation. — “Britton & Brown” and Article 46: “Internal evidence”

The Illustrated Flora of Britton and Brown has long been the subject of controversy over typification of generic names in its second edition (1913). Yet insufficient attention has been given to the actual stated authorship of the work, particularly its first edition, in which a number of new species were described. Application of Art. 46 as amended at St. Louis obligates one to study anew the correct authorship of various portions of the text. I propose, therefore:

(088) That the editorial committee be advised (more concisely than the full argument below) to use Britton and Brown as an example of the complex operation of Art. 46. — The first edition of An Illustrated Flora of the Northern United States, Canada and the British Possessions From Newfoundland to the Parallel of the southern Boundary of Virginia, and from the Atlantic Ocean westward to the 102d Meridian, by Nathaniel Lord Britton, Ph. D. and Hon. Addison Brown, was published in three volumes in 1896, 1897, and 1898, respectively (for details see TL-2). The Code tells us (Art. 46.6) that “In determining the correct author citation, only internal evidence in the pub-

lication ... is to be accepted”. Note 2 states that external evidence may be used [only] when there is “no internal evidence of authorship”.

At issue is Example 23, which declares that names in the Illustrated Flora “must, unless ascribed to Britton alone ... be attributed to ‘Britton & A. Br.’, since the title page attributes the whole work to both, even though it is generally accepted that A. Brown did not participate in writing it”. I do not believe the intention of Art. 46 is to limit internal evidence to the title page, and suggest here that what is “generally accepted” can be documented by other internal evidence:

(1) The Introduction [p. v (as ‘(5)’) hints at this in saying that the enterprise was “projected by Judge Brown, and maintained and supervised by him throughout,” and that “Its execution has been mainly the work of Dr. Britton”. (On the significance of “mainly” see items 3 & 4 below.)

(2) In the Preface (p. iv) to Vol. III, there is attribution of one thing to Brown: “For the general English Index at the end of this volume, Judge Brown has compiled a list of all the popular names ...” and the author (Britton) goes on for over half the preface extolling the index to non-Latin names. Apparently, except for this index, which is explicitly attributed to him, there is no evidence that Brown participated in writing anything in the three volumes, although he “maintained” [financed] and “supervised”.

(3) The title page declares “The Descriptive Text Chiefly prepared by Professor Britton, with the assistance of Specialists in several Groups; the Figures also drawn under his Supervision”. So the illustrations appear not to have been supervised by Brown, further indicating his minor role.

(4) Next, consider the “Assistance of Specialists”. Pages xi–xii of the Preface make this clear. For example, Bicknell merely “supplied many specimens and read the proof-sheets”; while Underwood supplied “the text of the *Pteridophyta*”; Coville, “the text of the *Juncaceae*”; Nash, “the text of the *Gramineae*” while Lamson-Scribner was thanked “for supervising the drawings of *Gramineae*, and for manuscript notes on many genera and species of that family”. Britton seems to have been scrupulous throughout about acknowledging the contributions of others.

(5) The grasses (in Vol. I) show particular problems.

Nash is said in the Preface to have been the author—if one accepts that he contributed the text. The footnote on that family (p. 94) merely says that “This family has been elaborated with the assistance of Mr. Geo. V. Nash”. In the light of the Preface, however, I would say that Nash assisted the Flora by writing the *Gramineae*—not that he simply assisted in the writing of that family. His unique use of “elaborated” presumably was to accommodate the “manuscript notes” of Scribner.

(6) A major problem involves the Appendix at the end of Vol. III, which was published June 20, 1898—almost two years after Vol. I. It includes “new discoveries or new determinations, mostly from the west, made while the work has been in press”. Nowhere is it stated that Nash (or anyone else, including Scribner) contributed specifically to the Appendix. However, as defined in Art. 35.5 (and accepted in 46.6) the three volumes of the Flora (but not, of course, its later edition) count as the same publication, which is to be treated as one regarding author citation. Therefore, we appear obligated to treat Nash as the author of the *Gramineae* in the Appendix.

(7) The next stage in this elaboration leads us to certain names in that Appendix attributed to Scribner (e.g., *Panicum implicatum*, *P. linearifolium*, *P. wernerii*), with no place of publication cited. These were not published by Scribner until a month later (July 20, 1898, in Bull. U.S. Dep. Agr. Div. Agrost. 11: 42–43), where the descriptions were very different (in style, not facts). Therefore, we cannot assume that it was Scribner who wrote the descriptions as they appear in the Flora. It would appear that Nash rewrote them in his style as used in his original treatment of the family. (Stylistic distinctions are accepted in Art. 46.6 in determining authorship.) Thus, the “bottom line” is that I would cite these names as, e.g., *Panicum linearifolium* Scribner ex Nash in Britton & Brown, Ill. Flora ... —which may be shortened to *P. linearifolium* Nash. If Art. 46 permitted us to consider as “external evidence” the second edition of the Illustrated Flora, we would find that these names are attributed (again by Nash) to Scribner, just as done in the first edition (the concept of “publishing author” still being unclear at that time). As an historical note, it happens that this binomial was offered as an example, with different conclusions, in *Taxon* 42: 152 (1993). I thank Caleb Morse of the University of Kansas for calling my attention early in 2000 to the problem of new grass names in the appendix of Britton and Brown.