

(059–061) Proposals to amend Article 11.7

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Article 11.7 of the Saint Louis Code (Greuter & al. in *Regnum Veg.* 138. 2000) deals with priority when the name of a fossil taxon and that of a non-fossil taxon are treated as synonyms. The wording of this article has changed over the past three editions of the Code through editorial modifications linked to amendments to other provisions of the Code. In the Berlin Code (Greuter & al. in *Regnum Veg.* 118. 1988), the article in question (then Art. 58.1) read: “When a non-fossil taxon of plants, algae excepted, and a fossil (or subfossil) taxon of the same rank are united, the correct name of the non-fossil taxon is treated as having priority (see Pre. 7, Art. 13.3)”. In the Tokyo Code (Greuter & al. in *Regnum Veg.* 131. 1994), Art. 58.1 was renumbered to 11.7 and the wording was altered to: “Names of plants (algae excepted) based on a non-fossil type are treated as having priority over names of the same rank based on a fossil (or subfossil) type”. This wording was further altered through proposals at the 1999 Nomenclature Section in Saint Louis (see Fensome & Skog in *Taxon* 46: 557–562. 1997; Chaloner & al. in *Taxon* 47: 907–910. 1998; Greuter & Hawksworth in *Taxon* 48: 69–128. 2000; Greuter & al. in *Englera* 20: 1–253. 2000). In the Saint Louis Code (Greuter & al. in *Regnum Veg.* 138. 2000), the exception was reduced to diatoms (as opposed to all algae), and the text of Art. 11.7 was changed to read: “For purposes of priority, names of fossil taxa (diatoms excepted) compete only with names based on a fossil type representing the same part, life-history stage, or preservational state (see Art. 1.2)”. As a consequence, the wording of Art. 11.7 that appeared in the Tokyo Code (Greuter & al., l.c. 1994) became an implicit corollary, and (modified by the exception limited to diatoms) became a note (Note 4).

Our concerns are limited to the changes that were made in the Tokyo Code (Greuter & al., l.c. 1994) and focus on the removal of the “are united” language from Art. 11.7. When that language was present in Art. 11.7, there could be no doubt that it was limited to synonymy. However, the removal of this language now raises the issue as to whether Art. 11.7 also applies to cases of homonymy. In other words, does a later homonym based on a non-fossil type have priority over an earlier homonym based on a fossil type?

The answer is “no”; the later homonym is illegitimate regardless of whether the earlier homonym is based

on a non-fossil type (Art 53.1). However, we believe that the current wording of Art. 11.7 can lead to such a misinterpretation. The authors themselves have wondered about the application of Art. 11.7 to cases of homonymy.

Therefore, we propose to alter the language of Art. 11.7 and Note 4 so that cases of homonymy are clearly excepted. We also propose to add at least one example under Note 4 that shows how cases of homonymy are excepted. Making these changes will prevent any further misinterpretations and bring the language of Art. 11.7 more in line with how it has been applied.

(059) Amend Art. 11.7 to add the phrase indicated in italics below:

“For purposes of priority, *except in cases of homonymy (see Art. 53.1)*, names of fossil taxa (diatoms excepted) compete only with names based on a fossil type representing the same part, life-history stage, or preservational state (see Art. 1.2)”.

(060) Amend Art. 11 Note 4 to add the phrase indicated in italics below:

“*Except in cases of homonymy (see Art 53.1)*, names of plants (diatoms excepted) based on a non-fossil type are treated as having priority over names of the same rank based on a fossil (or subfossil) type”.

(061) Add two new examples under Note 4:

“*Ex. n. Endolepis* Torrey (1861), based on a non-fossil type, is an illegitimate later homonym of, and does not have priority over, *Endolepis* Schleiden (1846), based on a fossil type”.

“*Ex. n. Ficus crassipes* F. M. Bailey (1889), based on a non-fossil type, is an illegitimate later homonym and does not have priority over *F. crassipes* (Heer) Heer (1882), based on a fossil material.

ACKNOWLEDGEMENTS

Dan Nicolson is thanked for discussions on this topic, as is Stefan Ungricht for the *Ficus* example.