The Traditional Meaning of Legitimate
Author(s): C. X. Furtado
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with Aublet's descriptions and plate, we see that one of the eight species of the genus, *E. quinqueloba* Spruce (ex Engler in Mart. Fl. Bras. 12 (2): 353) agrees in floral structure with the plate and the description in several remarkable ways; its flowers are frequently solitary, the stamens are 10 and possess distinct filaments (but not as elongate as those in the plate), the anthers are oblong, and the pistil 5-carpellate with the carpels united into a ring and bearing a slender subulate style terminated by 5 radial fimbriate projections or stigmas. Stigmatic differentiation is a very critical character in the *Ochnaceae* and occurs only in *Elvasia* and a few genera of the *Luxemburgieae*. Despite strong resemblances between the flowers as depicted in Aublet's plate and floral material of *Elvasia quinqueloba* the venation of the leaf-blades is so strikingly typical of *Ouratea* that it is strong evidence, in my opinion, that Aublet used vegetative material of *Ouratea*. The widely spaced and arcuate-ascending lateral veins of the leaf-blades cannot be assigned to the leaf-blades of *Elvasia*, which have numerous subhorizontal secondary veins less than one millimeter apart. In addition, the size of the stipules, the size and shape of the buds, and the shape of the petals and non-deflexed sepals resemble those of *Ouratea* more than those of *Elvasia*.

Little discussion concerning the respective geographical distributions of *Ouratea guianensis* and *Elvasia quinqueloba* is necessary since the two species are known only with certainty from their type localities, the former from French Guiana and the latter from the Rio Guiania and Rio Negro, above the mouth of the Rio Casiquiare, Amazonas, Brazil. *Elvasia*, a poorly collected genus, has but one of its eight species, *Elvasia elvasoides* (Planch.) Engler, in French Guiana.

In summation, then, there is evidence to support the view that Aublet actually had material of *Elvasia quinqueloba* mixed with material of *Ouratea guianensis*. I have not proposed to challenge the validity of the generic name *Elvasia* but rather to designate the vegetative parts of Aublet's plate as the nomenclatural type material of the genus *Ouratea* and maintain that the floral discrepancies (which appear referable to *Elvasia quinqueloba*) have been emended over a period of time. Actual proof of my contention that two genera have been confused in this one plate and accompanying descriptions lies in the Aublet material which either rests dust-laden in some herbarium or which has long been destroyed.

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THE TRADITIONAL MEANING OF LEGITIMATE

C. X. Furtado (Singapore)

Early in my discussions on botanical nomenclature, I maintained that the term "legitimate" was misleading as used in the 1935 Code and suggested that it could be appropriately applied to denote the "correctness" of the name or epithet under the priority rule, since it is the one name or epithet that can be used satisfying all the rules in the Code; besides the official definition of the term in the Code itself seemed to require such a conformity to the rules (Furtado in Gard. Bull. Sing. IX: 22A-236. 1937). This view was upheld by me in my subsequent discussions on the subject. The main objection for adopting "correct" as a technical term under the priority rule is that it is a widely current word having also an ordinary meaning, for, the correctness of a name that is "correct" under priority, might be challenged on the ground of spelling, gender, authority and/or date.

However, in a recent paper Ross (Taxon XIII, 5: 165-175. 1964) has explained that

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the term "illegitimate" as used by me, was rejected because it was "not in accordance with the ordinary meaning of the word." Actually the pressure from botanists to eliminate the faulty terms and equivocations from the Code, led many to give unconsciously a new sense to the terms "legitimate" and "illegitimate" as employed in the 1935 Code, and the "original" sense supposed to have been retained to these terms in the 1961 Code is wholly new, effected through fundamental alterations made by the 1959 Congress (cf. also Ross & Stafleu in Taxon V: 189-193. 1956). What was then the original meaning of these terms?

The original sense

The term "legitimate" was defined in a footnote under Art. 45 of the 1935 Code thus: "A legitimate name or epithet is one that is strictly in accordance with the Rules" (= Code). Its antonym was defined in Art. 2 thus: "names or forms of nomenclature contrary to a rule (*illegitimate names* or *forms*) cannot be maintained." These definitions have been retained substantially unchanged in the subsequent Codes, even in the latest one of 1961, though since 1952 the words "forms" and "contrary to a rule" in the definition of "illegitimate" have been substituted respectively by "epithet" and "contrary to the rules" while the "R" in the "Rules" in the definition of "legitimate" has been decapitalized.

To find out the sense of these terms "legitimate" and "illegitimate" as used in botanical nomenclature, one has to see how they were employed in the Code itself. The obvious clue to the understanding of these terms is the words "names or forms" employed in defining the "illegitimate names or forms" (1935). These words and the reading of the other rules and examples make it clear that the legislators who made the 1935 Code, had in mind the prescriptions regarding only the formation of names and not their valid publication. This made "legitimate" and "illegitimate" names or epithets to mean "correctly" and "incorrectly" formed names or epithets, even when not validly published.

Thus when Art. 20 (1935) spoke about "Legitimate botanical nomenclature . . .", it meant "Correctly formed botanical nomenclature . . .", with no reference to their validity or invalidity. But since correctly formed names could be non-validly published and the incorrectly formed be validly published, Art. 45 (1935) had to clarify that priority was given only to such "legitimate" (correctly-formed) names or combinations as were validly published. This view is further illustrated in the examples under that Article. Thus *Mentha foliicoma* Opiz (1832) and *Mentha bracteolata* Opiz (1852), are quoted obviously because they are correctly formed ("legitimate"); but since the first biverbal was merely a name in scheda and so not even effectively published under the Code, while the second only a nomen nudum, the dates of their priority (not legitimacy) are said to be effective only from 1882 when they were validly published (no further particulars were given about the factors which prevent a validly published name from being included in priority considerations). Similarly "incorrectly formed" names were given validity under the 1935 Code but rejected from the priority considerations as "illegitimate" precisely because they were incorrectly formed. In other words "illegitimate" in 1935 was an antonym of "legitimate".

Some changes were introduced by the 1950 Congress and incorporated in the 1952 Code, but these were so worded that the original sense of the terms "legitimate" and "illegitimate" as well as of "validly" published was retained. Hence when "valid" was replaced by "correct" in Art. 16 of 1935 "the correct name" or epithet had to be "the earliest legitimate one validly published", a phraseology employed twice in Art. 16 of the 1952 Code and confirmed by the 1954 Congress and retained in Art. 11 of the 1956 Code. This makes sense only if "legitimate" name is taken to mean "correctly formed

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one". The addition of the phrase "validly published" to qualify "legitimate" is therefore not a legalistic superfluity as some have suggested but an absolute necessity for the precise definition of the priority rule when "legitimate" was used to denote any name or epithet that is correctly formed, whether validly published or not.

The problem of validity of specific epithets instated under an unpublished genus was considered by the 1950 Congress and in the new Art. 51 of the 1952 Code it denied validity to such epithets. Yet this same Congress did not hesitate to add the non-validly published biverbal "*Anonymos aquatica* Walt." as an example of "illegitimate" name of a species, incorporated in Art. 33 of 1952, precisely because it was incorrectly formed with "Anonymos" as its first part (cf. Art. 67 & 68 of the 1935 Code and also Furtado in Gard. Bull. Sing. ZII: 340-343. 1949).

Moreover, after the publication of the 1952-Code, while considering Baehni's proposals for the 1954 Congress, Sprague (Taxon ii, 6: 132. 1953) wrote: "But a name or epithet may be legitimate and yet not validly published," and he proposed the addition of "validly published" to "legitimate", alleging that it was necessary for clarity's sake, despite the Note in Art. 10 which stated that a name in the Code, unless otherwise stated, means a validly published one, whether legitimate or illegitimate. There is therefore no justification to say this was merely a slip since it was quite consistent with the terms employed in the 1935-52 Codes and explicit decisions made by the 1950 Congress later retained in the 1956 Code.

Some have argued as if this Note to Art. 10 were a sort of constitutional standard to the 1952 Code to reject the application of the terms "legitimate" and "illegitimate" to non-validly published names. But, as said above, even the decisions of the 1950 Congress were against this interpretation. Moreover, when the Note in Art. 10 declared that validly published names could be "legitimate" and "illegitimate", it did not discuss the terminology of the non-validly published names which could also be correctly formed ("legitimate") and incorrectly formed ("illegitimate") under that Code.

Priorability of Names

In pre-1935 Code, all names that were incorrectly formed and validly published, were rejected as "non-valable" (French) or one might say "non-validable" in English (Arts. 67 & 68 of the 1935 Code). But the earliest of the "validable" names of epithets, became, under the priority rule, the "valid" (correct), unless of course there were other obstacles to its use in the new position. Superfluous names were merely unnecessary names for a taxon, and such names could be "valid" under certain conditions. The technical sense currently attached to "superfluous" names was an innovation introduced in the 1935 Code. Similarly later homonyms, or epithets in them, could also be used under the pre-1935 Code as "valid" (correct) if the earlier homonyms could not be so used. In fact the specific epithet in a later homonym had priority if, on transference to another position, it were the earliest "validable" one for the taxon.

The 1935 Code provided for the rejection of these (superfluous and homonymous) names and their epithets as "never-validable", but the legislators seem to have had difficulties in classifying them, and so placed them among "illegitimate" names under special Arts. 60 & 61, and not in Arts. 67 & 68 which actually dealt with a large number of "illegitimate" names of genera and species that were also "never validable." As the defects of these two kinds of names did not lie in their formation, it is obvious that they were erroneously classified as "illegitimate" under the 1935-Code. The defects in later homonyms constitute a violation of the fundamental principle the aim of which is to avoid confusion in the taxa denoted by names. On the other hand, the defects in "superfluous" names lie in their being instated in actual or supposed violation of the priority rights of other names or epithets.

Besides these correctly and incorrectly formed names that were called "illegitimate"

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even in the 1956 Code, there were other names that could not be included in priority considerations. These are *nomina ambigua*, *confusa* and *monstrositatium*, those rejected simultaneous synonyms or isonyms or epithets, those rejected by legislation and those that do not belong to the same rank as the taxon considered under the priority. The defects in such cases are either taxonomic since the description and the type cannot indicate a definite taxon, or nomenclatural expediency provided in the general regulations or special decisions of the Congress. The 1961 Code provides for their exclusion from priority considerations, but does not class them as "illegitimate" proving thereby that this term is not synonymous to "impriorable" as had been stated by Ross and Stafleu (l.c.).

Legitimate and Correct

The view that the terms "legitimate" and "illegitimate" must always refer to the inherent nature of the names themselves and not to their claims, rights, or uses, though apparently upheld by Ross (1964), seems to have no foundation in common practice, whatever be their legal aspect with which I am not familiar. Dictionary definitions of the term "legitimate" suggest at least three possible uses for it in nomenclature, namely, to indicate: (1) the formation of nomenclatural expressions according to a set standard; (2) lawfulness of their origin or birth in nomenclature, and (3) legality of a right or claim to be used under certain circumstances. The 1935 Code adopted the term and its antonym to denote only the formation of names without any regard to their validity, a procedure now disregarded. If the legality of "birth" of names were considered, "legitimate" would be synonymous with "validly published" as defined in 1961 Code; but there is no need for such a duplication in terms especially when the verbal definition of "legitimate" in the Code suggests something different.

The claim or right of a name to be used to the exclusion of others is considered under the rule of priority. The name or epithet that has a just claim to this right is also the one that satisfies all the rules under Code in a given circumstance. Such a name therefore could have been rightly called "legitimate", if the 1961 Code had not adopted the antonym "illegitimate" to indicate the impriorability of two kinds of names only; besides such a usage would not have had the disadvantages that the use of "correct" has, since the last is being used both as an ordinary word and as a technical term.

That the use of "legitimate" to indicate the right or correct use of a name or designation is not anomalous in common practice may be seen from the following analogy. In a federal country there could be one legitimate President of the country, though each of the constituent states could have its own legitimate state President. Dissidents could try to proclaim their own national President, or one of the states might claim this title to its state President. Under such circumstances the constitution is of value to decide which is the legitimate President of the nation and who are the "illegitimate" ones.

Similarly each of the taxa sensu stricto could have only one "legitimate" (correct) name, one that is strictly in agreement with the rule of priority; but when different taxa are united into one, it could have only one "legitimate" (correct) name under the new circumstances, the one that satisfied all the prescriptions under the Code. The use of other names to this united taxon would be "illegitimate" under priority, as even under the 1961 Code there can be only one correct name for the united taxon, the other synonyms being regarded as "incorrect" names for it. Actually, when a name is stated to be "correct" and "incorrect" under the Code, it means that the name is "correctly" or "incorrectly" employed or "employable" under the rule of priority. Similarly the term "legitimate" or "illegitimate", if adopted in place of "correct" or "incorrect", would indicate whether claims of a name considered under the priority rule are legitimate or not, that is whether the name could be used "legitimately" or not under the Code.

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New wine in old bottles

As said above, alterations introduced into the 1961 Code have made fundamental changes in the meanings of the terms "validly published", "legitimate" and "illegitimate", and it must be admitted that these have been introduced only by the 1959 Congress. Prior to that the Congresses had other ideas and had even made explicit decisions to show that "legitimate" and "illegitimate" meant nothing more than the correctly or incorrectly formed names, irrespective of their validity, and that incorrectly formed names could be validly published. Under these circumstances, it was erroneous to regard that the use of the terms "legitimate' 'and "illegitimate" in the 1956 Code was an editorial error, or that these terms had always meant to indicate what I had called "priorable" and "impriorable" (cf. Ross & Stafleu l.c.).

Here I might state that, when I took interest in the systematics of the plants cultivated in the Botanic Gardens, Singapore, I did so as an amateur. Since I had no training whatsoever in taxonomy and nomenclatural rules, I tried to follow intelligently the rulings of the nomenclaturists of international standing. It was rather a difficult task, because I had no legal training, many decisions given by nomenclaturists were conflicting and the Code itself seemed to be equivocal. For my own guidance, therefore, I sought to establish a logical sequence in the rules. My reactions to these studies were embodied in my notes published on the subject, and now the Code has fundamentally been changed. In other words, though the meanings of the terms "legitimate" and "illegitimate" have been fundamentally altered in the 1961 Code, their definitions have remained substantially as they were given in the 1935 Code with minor modifications noted above. Even Note to Art. 10 added to the 1952 Code has been retained unaltered in the 1961 Code. Yet no direct attempt has been made to show that the terms are now differently applied, or the old definitions are to be differently interpreted. Even the example added to the Art. 6 of 1956 Code (Art. 10 of 1952) holds equally good if "legitimate" be taken to mean a correctly formed name as in the 1935-1952 Codes. It is clear therefore that we have discarded the old wine but used the old bottles with old labels for new wine. Many nomenclaturists, therefore, fancy that they are enjoying the old vintage of their fathers and forefathers, a view that becomes often manifest during nomenclatural discussions, especially when an amendment is to be considered.

NOTES ON THE TYPE SPECIES OF *POLYSCIAS* J. R. & G. FORST. (ARALIACEAE)

Benjamin C. Stone (Kuala Lumpur)*

The genus *Polyscias* was established by the Forsters in their Characteres Generum Plantarum (pl. 63, t. 32) of 1776, and included the single species *Polyscias pinnata* (op. cit. pl. 64), which thus is the type species of the genus.

The type locality is Tanna Island, in the New Hebrides. Two collections are extant (British Museum (N.H.) Herbarium) which were seen at the U. S. National Herbarium, through the courtesy of J. E. Dandy. These syntypes are identical (perhaps from the same plant), differing only in the name of the collector. One specimen identifies the collector as Forster; the other as W. Anderson. The latter specimen bears flowers, and should

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