

## TITULUS I De Baptismo

### TITLE I Baptism

**849** **Baptismus, ianua sacramentorum, in re vel saltem in voto ad salutem necessarius, quo homines a peccatis liberantur, in Dei filios regenerantur atque indelebili caractere Christo configurati Ecclesiae incorporantur, valide confertur tantummodo per lavacrum aquae verae cum debita verborum forma.**

Baptism, the gateway to the sacraments, is necessary for salvation, either by actual reception or at least by desire. By it people are freed from sins, are born again as children of God and, made like to Christ by an indelible character, are incorporated into the Church. It is validly conferred only by a washing in real water with the proper form of words.

SOURCES: cc. 87, 737 § 1; *LG* 11, 16, 40; *AG* 14; *PO* 5; *OBP Prae gen.*, 1-6, 18, 21, 23

CROSS REFERENCES: cc. 11, 96, 204, 205, 748 § 1, 842 § 1, 845 § 1, 846, 853, 864

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### COMMENTARY

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*María Blanco*

1. Careful reading of this canon presents, in a particularly forceful way, the fundamental fact that the juridical phenomenon is one of the elements constituting the *Mysterium Ecclesiae*.

2. From the canonical point of view, the gist of the question lies in the fact that in the *lex gratiae* there is a juridical dimension, a dimension of Law. For, "when grace is given, by ordinary channels, through the sensible signs that are the instrumental causes of grace, grace does not materialize, but its channels do indeed materialize. In this way, grace is *sharable*,

a good that is distributed by human hands. We already have the principle of division or sharing in the central good of the Church. And, therefore, we have the necessary assumption for the law and, consequently, for justice."<sup>1</sup> Since these sharable goods are the sacraments, the minister is only the depositary and the sacraments must have been ascribed to man (as in the case of baptism) or to the faithful (in the case of the rest of the sacraments). Given these two conditions, the sacrament is properly *res iusta* and, therefore, due. "There is justice in administering it and injustice in refusing its administration. All this, of course, based on the *rite dispositus* subject; for the person not properly disposed, the sacrament is not a right."<sup>2</sup>

3. As opposed to what happens with the rest of the sacraments, in which only the faithful have a right, baptism is a sacrament that is offered to all people as long as they have not yet entered and become a part of the people of God (cf. c. 864). It is true that there is no precept in the Code where it is expressly stated that all people have a right to receive baptism, although there is no doubt of the relation with the provisions set forth in c. 748 § 1. We must keep in mind, moreover, that any person is destined to be saved, to be baptized and to belong to the Church, hence the admission even of baptism by desire. Between humans and Christ, as well as with the Church which is His Mystical Body, there is a salvific, objective relationship. This is such that all persons, because they have already been redeemed by Christ, have the right, before the pastors, not before God, to have this redemption applied to them.<sup>3</sup> It is clear, in fact, that the faith and the grace of baptism in relation to God are always merciful; however, in relation to the pastors of the Church, they have a right as far as their administration is concerned.<sup>4</sup> Consequently, if we may speak of the true and proper right to baptism, we may also speak of the juridical duty that obliges its performance.

4. When Vatican Council II speaks of Christ's redeeming will, it maintains that "He himself explicitly asserted the necessity of faith and Baptism (cf. Lk 16, 16; Jn. 3, 5), and thereby affirmed at the same time the necessity of the Church which men enter through Baptism as through a door" (LG 14). This necessity of baptism for salvation is an interpretative criterion of fundamental value in the juridical treatment of this sacrament.<sup>5</sup> Moreover, the CCC is clear when it states: "Holy Baptism is the basis of the whole Christian life, the gateway to life in the Spirit ('*vitae spiritualis ianua*'), and the door which gives access to the other sacra-

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1. J. HERVADA, "Raíces sacramentales del Derecho Canónico," in *Vetera et Nova. Cuestiones de Derecho Canónico y afines*, II (Pamplona 1991), p. 867.

2. Cf. *ibid.*, p. 873.

3. Cf. J.L. DÍAZ, "El derecho de todo hombre al Sacramento del Bautismo," in *Sacramentalidad de la Iglesia y Sacramentos* (Pamplona 1983), p. 542.

4. Cf. *ibid.*, p. 545.

5. Cf. E. TEJERO, commentary on c. 849, in *Pamplona Com.*

ments. Through Baptism we are freed from sin and reborn as children of God; we become members of Christ, are incorporated into the Church and made sharers in her mission (cf. Council of Florence: Dz. Sch., 1314; cc. 204 § 1, 849 *CIC*; c. 675 § 1 *CCEO*): 'Baptismus est sacramentum regenerationis per aquam in verbo' (Baptism is the sacrament of the new birth by water and the word, Cath. R. 2, 2, 5)" (CCC, 1213).

5. In short, reception of baptism brings: 1) freedom from sin; 2) incorporation into the Church of Christ; and 3) conformance to Christ inasmuch as it makes us children of God. Leaving aside the first effect, it is to be noted that incorporation into the people of God carries with it a sharing in the mission of the Church (c. 204), since there is only one People whose members have the same dignity because of their regeneration in Christ (cf. *LG* 32) by virtue of which all are equal. This quality of member of the people of God is designated with the word *fidelis* or *christifidelis* (c. 204; cf. also c. 96) which is the *nomen gratiae* of all the baptized, whatever their situation within the Church.<sup>6</sup> "The cohesive link of the people of God, conceived as a social group, is baptism, which constituted into a people, that is, in a group of people united among themselves by a juridical and social link, and by some supernatural ties of fraternity, those who were previously related by no natural ties other than their common belonging to the ancestral line of Adam."<sup>7</sup> That means that baptism is one of the elements that juridically structure the Church.

At the core of this juridically organized society, the condition of faithful (cf. c. 204) is basically a condition of freedom, indeed, of *ontological* dignity and liberty.<sup>8</sup> It is the freedom of the children of God that emerged from dignity and brings with it autonomy within its very sphere.<sup>9</sup> In this sense, there is no doubt that, in the same way that we speak of human dignity, we can speak of Christian dignity. If from this human dignity flow rights and duties of an individual, then from Christian dignity flow rights and duties of the faithful. This means that just as in natural law dignity and freedom take the form of the fundamental rights and duties of man, in the law of grace, dignity and freedom give rise to the fundamental rights and duties of the faithful (cf. commentary on c. 204).<sup>10</sup> That "*dignitas* is personality. It means that the members of the people of God are not only individualities who, together, make up this People, but also persons: *personae in Ecclesia Christi*."<sup>11</sup>

6. Cf. A. DEL PORTILLO, *Fieles y laicos en la Iglesia* (Pamplona 1991), p. 53.

7. *Ibid.*, p. 54.

8. Cf. J. HERVADA, "La ley del Pueblo de Dios como ley para la libertad," in *Vetera et nova*, cit. p. 1081.

9. Cf. A. DEL PORTILLO, *Fieles...*, cit., p. 66; c. 227.

10. Cf. J. HERVADA, "La Ley del Pueblo de Dios...", cit., p. 1081.

11. A. DEL PORTILLO, *Fieles...* cit., p. 66. Cf. c. 96. Regarding Baptism in separated ecclesial communities, cf. DE/1993, nos. 92-101.

6. This canon states "indelebili caractere Christo configurati Ecclesiae incorporantur." From this it is deduced that it is precisely the baptismal character which carries with it the *iura fundamentalia* previously mentioned because of the inherent dignity of baptism. However, Hervada further explains by saying that "to be a subject by right is the *juridical translation*, the lawful dimension of the ontological *dignitas*"<sup>12</sup>; but it is only one dimension, and not even the most important one. "The baptismal character is an ontological dimension that elevates a person to the supernatural plane and makes us sharers in Christ. It gives us, then, a share in the divine being, more eminent than that of the natural being. It is the *dignitas filiorum Dei*, that, while it reaches fullness and perfection by the sanctifying grace, is already possessed in the baptismal character. This is deduced from the fact that such a *dignitas* is linked by Vatican II to the *conditio* of the people of God, which refers not only to an ontological condition, but also to a juridical condition which flows, not from the sanctifying grace, but from the baptismal character, as a result of the already mentioned sacramental doctrine."<sup>13</sup> Therefore, it is precisely this baptismal character which guarantees the certainty and the stability of visibly belonging to the Church; even when, evidently, such character does not in itself subsist but is a supernatural "modalization" of the human being. This does not mean that there are two personalities (one for natural law and another one for canon law), but rather that there is only one personality, part natural and part supernatural.<sup>14</sup>

The Latin liturgy expresses this indelible effect through the chrismation of the baptized in the presence of the people of God and forbids its repetition when it has been celebrated validly, even if it has been done by separated brothers or sisters (cf. OBP, *Praenotanda*, 4).

Because it is a sacrament, baptism is a true sign of the regeneration of humanity and a sign through which we know he is a member of the Church. Regarding the first aspect, Hamman writes: "in Christ's life and mission, of what is the sacrament of baptism a sign? Of all the mission, of all the teaching, of all the works of Christ, from his baptism (even from his birth) through his resurrection. Of the messianic works, the death and the resurrection are the consummation, the final expression, in which all the mission, all the actions of Christ are discovered."<sup>15</sup> This is true to such a point that the other sacraments only deepen progressively the incorporation to Christ made once and for all by baptism.

7. But, in addition, we were saying that this sacrament ascribes the condition of faithful with all the rights and duties proper to it (cc. 96, 204).

12. J. HERVADA, "Los derechos fundamentales del fiel a examen," in *Vetera et Nova*, cit., p. 1563.

13. *Ibid.*, p. 1566.

14. Cf. *ibid.*, p. 1560.

15. A. HAMMAN, *El Bautismo y la Confirmación* (Barcelona 1977), p. 183.

Starting from the conception of the Church as the people of God, it is clear that the incorporation into this People, the rights of "citizenship," in a word, the condition of a member must be understood as grounded in the reception of baptism; which also explains that "merely ecclesiastical laws bind those who were baptized in the Catholic Church or received into it" (c. 11).

8. Finally, it must be observed that the final section of this canon alludes to the necessary elements for the valid administration of the sacrament: *tantummodo per lavacrum aquae verae cum debita verborum forma*. The form, according to the provisions of cc. 846 § 1 and 853, is the invocation of the three Divine Persons, in accordance with the ritual in force.

**CAPUT I**  
**De baptismi celebratione**

**CHAPTER I**  
**The Celebration of Baptism**

**850** **Baptismus ministratur secundum ordinem in probatis liturgicis libris praescriptum, excepto casu necessitatis urgentis, in quo ea tantum observari debent, quae ad validitatem sacramenti requirantur.**

Baptism is administered according to the rite prescribed in the approved liturgical books, except in a case of urgent necessity when only those elements which are required for the validity of the sacrament must be observed.

SOURCES: c. 737 § 2; OBP *Prae* gen. 23, *Prae* 21, 22, ch. V; RCIA ch. III

CROSS REFERENCES: cc. 843 § 2, 846, 853, 854, 856, 857, 858, 860, 861, 862, 863

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**COMMENTARY**

*María Blanco*

1. After a canon of such transcendence as c. 849, which alludes to the ontological and juridical effects of baptism, the legislator details in the first canon of chapter I ("The Celebration of Baptism") the way in which this sacrament must be celebrated. To do this, it refers us to the provisions set forth in the liturgical books, a matter under the jurisdiction of the bishops' conferences according to the provisions of the Second Vatican Council: "shall forthwith prepare, in accordance with the new edition of the Roman Ritual, local rituals adapted linguistically and otherwise to the needs of the different regions. These rituals, on authentication by the Apostolic See, are to be followed in the regions in question" (SC 63 b). In short, the bishops' conferences are responsible for:

"1) Determining which are the adaptations referred to in number 39 of the Constitution, regarding the sacred liturgy.

"2) Carefully and prudently considering what should eventually be admitted from the traditions and the genius of each people, and, therefore, proposing to the Apostolic See other adaptations that may be deemed useful or necessary, to introduce them with its approval.

"3) Retaining or adapting particular elements of the rituals, as long as they are compatible with the Constitution regarding the sacred liturgy and with current needs.

"4) Preparing a translation of the texts, so that it is really adapted to the spirit of each language and culture, and adding the melodies for those portions that should be sung.

"5) Adapting and completing the introductions that are in the Roman Ritual, so that the ministers may understand and update the meaning of the rites.

"6) In the liturgical books that are to be published by the Bishops' Conferences, organize the material in the way that seems to be most useful for pastoral use" (OBP, *Praenotanda*, no. 30).

2. In the case of Spanish publications (Castillian and Catalan), there is a modification. The Latin edition reads: "Ordo baptismi parvulorum in periculo vel in articulo mortis, absente sacerdote et diacono adhibendus." The others say: "Bautismo de un niño en peligro de muerte" and "Baptisme d'infants en perill de mort." This could be interpreted in the sense that the ordained minister must proceed in this fashion when there is danger of death. In reality, ordained ministers will rarely resort to the abbreviated rite, because, faced with a danger of death that is not immediate, they will proceed with the complete rite and in *articulo mortis* only with the essential formula to which the sacrament of confirmation is added (cf. c. 883 § 3).<sup>1</sup>

However, if we adhere strictly to the provisions established by the legislator in this canon, it is clear that it explicitly limits the celebration reduced to its essential elements, which is only to be used *in case of urgent necessity*, without distinction as to whether the minister is a cleric or is not ordained. And this is so because the sacrament is not only the cause but also the sign of salvation. To maintain a distinction in the rites according to the minister who administers the sacrament would express that if a layperson administers them, "the only thing attained in this case is an *ex opere operato* reduced to freedom from sin, forgetting that, on the contrary, baptism always brings about all its effects."<sup>2</sup>

3. Regarding the essential elements, suffice it to say that the legislator implicitly refers to the provisions of c. 849 *in fine*: "tantummodo per lavacrum aquae verae cum debita verborum forma."

1. Cf. p. FARNES, "Del Bautismo," in *Phase*, 141 (1984), p. 219.

2. *Ibid.*

**851 Baptismi celebratio debite praeparetur oportet; itaque:**

- 1° **adultus, qui baptismum recipere intendit, ad catechumenatum admittatur et, quatenus fieri potest, per varios gradus ad initiationem sacramentalem perducatur, secundum ordinem initiationis ab Episcoporum conferentia aptatum et peculiare normas ab eadem editas;**
- 2° **infantis baptizandi parentes, itemque qui munus patrini sunt suscepturi, de significatione huius sacramenti deque obligationibus cum eo cohaerentibus rite edoceantur; parochus per se vel per alios curet ut ita pastoralibus monitionibus, immo et communi precatione, debite parentes instruantur, plures adunando familias atque, ubi fieri possit, eas visitando.**

The celebration of baptism should be properly prepared. Accordingly:

- 1° an adult who intends to receive baptism is to be admitted to the catechumenate and, as far as possible, brought through the various stages to sacramental initiation, in accordance with the rite of initiation as adapted by the Bishops' Conference and with the particular norms issued by it;
- 2° the parents of a child who is to be baptised, and those who are to undertake the office of sponsors, are to be suitably instructed on the meaning of this sacrament and the obligations attaching to it. The parish priest is to see to it that either he or others duly prepare the parents, by means of pastoral advice and indeed by communal prayer, bringing a number of families together, and, where possible, visiting them.

**SOURCES:** SC 64, 67; LG 14; CD 14; AG 14; SCRit Decr. *Ordo Baptismi Adultorum per Gradus Catechumenatus Dispositus*, 16 apr. 1962 (AAS 54 [1962] 310); OBP *Prae gen.*, 12-14; *Prae*, 5, 1; GCD 96a, c; RCIA *Prae*, ch. I, II; SCDF Instr. *Pastoralis actio*, 20 oct. 1980, 27-33 (AAS 72 [1980] 1150-1155)

**CROSS REFERENCES:** cc. 206 § 1, 226, 788, 850, 852, 865 § 1, 867, 868, 2°



## COMMENTARY

*María Blanco*

I. The legislator has made a distinction between the preparation for baptism of children and of adults. For the latter, the preparation is performed through the catechumenate in its different stages such as described in the *Ordo initiationis christianae adultorum*. Canon 206 § 1 understands by catechumens those who, moved by the Holy Spirit, request to be incorporated into the Church and who "desire with an explicit intention to be incorporated into the Church, are by that very intention joined to her. With love and solicitude mother Church already embraces them as her own" (cf. *LG* 14).

1. All the regulations of this subject matter have been notably influenced by the liturgical norms dictated after the Second Vatican Council, in particular by the RCIA of 1972, even though after the promulgation of the *CIC*, timely reforms were made to bring the liturgical books into agreement with the normative code.<sup>1</sup>

2. From those provisions it is deduced, leaving aside everything related to the juridical statute of the catechumen, that in the case of adults or children older than 7 years old (cf. cc. 97 § 2 and 852), the adoption of the catechumenate is obligatory; while, on the other hand, it is not so for the number of stages and other aspects of the celebration. The degrees or stages that the adult must go through are as follows: 1° reception as catechumen; 2° admission to a more intensive preparation for the sacraments; and 3° reception of the sacraments (RCIA 6). The bishops' conference, on its part, may make the following accommodations:

"1° Before the catechumenate, where it is appropriate, a way may be established to receive 'sympathizers' (cf. no. 12).

"2° Wherever pagan worship is common, a first exorcism and a first renunciation may be introduced in the rite of entry into the catechumenate (nos. 79 and 80).

"3° It may be established that the gesture of signing the forehead may be made without touching it, wherever this touching may seem inadvisable (no. 80).

"4° Where, according to the practice of non-Christian religions, it may be the custom to give the initiates a new name immediately, it may be established that a new name be imposed on the candidates in the rite of entry into the catechumenate (no. 88).

1. Cf. SCDF, "Variationes in libros liturgicos ad normas Codicis Iuris Canonici nuper promulgati introducendae," September 12, 1983, in *Notitiae*, 19 (1983), pp. 540-555.

"5° Some auxiliary rites may be admitted in the same rite, number 89, to signify reception into the community, according to the local customs.

"6° During the catechumenate, in addition to the accustomed rites (nos. 106–124), a "rite of transition" may be established, such as, for example, advancing the 'deliveries' (nos. 125–126), or the *ephphethá* rite, or the recitation of the Symbol or the unction of the catechumens with oil (nos. 127–129).

"7° Omission of the anointing of the catechumens may be decreed (no. 218) or its transfer to the rites of immediate preparation (nos. 206–207) or its performance within the duration of the catechumenate as a "rite of transition" (nos. 217 and 80).

"8° The formulae of the renunciation may also be abbreviated or enriched (nos. 217 and 80)" (RCIA 65).

3. Together with the normative of the bishops' conferences regarding the catechumenate (cf. also c. 788), the norms dictated by the bishop by virtue of his legislative power must also be taken into account. Moreover, the RCIA expressly attributes to him competence to:

"1) Establish the institution of the catechumenate and decide on the appropriate norms for each need (cf. no. 44).

"2) Determine, according to the circumstances, if, and when, the rite of initiation may be celebrated outside the proper times (cf. no. 58).

"3) Grant exemption, for grave impediments, from one investigation and, in extraordinary circumstances, even from two (cf. no. 240).

"4) Allow the partial or complete use of the abbreviated Ritual (cf. no. 240).

"5) Delegate to catechists who are truly deserving and are well prepared the mission of performing the exorcisms and the blessings (cf. nos. 44 and 47).

"6) Preside at the rite of 'election' and validate the admission of the elected, by himself or by means of a delegate (cf. nos. 44).

"7) Establish the age of the godparents, according to the law" (RCIA 66).

To sum up, the ordinary may establish the catechumenate and give the appropriate norms as needed. This is something which, moreover, had already been ordered by SC 64: "The catechumenate for adults, comprising several distinct steps, is to be restored and brought into use at the discretion of the local ordinary. By this means the time of the catechumenate, which is intended as a period of suitable instruction, may be sanctified by sacred rites to be celebrated at successive intervals of time." The use of this power—related mainly to the organizational community aspects of the catechumenate and to those referred to by the *DPMB*, 72, becomes more or less obligatory according to the provisions of the post-code decrees of

each bishops' conference.<sup>2</sup> However, the most immediate performance and regulation of this subject matter is the natural office of each diocesan bishop.

4. Cavagnoli<sup>3</sup> has wondered what is the difference between the provisions of c. 851,1<sup>o</sup> and those of c. 865 § 1. The impression is that the legislator regulates the same juridical situation from two different perspectives: objectively (c. 851,1<sup>o</sup>: about the reception of baptism) and subjectively (c. 865 § 1: about the subject to be baptized).

5. Finally, in relation to the first section of c. 851, it is appropriate to point out that there are some juridical effects that are only produced in the case where an adult is baptized.<sup>4</sup> Especially, and in relation to marriage, these would be: the application of the Pauline privilege (c. 1143) and the assumption of a valid marriage before the celebration of baptism of at least one of the spouses which becomes sacramental *eo ipso*, when both are baptized.

II. As for the preparation of children for baptism, it is intimately related to the obligation of parents and godparents to give a Christian education to their children. The council declaration *Gravissimum Educationis* had established: "All Christians, that is, all those who having been reborn in water and the Holy Spirit are called and in fact are children of God, have a right to a Christian education. Such an education not only develops the maturity of the human person ... but is especially directed toward ensuring that those who have been baptized, as they are gradually introduced to a knowledge of the mystery of salvation become daily more appreciative of the gift of faith they have received" (*GE* 2). In fact, it is the duty of the parents to give the children a Christian education; and this demands in many cases a positive action on the part of the pastors so that the children may "exercise" the correlative right. The Instruction *Pastoralis Actio*, no. 29, also expresses itself in this sense.<sup>5</sup>

However, also according to c. 867 § 1, given the nature of this right, it would be inadmissible to deny or delay indefinitely the baptism of a child in order to achieve a better preparation of the parents or of the godparents. In other words, it would be inadmissible to delay, cut or deny the exercise of this fundamental right. As long as there is, of course, grounds for hoping that the child will be educated in the Catholic religion (cf. c. 868,2<sup>o</sup>). As John Paul II has stated, every human being has value because he is a

2. C. ERRÁZURIZ, "Il Battesimo degli adulti nell'attuale diritto canonico," in *Monitor Ecclesiasticus*, 115 (1990), p. 89.

3. G. CAVAGNOLI, "L'iniziazione cristiana nella prospettiva del nuovo Codice," in *Rivista liturgica*, 71 (1984), p. 257.

4. C. ERRÁZURIZ, "Il Battesimo degli adulti come diritto e come causa di effetti giuridico-canonici," in *Ius Ecclesiae*, 1 (1990), p. 12.

5. SCDF, Instruction regarding infant Baptism, *Pastoralis Actio*, October 20, 1980, in *AAS* 72 (1980), pp. 1137-1156.

person called by God to the Kingdom of his Son. This is what the baptized parents who currently delay the baptism of their children must be made to understand. This insistence, the Pope continues, does not intend to minimize at all the pastoral effort that must be made to guarantee the Christian education "iam a prima aetate."<sup>6</sup> Nevertheless, the denial of baptism is not a means of pressuring and "much less of discriminating, but rather the teaching delay is intended, according to the case, to help the family progress in the faith or to help it become more aware of its responsibilities."<sup>7</sup>

Regarding the education of those who will assume the role of godparents, section 2 establishes some cautions that are closely related to the provisions set forth in the OBP, *Praenotanda*, 3: "To complete the truth of this sacrament, it is necessary that the children be educated later in that same faith in which they were baptized, of which the very sacrament they received before is the foundation. The Christian education, to which the children have a right, has no other aim than taking them little by little to grasp the designs of God in Christ, so that they may eventually ratify the faith in which they were baptized." This norm included in the OBP takes on particular importance when the minor reaches the age of reason.

6. Cf. JOHN PAUL II "Discurso a los obispos franceses," in *Insegnamenti di Giovanni Paolo II* (1987), X, 1, pp. 832-833.

7. SCDF, Instr. *Pastoralis Actio*, 31.

**852 § 1. Quae in canonibus de baptismo adulti habentur praescripta, applicantur omnibus qui, infantia egressi, rationis usum assecuti sunt.**

**§ 2. Infanti assimilatur, etiam ad baptismum quod attinet, qui non est sui compos.**

§ 1. The provisions of the canons on adult baptism apply to all those who, having ceased to be infants, have reached the use of reason.

§ 2. One who is incapable of personal responsibility is regarded as an infant even in regard to baptism.

SOURCES: § 1: RCIA ch. V; RConf 11  
§ 2: c. 745 § 2, 1°

CROSS REFERENCES: cc. 97, 98, 99, 111, 205, 851, 1°, 863, 866

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### COMMENTARY

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*María Blanco*

This canon establishes an important distinction for practical purposes: the distinction is made between "infants" and "all those who, having ceased to be infants, have reached the use of reason." The *Ordo Baptismi Parvulorum* applies to the first group, while to the second is applied the RCIA, which, according to the provisions of c. 851, 1° demands a different preparation by means of the catechumenate.

In § 2 is included a specialty of the general principle contained in c. 99, which establishes a presumption of incapacity *iuris et de iure*, by virtue of which those who habitually lack the use of reason must be subject to guardianship.

There are no provisions regarding the rite. The *Schema* of 1980, in c. 806, established the following: "§ 1. Adultus baptizetur ritu libere ab ipso electo. § 2. Infans baptizetur ritu parentum, et, si parentes ad diversum ritum pertinent catholicum, ritu eorum alterutrius concordia ratione ab ipsis electo; ob peculiare tamen rationes parentes, concordia item voluntate alium ritum catholicum eligere possunt. § 3. Si unus tantum parentum sit catholicus, pars catholica omnia pro viribus faciat ut proles baptizetur ritu catholico, a parentibus, si fieri possit, concordia ratione electo." This canon was not included as such in the 1982 *Schema* while it does appear, with some variations, in c. 111 (cf. commentary) in book I, tit. VI.

**853** **Aqua in baptismo conferendo adhibenda, extra casum necessitatis, benedicta sit oportet, secundum librorum liturgicorum praescripta.**

Apart from a case of necessity, the water to be used in conferring baptism is to be blessed, in accordance with the provisions of the liturgical books.

SOURCES: c. 757; SC 70; OBP *Prae* gen., 21; *Prae*, 18, 28; RCIA *Prae*, 28, 29, ch. I, 208, 210

CROSS REFERENCES: cc. 843 § 2, 846, 850, 854, 860, 861, 862

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COMMENTARY

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*María Blanco*

Interpreting this canon *a sensu contrario*, and in relation with the text of cc. 857, 860–862, one observes that the requirements demanded by the legislator for the valid administration of baptism are minimal. As a result, the use of water that has not been blessed does not affect the validity of the sacrament but simply its legality.

The most concise provisions established for the regulation of this issue are collected in the liturgical books to which we are referred by the *Cic*. Those books establish that the water must be natural and clean in order to express the truth of the sign and even for reasons of hygiene (*Rite of Baptism for Children*, 33). The Catechism explains it in the following terms: “Water. The symbolism of water signifies the Holy Spirit’s action in Baptism, since after the invocation of the Holy Spirit it becomes the efficacious sacramental sign of new birth: just as the gestation of our first birth took place in water, so the water of Baptism truly signifies that our birth into the divine life is given to us in the Holy Spirit.” As “by one Spirit we were all baptized,” so we are also “made to drink of one Spirit” (1 Cor 12: 13). Thus the Spirit is also personally the living water welling up from Christ crucified (cf. Jn 19: 34; 1 Jn 5: 8) as its source and welling up in us to eternal life (cf. Jn 4: 10–14; 7: 38; Ex 17: 1–6; Isa 55: 1; Zech 14: 8; 1 Cor 10: 4; Rev 21: 6; 22: 17)” (CCC, 694).

Moreover, and in the case where the baptistry is built in such a way that it uses a living source of water, the current of water must be blessed (*Praenotanda generalia*, 21).

**854** **Baptismus conferatur sive per immersionem sive per infusionem, servatis Episcoporum conferentiae praescriptis.**

Baptism is to be conferred either by immersion or by pouring, in accordance with the provisions of the Bishops' Conference.

SOURCES: c. 758; OBP *Prae* gen., 22, 30, *Prae*, 18; RCIA 32, 220

CROSS REFERENCES: cc. 455 § 1, 853

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COMMENTARY

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*María Blanco*

"This sacrament is called *Baptism*, after the central rite by which it is carried out. To baptise (Greek *baptizein*) means to 'plunge' or 'immerse;' the 'plunge' into the water symbolises the catechumen's burial into Christ's death from which he rises up by resurrection with him (cf. Rm 6: 3-4; Col 2: 12) as a 'new creature' (2 Cor 5: 17; Gal 6: 15)" (CCC, 1214). This is the way in which the *Catechism of the Catholic Church* expresses it, trying to highlight that this sacrament means the descent of the Christian to the grave, dying to sin with Christ (cf. also CCC, 628).

It is the competence of the bishops' conference to determine the specific mode to be used. And, in the *Praenotanda generalia* (cf. no. 22) it is stated that, while it is possible to use both rites according to the Law, immersion is more suitable to signify the death and resurrection of Christ, just as Saint Thomas had written in his day: "Dicendum est quod immersione expressius representatur figura sepulturae Christi, et ideo hic modus est laudabilior."<sup>1</sup>

However, it should not be forgotten that immersion has always had a passive meaning: the catechumen was submerged, he did not submerge himself, something which was, moreover, the practice of some ritual baths.<sup>2</sup> In any case, taking into account the circumstances and traditions that concur, the RCIA, 32 provides that the rite to be chosen is the one in

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1. *S. Th.*, III, q. 66, a. 7 ad 2.

2. A. HAMMAN, *El Bautismo y la Confirmación* (Barcelona 1977), p. 204.

which it is better understood that the bath is not only a purification rite, but the sacrament of union with Christ.

In the case of Spain, the bishops' conference has established: "follow the custom widespread in Spain of baptism by infusion, just as it is stated in the Ritual approved for that purpose by this Bishops' Conference."<sup>3</sup>

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3. Decr. February 22, 1988, in *BOCEE* 18 (1988), p. 47 (cf. *Pamplona Com*, p. 1194). Cf. also J.T. MARTÍN DE AGAR, *Legislazione delle Conferenze Episcopali complementare al C.I.c.* (Milan 1990).



## 855 **Curent parentes, patrini et parochus ne imponatur nomen a sensu christiano alienum.**

Parents, sponsors and parish priests are to take care that a name is not given which is foreign to christian sentiment.

SOURCES: c. 761; RCIA 26, 88, 203-205

CROSS REFERENCES: c. 877

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### COMMENTARY

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*María Blanco*

The *right to a name* finds its *raison d'être* in the need to identify and individualize each one of the persons who live in society. The civil doctrine tends to frame it within the rights of the personality<sup>1</sup>; Rodríguez Castro has written, in this sense, that the imposition of a name constitutes an inevitable demand of the development of the personality in the social sphere, and therefore, it is protected by the Law as a form of social human life.<sup>2</sup>

This, however, is not correctly applicable to names within the scope of the canonical system. Neither the *CIC* nor the canonical legislation in general regulates names by means of its own system. In this matter, the Church respects civil custom; and "the canonical exhortations and prescriptions about the imposition of names to persons respond to religious motivations, especially to the fact that the recipients of baptism be distinguished by the use of a name that reveals his condition as a Christian, particularly in cases of conversion, and to adopt as a pattern and model the virtues of the saint, martyr or confessor of the faith whose name is taken."<sup>3</sup> The CCC alludes to this subject in the following terms: "The sacrament of Baptism is conferred 'in the name of the Father and of the Son and of the Holy Spirit' (Mt 28, 19). In Baptism, the Lord's name sanctifies humankind, and the Christian receives his name in the Church. This can be the name of a saint, that is, of a disciple who has lived a life of exemplary fidelity to the Lord. The patron saint provides a model of charity; we

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1. Cf., among others: M. ALBALADEJO, *Derecho Civil*, I, vol. II (Barcelona 1991), pp. 63-62; L. Díez-PICAZO-A. GULLÓN, *Sistema de Derecho Civil*, vol. I (Madrid 1988), pp. 231ff.

2. Cf. J. RODRÍGUEZ CASTRO, "El nombre civil propio de las personas físicas y el Registro Civil," in *Actualidad Civil* 1 (1988), p. 1001.

3. M. LÓPEZ-ALARCÓN, "Influencia canónica en la regulación jurídica del nombre propio," in *Pretor* 9 (1976), p. 6.

are assured of his intercession. The 'baptismal name' can also express a Christian mystery or Christian virtue" (CCC, 2156).

The Rite of Christian Initiation of Adults allows the imposition of a name according to the civil custom of the region as long as it has a Christian sense (RCIA 203).

In short, the baptismal name does not have the same nature nor the same juridical function as the civil name; moreover, its imposition does not constitute a juridical obligation *stricto sensu*. From the literal sense of the canon follows that the prescriptions therein contained are rather a caution to be entrusted primarily to the parents and godparents, and only secondarily to the parish priest, in contrast with the statements set forth in c. 761 of the *CIC/1917*, where it was established that: "Pastors shall see to it that a Christian name be given the person baptized; but if they are not able to prevail in this matter, they shall add to the name chosen by the parents the name of some saint and they shall record both names in the baptismal register."

**856** *Licet baptismus quolibet die celebrari possit, commendatur tamen ut ordinarie die dominica aut, si fieri possit, in vigilia Paschatis, celebretur.*

Though baptism may be celebrated on any day, it is recommended that normally it be celebrated on a Sunday or, if possible, on the vigil of Easter.

SOURCES: c. 772; OBP *Prae* gen., 6, *Prae* 9, 29; *DPMB* 86a; *RCIA* 49, 55, 59, 244, 343

CROSS REFERENCES: cc. 867, 1010, 1246

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COMMENTARY

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*María Blanco*

The legislator recommends that baptism be performed on a Sunday, or, if possible, on the vigil of Easter since it is not a private act but rather the sacrament of entrance to the Church. "To express clearly the paschal nature of baptism, it is recommended that it be celebrated on the paschal vigil, or on a Sunday, which is the day in which the Church commemorates the resurrection of the Lord. On Sundays, baptism may also be celebrated during the Mass, so that all the community may participate in the rite and the relationship between baptism and the Holy Eucharist may be more clear; however, this should not be done too frequently" (OBP, 9). The Easter Vigil is alluded to also by tradition, since, for centuries, it has been pre-eminently considered as the time for baptism.

Furthermore, with respect to this subject matter, the specific prescription of c. 867 § 1 must be taken into account, which states "Parents are obliged to see that their infants are baptised within the first few weeks. As soon as possible after the birth, indeed even before it, they are to approach the parish priest to ask for the sacrament for their child, and to be themselves duly prepared for it." And § 2 of this same canon adds that "if the infant is in danger of death, it is to be baptised without any delay."

In summary, the exhortation contained in the canon under discussion makes clear that baptism brings about insertion into the mystery of the risen Christ.<sup>1</sup>

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1. Cf. E. TEJERO, commentary on c. 856, in *Pamplona Com.*

**857 § 1. Extra casum necessitatis, proprius baptismi locus est ecclesia aut oratorium.**

**§ 2. Pro regula habeatur ut adultus baptizetur in propria ecclesia paroeciali, infans vero in ecclesia paroeciali parentum propria, nisi iusta causa aliud suadeat.**

§ 1. Apart from a case of necessity, the proper place for baptism is a church or an oratory.

§ 2. As a rule and unless a just reason suggests otherwise, an adult is to be baptised in his or her proper parish church, and an infant in the proper parish church of the parents.

SOURCES: § 1: c. 773; OBP *Prae* gen., 24-26, *Prae*, 10-13  
§ 2: *SCDW* Resp., 19 aug. 1970; OBP *Prae* 1

**858 § 1. Quaevis ecclesia paroecialis baptismalem fontem habeat, salvo iure cumulativo aliis ecclesiis iam quaesito.**

**§ 2. Loci Ordinarius, audito loci parrocho, potest ad fideium commoditatem permittere aut iubere, ut fons baptismalis habeatur etiam in alia ecclesia aut oratorio intra paroeciae fines.**

§ 1. Each parish church is to have a baptismal font, without prejudice to the same right already acquired by other churches.

§ 2. The local Ordinary, after consultation with the local parish priest, may for the convenience of the faithful permit or order that a baptismal font be placed also in another church or oratory within the parish.

SOURCES: § 1: c. 774 § 1; *CodCom* Resp., 12 nov. 1922, IV (AAS 14 [1922] 662); OBP *Prae* 10  
§ 2: c. 774 § 2; OBP *Prae* 11

CROSS REFERENCES: cc. 105, 212 § 2, 213, 516, 518, 530, 851, 2°, 859-862

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 COMMENTARY
 

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*María Blanco*

Canon 857 initiates an exhaustive regulation of the proper place for the administration of baptism. "Performed initially out in the open, preferably in a natural stream of water, in a river, baptism was moved later to an *ad hoc* building: the baptistry."<sup>1</sup>

Reference made to the parish church is justified because: 1) of the particular character recognized to the parish in the Code as center of initiation of the spiritual and sacramental life of the faithful; 2) it is normally in a parish where the faithful continue their sacramental itinerary; 3) in the parish it is possible to develop an effective baptismal pastoral program. In this program, the parents may receive the appropriate means for an adequate preparation of their children's baptism (cf. c. 851,2°).<sup>2</sup> Thus we can understand the provisions set forth in c. 530,1°, by virtue of which the administration of baptism is found within the functions especially entrusted to the parish priest.

The *Ordo Baptismi Parvulorum* no. 10 establishes: "Ordinarily Baptism shall be celebrated in the parish church, which must have a baptismal font; in this way, it will be clearly seen that Baptism is a sacrament of the faith of the Church and of incorporation to the people of God." Moreover, "the baptistry, that is to say: the place where the water springs from the baptismal font, or simply, is permanently placed in the font, must be reserved for the sacrament of Baptism, and must be truly dignified, so that it is clearly seen as the place where Christians are reborn from the water and the Holy Spirit. Whether it is located in a chapel inside or outside of the church, or in any part of the church, in plain view of the faithful, it must be disposed in such a way as to allow a numerous group to participate comfortably" (*Praenotanda generalia*, 25). The Instruction *Inter Oecumenici*, to apply correctly the Constitution *Sacrosanctum Concilium*, also sets forth guiding norms so that the dignity of the sacrament may be clear (*IOe* 99).

The connection between the parish church and the baptistry responds, in addition to liturgical reasons, to reasons of good administration<sup>3</sup> in order to demarcate the responsibilities of the parish in relation to baptism. "In fact, the determination of the church where baptism must be administered facilitates, besides the preparation of adults, parents, and godparents, the legitimate exercise of the right to request the sacrament,

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1. A. HAMMAN, *El Bautismo y la Confirmación* (Barcelona 1977), p. 203.

2. Cf. A. MONTAN, "I sacramenti dell'iniziazione cristiana," in *I sacramenti della Chiesa* (Bologna 1989), pp. 36-37.

3. Cf. E. TEJERO, commentary on cc. 857-860, in *Pamplona Com.*

as well as the verification that in each case all the circumstances of competence and legitimization are present for the administration of Baptism.”<sup>4</sup>

Obviously, the legislator has wished to facilitate the exercise of this right as much as possible, to the point that the comfort of the faithful is enough reason for the local ordinary to allow, and even command, that there be a baptismal font in another church or oratory within the parish boundaries. The provisions of c. 858 § 1 *in fine* are also to be interpreted in this way. In other words, given that it is obligatory for every parish church, and also for quasiparishes (cf. c. 516), to have a baptismal font, on the assumption that before the Code came into effect there may have been another church with exclusive right, that right becomes cumulative with the right of the parish church.

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4. Ibid.

**859** **Si ad ecclesiam paroecialem aut ad aliam ecclesiam vel oratorium, de quo in can. 858, § 2, baptizandus, propter locorum distantiam aliave adiuncta, sine gravi incommodo accedere vel transferri nequeat, baptismus conferri potest et debet in alia propinquiore ecclesia vel oratorio, aut etiam alio in loco decenti.**

If, because of distance or other circumstances, the person to be baptised cannot without grave inconvenience go or be brought to the parish church or the oratory mentioned in can. 858 § 2, baptism may and must be conferred in some other church or oratory which is nearer, or even in some other fitting place.

SOURCES: c. 775

**860** **§ 1. Praeter casum necessitatis, baptismus ne conferatur in domibus privatis, nisi loci Ordinarius gravi de causa id permiserit.**

**§ 2. In valetudinariis, nisi aliter Episcopus dioecesanus statuerit, baptismus ne celebretur, nisi in casu necessitatis vel alia ratione pastoralis cogente.**

§ 1. Apart from a case of necessity, baptism is not to be conferred in private houses, unless the local Ordinary should for a grave reason permit it.

§ 2. Unless the diocesan Bishop has decreed otherwise, baptism is not to be conferred in hospital, except in a case of necessity or for some other pressing pastoral reason.

SOURCES: § 1: c. 776; SCDS Resp., 22 iul. 1925 (AAS 17 [1925] 452); OBP *Prae* 12  
 § 2: OBP *Prae* 13

CROSS REFERENCES: cc. 530,1°, 852 § 2, 857, 858, 859, 860, 862

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## COMMENTARY

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*María Blanco*

1. The casuistry referred to in the *CIC* is varied, but in this way the legislator shows the gradation that must be followed for the licit

celebration of the sacrament. Therefore, one should refer to the following places, in order of priorities: the parish church, an oratory, a dignified place.<sup>1</sup>

2. Canons 859 and 860 allude to the celebration of baptism under special circumstances, and set forth very flexible guidelines that must be combined for their interpretation with pastoral and juridical criteria. Sometimes these criteria are somewhat imprecise, and perhaps intentionally imprecise, thus addressing the varied circumstances in which these norms will have to be applied.

More precisely, the special cases may be summed up as follows:

a) *Grave inconvenience* (c. 859): originated by circumstances that make it difficult for the baptized to travel to the parish church or to the assimilated church *in iure* for the baptism. Distance (remoteness) is cited as an example. This situation empowers the minister to administer the sacrament in a closer church or oratory, other than the parish church or other than those set forth in c. 858 § 2, and even in another decent place. The expression *aliave adiuncta* allows the minister *ad mentem legislatoris* to judge, in each case, the appropriateness of administering the baptism in a place other than the parish church.

b) *Baptism in private residences* (c. 860 § 1): except in cases of necessity (a vague concept itself) the canon expressly prohibits the administration of baptism in private homes (cf. c. 862). Moreover, it is necessary under this assumption to obtain a permit from the ordinary, who must not grant it without grave cause. The *Ritual for the Baptism of Children*, 51 forbade the celebration of these baptisms unless there was danger of death; however, the SCSDW ordered the introduction of suitable changes, so that in the current no. 12 of the *Ordo* it establishes: "Praeter casum necessitatis Baptismus ne celebretur in domibus privatis, nisi Ordinarius loci gravi de causa id permiserit."<sup>2</sup> In any case, determination of the gravity of the cause is the competence of the ordinary.

c) *Baptism in hospitals* (c. 860 § 2): according to c. 858 § 2 it is possible for a clinic or a hospital center to have a baptismal font. For the ordinary to grant the appropriate permission, besides listening to the parish priest, he must take into consideration the conditions of the place and the form in which the rite may be celebrated with fitting dignity. If these conditions do not exist, permission must be refused.<sup>3</sup> If there is a baptistry, the general principle as far as the administration of baptisms in hospitals is clear: "baptismus ne celebretur."

1. Cf. E. TEJERO, commentary on c. 856, in *Pamplona Com.*

2. Cf. SCDF, "Variationes in libros liturgicos ad normas Codicis Iuris Canonici nuper promulgati introducendae," September 12, 1983, in *Notitiae*, 19 (1983), p. 547.

3. Cf. SCSDW, Resp. August 19, 1970, in *LE Ecclesiae post Codicem Iuris Canonici editae* (Rome 1972), p. 5876.



However, it is important to note that, excepting, of course, cases of necessity, the *CIC* accepts expressly and without reservations that the specific legislator may justify something else in relation to baptisms in hospitals. This demonstrates once more the great sensitivity with which the *CIC* covers the different circumstances of each specific region or place.

The interpretation of the expression *vel alia ratione pastorali cogente* poses greater difficulties, because of its ambiguity. To my understanding, the determination regarding the existence of this pastoral reason that justifies baptism in the hospital corresponds to the minister, who *ad mentem legislatoris* must take into consideration whether, in the specific case, the *salus animarum* demands the administration of baptism away from the parish church.

The *Ordo* for this assumption demands two cautions: to advise the parish priest (although it does not say when) and to prepare the parents adequately and in advance (cf. OBP, 13).

**CAPUT II**  
**De Baptismi ministro**

**CHAPTER II**  
**The Minister of Baptism**

- 861** § 1. **Minister ordinarius baptismi est Episcopus, presbyter et diaconus, firmo praescripto can. 530, n. 1.**
- § 2. **Absente aut impedito ministro ordinario, licite baptismus confert catechista aliusve ad hoc munus ab Ordinario loci deputatus, immo, in casu necessitatis, quilibet homo debita intentione motus solliciti sint animarum pastores, praesertim parochus, ut christifideles de recto baptizandi modo edoceantur.**

- § 1. The ordinary minister of baptism is a Bishop, a priest or a deacon, without prejudice to the provision of can. 530 n. 1.
- § 2. If the ordinary minister is absent or impeded, a catechist or some other person deputed to this office by the local Ordinary, may lawfully confer baptism; indeed, in a case of necessity, any person who has the requisite intention may do so. Pastors of souls, especially parish priests, are to be diligent in ensuring that Christ's faithful are taught the correct way to baptise.

SOURCES: § 1: cc. 738, 741; *LG* 26, 29; *PO* 5; *SDO* 22, 1; *OBP Prae* gen. 11  
§ 2: c. 742; *OBP Prae* gen., 16, 17, ch. IV et V; *RCIA* ch. III

CROSS REFERENCES: cc. 230 §§ 2 et 3, 530, 1°, 843, 845, 857, 883

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**COMMENTARY**

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*María Blanco*

1. The basic characteristic of the minister's intervention is the same in all the sacraments; he acts *in persona Christi* and the effect is always the gift of Christ, Himself, not that of the man who makes the sign. In

other words, the minister performs the sacramental action in the name of Christ, acts the rite, applies the matter of the sacrament and pronounces, accordingly, the words of the form. He does all this in the name of Christ and by the power of the Holy Spirit; for that reason, his nature is purely instrumental.<sup>1</sup>

The *CIC* does not distinguish between a private baptism and a solemn one, a distinction the *CIC/1917* made to refer to a difference in rites and ceremonies. Thus, a baptism was considered solemn when it followed the rites and ceremonies set forth in the liturgical books (cf. c. 737 *CIC/1917*). In theological thinking, this distinction was justified mainly in regard to the minister; in solemn baptism, the ordinary minister was the priest, and in private baptism, which took place in case of necessity, the minister was anyone with the same intention as the Church.

2. According to the current canonical regulations, the ordinary minister (bishop, presbyter or deacon) is responsible for administering baptism according to the ministry received (c. 861 § 1). However this duty belongs to the parish priest, since the function has been entrusted to him in a special way (cf. c. 530,1°, to which c. 861 § 1 refers).

In fact, it is understood that the *bishop* is the ordinary minister of baptism because, marked with the fullness of the sacrament of orders, he is the administrator of the grace of the supreme priesthood, and disposes for that reason the administration of baptism through which participation in the regal priesthood of Christ is conferred (cf. *LG* 26). It is the mission of the *presbyters*, in turn, to bring man into the people of God precisely by means of baptism (cf. *PO* 5). Finally, the *deacons*, according to the provisions set forth in this canon, are the ordinary ministers of baptism; there is no need for an express request by the ordinary, as was provided for in *SDO*, 22,2°.

3. As for the norms applicable for the lawful administration of baptism under special circumstances, § 2 of c. 861 makes the following distinctions:

a) *When the ordinary minister is impeded or absent.* The concept of absence is not defined by the legislator; however, applying the provisions established in c. 1116 § 1,2° by analogy, the ordinary minister may be considered absent when it is impossible to reach him without great difficulty, and it can be prudently expected that this situation will last one month. Application of this criterion would allow parents to baptize their children within their first weeks of life (cf. c. 867).

In either of these two cases, a catechist or any other member of the faithful assigned by the bishop for such a function, would lawfully administer baptism (cf. c. 230 § 2). On the other hand, the replacement *ut talis* (cf. c. 230 § 3) would not be applicable, since the simple absence or

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1. Cf. A. URRU, "Ministro straordinario del battesimo: fondamento di tale potestà," in *Questioni Canoniche* (Milan 1984), p. 200.

impediment of the ordinary minister is, in principle, different from a case of necessity. Although there may be a lack of clergy, in order for this replacement not to be a seriously unlawful act, it is necessary that both circumstances occur jointly,<sup>2</sup> which is exactly the situation in the following hypothesis.

b) *In case of necessity*. By "necessity" must be understood not only the danger of death, but according to the statements of the previous paragraph, the prolonged absence of the sacred ministers. Baptism may then be conferred not only by any member of the faithful, but also by "any person," as long as he/she has the correct intention or, in other words, the intention of doing what the Church does.

The Church has always affirmed this criterion, justified by the fact that baptism is necessary for salvation. As a matter of expediency, Saint Thomas says that, just as for the validity of the sacrament any water is a valid water, so any man is a valid minister.<sup>3</sup> In fact, as Hamman has written, "any human being, clergyman or layman, man or woman, baptized or not, may validly and lawfully confer the sacrament of baptism. But no one can baptize himself. The only condition is to respect the matter and the form prescribed, and to have, at least in a vague way, the intention of doing what the Church does.

"This breadth addresses, at the same time, the redeeming will of God towards all men and the need of baptism for salvation. Christ selected not only the most common matter but also the broadest provisions for the administration of baptism."<sup>4</sup>

The *Praenotanda generalia*, 11, taking as a reference the provisions set forth in cc. 861 and 862, has established the following:

"The ordinary ministers of baptism are the Bishop, the presbyter and the deacon.

"1) Any time you celebrate this sacrament, remember that you are acting as the Church, in the name of Christ and by the power of the Holy Spirit. Be, then, diligent in the administration of the word of God and in the way in which you perform the sacrament."

2. Cf. J. HERVADA, commentary on c. 230, in *Pamplona Com. Cf. Instr. EdM*, art. 11.

3. Cf. *S. Th.*, III, q. 67 a. 5 c.

4. A. HAMMAN, *El Bautismo y la Confirmación* (Barcelona 1977), p. 216.

**862** **Excepto casu necessitatis, nemini licet, sine debita licentia, in alieno territorio baptismum conferre, ne suis quidem subditis.**

Except in a case of necessity, it is unlawful for anyone without due permission to confer baptism outside his own territory, not even upon his own subjects.

SOURCES: c. 739

CROSS REFERENCES: cc. 102, 530, 1°; 843

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### COMMENTARY

*María Blanco*

The norm contained in c. 862 is justified for reasons of good administration. Furthermore, it seems that, in principle, this permission, reasonably requested, should not be refused, since the administration of baptism is not a function reserved to the parish priest but rather one especially entrusted to him (cf. c. 530, 1°).

For its part, the OBP (*Praenotanda generalia*, 11) refers to this issue practically in the same terms as c. 862, but not without first asserting, thus putting us face to face with a criterion that must always be taken into account in this matter: "Also avoid anything that may be reasonably interpreted by the faithful as discrimination."

**863** **Baptismum adultorum, saltem eorum qui aetatem quatuordecim annorum expleverunt, ad Episcopum dioecesanum deferatur ut, si id expedire iudicaverit, ab ipso administretur.**

The baptism of adults, at least of those who have completed their fourteenth year, is to be referred to the diocesan bishop, so that he himself may confer it if he judges this appropriate.

SOURCES: c. 744; RCIA 44

CROSS REFERENCES: cc. 851 § 1, 866, 882

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COMMENTARY

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*María Blanco*

The foundation of this norm is the relationship between the meaning of episcopal ministry and that of baptism as entry to the Church, taking into account the fact that the entire process of Christian initiation of adults is situated, in a special form, within the jurisdiction of the diocesan bishop,<sup>1</sup> as set forth by the provisions of the RCIA, to which c. 851 § 1 refers the reader.

In this sense, it is particularly meaningful that no. 44, says: "It is the responsibility of the bishop, himself or through his delegate, to organize, counsel and promote the pastoral education of the catechumens and to admit the candidates to the election and to the sacraments ... and in the Paschal Vigil confer the sacraments of initiation, at least to those who have attained fourteen years of age." This is consistent with the provisions of c. 866, because, if there is no grave reason to the contrary, an adult must receive the sacrament of confirmation immediately after baptism, and the ordinary minister of confirmation is the bishop (cf. c. 882).

By the same token, Tejero believes that this provision "is understandable due to the extraordinary character of the adult baptism, since the baptism of children is an immemorial practice of local Churches of solid Christian tradition."<sup>2</sup>

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1. Cf. C.J. ERRÁZURRIZ, "Il battesimo degli adulti nell'attuale diritto canonico," in *Monitor Ecclesiasticus*, 115 (1990), pp. 107-108.

2. E. TEJERO, commentary on cc. 861-863, in *Pamplona Com. Cf. Instr. Pastoralis Actio*, 4-10, in AAS 72 (1980), pp. 1139-1143.

**CAPUT III**  
**De baptizandis**

**CHAPTER III**  
**The Persons to Be Baptised**

**864** **Baptismi capax est omnis et solus homo nondum baptizatus.**

Every unbaptised person, and only such a person, can be baptised.

SOURCES: c. 745 § 1

CROSS REFERENCES: cc. 96, 840, 841, 842, 843 § 1, 849, 851

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COMMENTARY

*María Blanco*

1. This canon is the threshold to frame and introduce chap. III: "The Persons to Be Baptized." This is an uncharacteristic chapter, although the subject matter would have made it possible to treat the issue in a more homogeneous and rigorous fashion. For example, c. 870 is nothing more than a special situation within the general norm related to the baptism of children.

2. The provision contained in c. 864 is intrinsically linked to c. 849 (see commentary). Furthermore, this is its clarification, so that the lines on which the interpretation is structured are the same, to wit:

- a) the necessity of baptism for salvation;
- b) the ontological effects produced: it makes man the son of God, marking him with an indelible seal;
- c) the juridical effects it carries: man becomes a member of the faithful in the Church, with appropriate rights and duties (see commentary on c. 204).

Suffice it to reiterate here that baptism is a right of a person, *omnis et solus homo*, precisely because its reception, in fact or at least in wish, is necessary for salvation (cf. c. 849), a matter addressed with great clarity in *Lumen gentium* 14.

In short, in this canon the legislator protects the universal capacity for baptism founded on the redeeming will of God. Irrelevant, in this context, are circumstances such as age, juridical residence, relationship, etc., (cf. cc. 97–112), which effectively determine and modify the canonical condition of the persons, their capacity to act, but which, for purposes of baptism, never alter their capacity to become a member of the Church: to become a member of the faithful (*christifidelis*).

3. In addition to the fact that baptism is based on the redeeming will of Christ, it must be stressed that the elevation of man to the supernatural order has an influence upon man's social dimension. In fact, as Hervada has written, "For Christianity, the dignity of man has a double dimension: natural and supernatural, image of God and son of God. In Christianity, both dimensions fuse into one, because to be a son of God is to be transformed by grace. A simple, yet magnificent, principle."<sup>1</sup>

The person who joins the Church becomes a part of the "chosen race, a royal priesthood" (1 Pt 2:9) in such a way that he is indelibly marked by this sacramental link, thus the canon refers to the *unbaptized person, and only such a person*.

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1. J. HERVADA, "El hombre y su dignidad en palabras de Mons. Escrivá de Balaguer," in *Fidelium Iura* 2 (1992), p. 12.



865 § 1. Ut adultus baptizari possit, oportet voluntatem baptismum recipiendi manifestaverit, de fidei veritatibus obligationibusque christianis sufficienter sit instructus atque in vita christiana per catechumenatum sit probatus; admoneatur etiam ut de peccatis suis doleat.

§ 2. Adultus, qui in periculo mortis versatur, baptizari potest si, aliquam de praecipuis fidei veritatibus cognitionem habens, quovis modo intentionem suam baptismum recipiendi manifestaverit et promittat se christianae religionis mandata esse servaturum.

§ 1. To be admitted to baptism, an adult must have manifested the intention to receive baptism, must be adequately instructed in the truths of the faith and in the duties of a christian, and tested in the christian life over the course of the catechumenate. The person must moreover be urged to have sorrow for personal sins.

§ 2. An adult in danger of death may be baptised if, with some knowledge of the principal truths of the faith, he or she has in some manner manifested the intention to receive baptism and promises to observe the requirements of the Christian religion.

SOURCES: § 1: c. 752 § 1; SCHO et SCPF Resp., 19 feb. 1938; RCIA 20, 49, 62  
§ 2: c. 752 § 2; RCIA 279

CROSS REFERENCES: cc. 788, 851,1°, 852, 883, 1170, 1183

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## COMMENTARY

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*María Blanco*

1. The *CIC* establishes some requirements for the baptism of children and others for the baptism of adults (cf. c. 852), who must be previously admitted to the catechumenate (c. 851,1°). For this reason, the catechumen may be considered a subject of the canonical system into which he is incorporated through a manifestation of will, from which derives a peculiar juridical statute (cf. c. 788 § 3).<sup>1</sup> This manifestation of will constitutes a requirement *ad validitatem* of the celebration of baptism:

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1. P. LOMBARDÍA, "Estatuto jurídico del catecúmeno según los textos del Concilio Vaticano II," in *Escritos de Derecho Canónico II* (Pamplona 1973), p. 229.

"oportet voluntatem baptismum recipiendi manifestaverit." In other words, "candidates are not purely passive in the baptismal action: while they are incapable of redeeming themselves, grace cannot save them without their consent."<sup>2</sup>

2. The requirements that affect not only the validity but also the liceity of the sacrament can be summarized as follows: 1) sufficient instruction regarding the truths of the faith and Christian obligations; 2) experience in Christian life; and 3) sorrow for their sins. Therefore, in order to receive a fruitful baptism, besides the minimal knowledge of the truths of the faith, certain moral dispositions are required: faith and conversion, even if imperfect (these are the goals to which the organization of the catechumenate are expressly addressed).

Along these lines, an Instruction of the Holy Office addressed to the Apostolic Vicariate of Tche-Kiang in August of 1860 stated: "At enim vero fides et paenitentia in adulto requiruntur, ut licite sacramentum suscipiat et fructum sacramenti consequatur; intentio vero necessaria est ad illud valide consequendum, adeo ut qui baptizatur adultus sine fide ac paenitentia illicitè quidem, at valide baptizatur, et contra, qui baptizatur absque voluntate sacramentum suscipiendi nec licite nec valide baptizatur" (Dz, 2837).

This emphasizes that the right to receive baptism, which comes from its necessity (cf. c. 849), is inseparably linked to the duty of undergoing the corresponding appropriate preparation, since it characterizes in great detail the juridical situation of the catechumen in the Church (cf. c. 206).

Tejero believes that "the instruction on the truths of the faith must include those truths required for salvation with absolute necessity: the existence of God, and God rewarding the righteous and punishing the wicked. Knowledge of the Incarnation of the Word and the Holy Trinity is probably required also with the same necessity. Moreover, it is clear that the catechumenate prior to Baptism must provide a wider formation regarding the truths of the faith and the Christian life, on which the catechumen must be tested before receiving Baptism."<sup>3</sup>

Saint Thomas pondered the convenience of deferring baptism on the basis that adults may obtain justification through desire of baptism alone. He pointed out the following motives: "First, through a certain measure of prudence, lest the Church be deceived by granting baptism to those who request it fictitiously ... The object of this test, for those preparing to receive baptism, is to observe during some time their faith and customs. Secondly, this delay is appropriate for the good of the baptismal candidates, who need a certain amount of time to be fully instructed in the faith and trained in the Christian life. In third place, it is necessary for the reverence

2. A. HAMMAN, *El Bautismo y la Confirmación* (Barcelona 1977), p. 182.

3. E. TEJERO, commentary on c. 865, in *Pamplona Com.*

of the sacrament itself; being admitted to baptism in the most important solemn days, Easter and Pentecost, the catechumens will receive it with greater devotion. Nevertheless, this delay shall be omitted when two circumstances coincide: First, when the baptismal candidates are already perfectly instructed in the faith and are ready to receive baptism ... Second, due to illness or any other danger of death. San Leo states: 'Anyone who is in urgent need because of danger of death, be it due to illness, persecution or shipwreck, must be baptized at any time.'<sup>4</sup>

Prolonging the period of the catechumenate depends on other circumstances, besides the grace of God, including the cooperation of the catechumen (cf. RCIA, 20).

3. From reading this canon, it may be deduced that individual right is one of the essential components of the current system of canonical sources regarding baptism (cf. cc. 788 § 3, 851,1<sup>o</sup>). For this reason, the adult must have "been tested in the Christian life." Similarly, because, in addition to original sin, the candidate may have personal sins, he is exhorted to have sorrow for his sins.

4. Paragraph 2 contemplates the case of danger of death, a situation that must not be confused with the one set forth *in articulo mortis* (in imminent danger of death) which, evidently, is a much more extreme situation. In fact, the situation of *danger of death* includes cases where there is no proximate danger of death. Having said this, it must be emphasized that this canon contemplates both the person who is still capable of requesting baptism and the one who is no longer able to request it: "Lo si evince dal tempo verbale usato per riferirsi alla manifestazione dell'intenzione di ricevere il battesimo (*manifestaverit*)."<sup>5</sup>

In imminent danger of death, the RCIA, 279 establishes: "He who has already been received as a catechumen, must promise that, once he has recovered his health, he will complete the normal catechesis. If he is not a catechumen, it is advisable that the baptismal candidate give a clear signal of conversion to Christ and renunciation of pagan cults, and that he not be linked to moral obstacles in his life (for example, 'simultaneous' polygamy, etc.); he must promise, in addition, that after recovering his health, he will follow the appropriate initiation course in its entirety."

This interpretation agrees with the old c. 752, which established: "(§ 2) However, if someone is in danger of death, and cannot be more thoroughly instructed in the principal mysteries of the faith, it suffices, for the conferral of baptism, that the person in some way manifest a belief in them and seriously promise to observe the precepts of the Christian religion. (§ 3) And if not even being able to request baptism, but having very

4. *S. Th.*, III, q. 68, a. 3.

5. C.J. ERRÁZURIZ, "Il battesimo degli adulti nell'attuale diritto canonico," in *Monitor ecclesiasticus* 115 (1990), note 57.

probably manifested before or manifesting in that moment an intention to receive it, the person ought to be conditionally baptized; if afterwards the person regains health and doubt regarding the validity of the administered baptism persists, it should be administered again conditionally." In other words, it does not seem that in the current legislation there has been a substantive change, but rather a simplification of the casuistry.

5. Regarding intention, *habitual* intention is sufficient: that is, intention once given is not withdrawn, and current or virtual intention is, therefore, unnecessary. Furthermore, the most common opinion is that a positive *intentio interior* is required, that is, the presence of an intention whose objective is the real celebration of baptism, and the mere lack of a contrary will is insufficient.<sup>6</sup>

6. The minimum degree of faith in the subject takes on great ecumenical importance, although the *CIC* does not allude to baptism celebrated in a non-Catholic ecclesial community.<sup>7</sup>

7. Finally, in accordance with the different requirements (*ad validitatem* and *ad liceitatem*) established by the legislator, a case could arise where, the intention being present, the appropriate dispositions to receive the redeeming effect of grace do not coincide. In that case, the effect of baptism is limited to the impression of the baptismal character, and the sacrament may be revived when the baptized is properly disposed.<sup>8</sup>

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6. Cf. *ibid.*, pp. 92-93.

7. Cf. *ibid.*, p. 99.

8. Cf. *ibid.*, p. 91.

**866** **Adultus qui baptizatur, nisi gravis obstet ratio, statim post baptismum confirmetur atque celebrationem eucharisticam, communionem etiam recipiendo, participet.**

Unless there is a grave reason to the contrary, immediately after receiving baptism an adult is to be confirmed, to participate in the celebration of the Eucharist and to receive holy communion.

SOURCES: RCIA 34

CROSS REFERENCES: cc. 892 § 2, 863, 883

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### COMMENTARY

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*María Blanco*

This canon is a manifestation of the unity that exists among the three sacraments of Christian initiation. This is a fact equally reflected in c. 883, which contemplates the baptism of adults when the bishop is baptizing.

Unlike the provisions established by c. 753 § 2 in the *CIC/1917* ("Unless there are grave and urgent reasons to the contrary, the baptized adult is to attend the sacrifice of the Mass immediately after and to receive holy communion"), the necessity to receive confirmation and the Eucharist *immediately* after adult baptism is now established.

The 1980 *Schema* proposed that, instead of saying *just cause*, the canon say *grave cause*, and it was thus approved. Now, the minister must determine in each case if the necessary circumstances are present to speak properly of *grave cause* and, therefore, if it is necessary to defer confirmation, taking into account that the sacraments of Christian initiation constitute one unit (cf. c. 842 § 2), as is clearly stressed in the *Praenotanda generalia* no. 2: "the three sacraments of Christian initiation are ordered among themselves to bring to full development the faithful, who exercise the mission of all the Christian people in the Church and in the world."

**867 § 1. Parentes obligatione tenentur curandi ut infantes intra priores hebdomadas baptizentur; quam primum post nativitatem, immo iam ante eam, parochum adeant ut sacramentum pro filio petant et debite ad illud praeparentur.**

**§ 2. Si infans in periculo mortis versetur, sine ulla mora baptizetur.**

§ 1. Parents are obliged to see that their infants are baptised within the first few weeks. As soon as possible after the birth, indeed even before it, they are to approach the parish priest to ask for the sacrament for their child, and to be themselves duly prepared for it.

§ 2. If the infant is in danger of death, it is to be baptised without any delay.

SOURCES: § 1: c. 770; SCHO Monitum, 18 feb. 1958 (AAS 50 [1958] 114); OBP *Præ* 8: 2 et 3; 25; SCDF Instr. *Pastoralis actio*, 20 oct. 1980 (AAS 72 [1980] 1137-1156)  
§ 2: c. 771; OBP *Præ* 8, 1

CROSS REFERENCES: cc. 227, 850, 851, 2°, 853, 857 § 1, 859, 860, 864, 868

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### COMMENTARY

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*María Blanco*

1. To obtain a solid doctrinal foundation of the provisions contained in this canon, it is imperative to refer to the Instruction *Pastoralis Actio* of the SCDF. But, before we discuss it, it behooves us to stress that the issue being set forth here has provoked abundant literature in the Lutheran and Calvinist Churches, especially after a conference given by Karl Barth in 1943, in which he characterized the baptism of children as "an open wound on the side of the Church."<sup>1</sup> However, this statement fails from the moment that it is understood that the child *from birth* has his appointed place in the work of redemption; thus, "the dynamism of the parents' faith, the awareness of his mission, must dispose them to receive the child as having come from God to be conducted toward Him ... To baptize a child is to place him concretely in the Christian community, to surround him and sustain him with the *fides Ecclesiae*, the communion of saints, on

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1. Cf. K. BARTH, "La doctrine ecclésiastique du baptême," in *Foi et vie* (1949), p. 47.

which the faith of the members is supported by the collective loyalty."<sup>2</sup> This means that, given the ecclesial, not only eschatological, goal of baptism, it is easy to understand the exhortation of the Church to baptize children as soon as possible.<sup>3</sup>

2. The principles on which all the baptismal pastoral provisions must be inspired are collected in *Pastoralis Actio*,<sup>4</sup> and they are: *a*) the recognition that baptism is necessary for salvation (it is a sign and instrument of God's love); *b*) some assurances must be established for the development of this gift.

Throughout the life of the Church, the Roman Pontiffs and the councils have often intervened to remind Christians about the duty of baptizing their children, "At the end of the IV century, the old custom of having children, as well as adults, baptized 'for the remission of sins' is opposed to the Pelagian doctrines. As had been emphasized by Origen and Saint Cyprian, before Saint Augustine, such a custom confirmed the faith of the Church in the existence of original sin, which, in turn, made the necessity of baptizing children seem even more obvious. Also intervening along these lines were Popes Siricius and Innocent I, and later, the Council of Carthage of 418 condemns 'those who deny that children just born of the mother's womb must be baptized,' and states that 'by virtue of the rule of faith' of the Catholic Church on original sin, 'also the youngest, those who have not yet been able to commit personally any sin, are truly baptized for the remission of sins, so that this regeneration may purify in them what they have received by generation.'"<sup>5</sup>

3. Once the objectives of baptism have been emphasized, it is necessary to allude to the pastoral problems that arise in reality, which the Instruction *Pastoralis Actio* addresses in detail. Therefore, the affirmation contained in no. 31 *in fine* gathers particular strength: "in regions where families of little faith or non Christian constitute the majority, to such a degree that it may be justified to implement, on the part of the bishops' conferences, a pastoral provision that provides for the deferment of baptism beyond the time determined by the general Law, the Christian families maintain all their right to have their own children baptized before. Then the sacrament will be administered as the Church intends and as is deserved by the faith and the generosity of these families." This 1980 Instruction, when referencing the "general Law," alludes to the *Praenotanda generalia*, 7 and the OBP, 8 §§ 3-4. When the *CIC* was promulgated, c. 867 § 1 also protected the fundamental right of the parents to baptize their children within the first few weeks. This right shall not be limited or restricted by a particular law, at least not by a norm of lower rank than the *CIC* itself.

2. A. HAMMAN, *El bautismo y la confirmación* (Barcelona 1977), pp. 222-223.

3. *Ibid.*

4. Cf. SCDF, Instr. *Pastoralis Actio*, 28,1, in AAS 72 (1980), pp. 1130-1143.

5. *Ibid.*, 6.

Intimately related to the topic of families of little faith is the issue of mixed marriages. In these cases, it is known that the Catholic spouse, besides being the protector of the faith, must do all within his or her power to have the children baptized and educated in the Catholic faith (cf. *FC* 78; c. 1125,1°).

In short, the administration of baptism must be carried out "in the first few weeks," as set forth in the canon under discussion. To set the appropriate moment, the OBP advises taking into account the following circumstances: *a)* the health of the child; *b)* the health of the mother (so that she may be present); *c)* the pastoral need: the time necessary for the preparation of the parents and the organization of the ceremony; but, in any case, "within the first few weeks after birth" (OBP, 8).

The first of these circumstances is the basis for the provision contained in § 2 of c. 867: "Si infans in periculo mortis versetur, sine ulla mora baptizetur;" and, therefore, the provisions set forth in c. 861 § 2 apply.



- 868 § 1. **Ut infans licite baptizetur, oportet: (1) parentes, saltem eorum unus aut qui legitime eorundem locum tenet, consentiant; (2) spes habeatur fundata eum in religione catholica educatum iri quae si prorsus deficiat, baptismus secundum praescripta iuris particularis differatur, monitis de ratione parentibus.**
- § 2. **Infans parentum catholicorum, immo et non catholicorum, in periculo mortis licite baptizatur, etiam invitis parentibus.**

§ 1. For an infant to be baptised lawfully it is required:

- 1° that the parents, or at least one of them, or the person who lawfully holds their place, give their consent;
- 2° that there be a realistic hope that the child will be brought up in the catholic religion. If such hope is truly lacking, the baptism is, in accordance with the provisions of particular Law, to be deferred and the parents advised of the reason for this.

§ 2. An infant of catholic parents, indeed even of non-catholic parents, is lawfully baptised in danger of death, even if the parents are opposed to it.

SOURCES: § 1,1°: c. 750 § 2,1°; SCHO Resp., 20 mar. 1933; OBP *Prae* 5 § 1,2°: c. 750 § 2; OBP *Prae* 3; SCDF Resp., 13 iul. 1970; SCDF Instr. *Pastoralis actio*, 20 oct. 1980, 30, 31 (AAS 72 [1980] 1154-1155)  
§ 2: c. 750 § 1; OBP *Prae* 8, 1

CROSS REFERENCES: cc. 851,2°, 859, 867, 872

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### COMMENTARY

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*María Blanco*

1. Regarding the contents of this canon, it must be taken into account on the one hand, the right/duty of the parents (see commentary on c. 867),<sup>1</sup> and on the other, the fact that in the case of children before the age of reason, the Church, by means of the parents and godparents, supplies their faith and their intention: "Therefore, when the parents of those who legitimately represent them are believers and both or one of them

1. Cf., e.g., MARTINELLI, "Il battesimo dei bambini," in *Monitor Ecclesiasticus* 115 (1990), p. 76.

consent to the baptism of their children, there is no reason whatsoever to deny or defer the administration of the sacrament to the children.<sup>2</sup>

Thus, it is understood, in principle, that the family who requests baptism for one of the children becomes the guarantor in his name; baptized children do not believe by themselves through a personal act, but rather through others: by the faith of the Church which communicates it to them. However, the Church recognizes the existence of limits to this practice since, except for danger of death, it does not accept the baptism of children without the permission of the parents and the assurance that they will receive a Catholic education.<sup>3</sup>

In relation to the paternal permission, consideration must be given to the provisions set forth in *Dignitatis humanae* 5: "Each family, as a society that enjoys a proper and fundamental right, has the right to freely order its domestic religious life under the direction of the parents. To these corresponds the right to determine the form of religious education that must be given to their children according to their own religious conviction" (cf. also *GE* 1 and 3).

2. Despite everything just stated, the case may arise of a minor with use of reason who, against the will of his or her parents, wishes to receive baptism. In this case, it must not be forgotten that, opposed against the right of the parents to educate their children, is the right of each person to receive baptism if he is well disposed. In principle, and as may happen with certain juridical actions (think, for example, of marriage), it does not seem to be necessary to wait for the age of majority and it would be sufficient in this case to take specific precautions: seriousness of the petition, possibility of receiving a Christian education and living a life according to it. In short, it is a matter of finding a balance between two fundamental principles: *a*) the necessity of baptism for salvation, and *b*) the necessity of establishing some assurances so that the gift of baptism may be recognized as such and the life of grace may develop in an appropriate environment. This brings forth the pastoral problem of grace conceived as a "life" that has to develop in a favorable environment (although it does not pose a problem as to the ontological grace). For this reason, the legislator has considered it more timely to defer the baptism. In any case, and taking into account the reasons previously set forth, if the necessary precautions are taken, there does not seem to be a reason for deferring the administration of baptism to a minor.

3. At times, the case may also arise of parents who, either are not prepared for the celebration of the baptism, or request baptism for their children without giving sufficient assurances that they will receive a Christian education, or even with the appearance that the gift of faith will

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2. J. MANZANARES, *Nuevo derecho parroquial* (Madrid 1988), p. 137.

3. Cf. Instr. *Pastoralis Actio*, 14-15, in *AAS* 72 (1980), pp. 1139-1143.

be affected negatively. In this case, the bishops' conferences, to help the parish priests, may dictate provisions establishing a longer interval of time before the celebration (OBP, 25). Along these lines, *Pastoralis Actio* 30 stipulates that:

"Pastors may find themselves before parents who believe little and practice occasionally or even before non-Christian parents who, for reasons worthy of consideration, request baptism for their children.

"In this case, they must make an effort, through an insightful dialogue that is full of understanding, to arouse their interest in the sacrament that they are requesting, and advise them of the responsibility they are contracting.

"In fact, the Church cannot grant the wish of those parents, unless they assure in advance that, once baptized, the child will be able to take advantage of the Catholic education, demanded by the sacrament; the Church must have grounds for hoping that the baptism will produce its fruits.

"If the assurances that are offered are enough (for example, the selection of godparents and godmothers who seriously take care of the child or also, the support of the community of faithful, the priest will not be able to refuse or defer the administration of baptism, as is the case of children of Christian families. If, on the contrary, the assurances are not sufficient, it shall be prudent to postpone the baptism. But the pastors must remain in contact with the parents so that they may obtain, if possible, the conditions required on the part of the parents for the celebration of baptism. Finally, if this solution is not achieved either, as a final recourse, the registration of the child may be proposed with a view to a catechumenate during the school years."

A similar statement may be made in the case of the baptism of children of parents who live in an irregular marriage situation, such as Catholics joined by a simple civil marriage, and divorced persons who are remarried without the benefit of an annulment or dissolution.

4. Regarding the assurances, consideration must be given, as stated in the Instruction *Pastoralis Actio* 31, to "any promise that offers grounds for hoping for a Christian education." Here the legislator offers a broad margin, for the appreciation of the circumstances which exist in each particular case.

5. Finally, it is imperative to point out that the provision contained in § 2 of this canon, which is because "danger of death dispels the danger of future perversion of the child, who is removed from the *patria potestas* by death and not by baptism. Likewise, in danger of death the eternal salvation of the child prevails over the rights of the parents. The text of the canon does not refer only to immediate danger or imminent death, but also a situation where it is reasonably foreseen that the child will die

(within a shorter or longer time span) owing to a danger specific to the child, not one that is general or common."<sup>4</sup> In other words, given that baptism is an absolute good because it is necessary for salvation, it is established that a child in danger of death may be baptized even against the will of the parents.

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4. E. TEJERO, commentary on c. 868, in *Pamplona Com.*

- 869 § 1. **Si dubitetur num quis baptizatus fuerit, aut baptismus valide collatus fuerit, dubio quidem post seriam investigationem permanente, baptismus eidem sub condicione conferatur.**
- § 2. **Baptizati in communitate ecclesiali non catholica non sunt sub condicione baptizandi, nisi, inspecta materia et verborum forma in baptismo collato adhibitis necnon attentata intentione baptizati adulti et ministri baptizantis, seria ratio adsit de baptismi validitate dubitandi.**
- § 3. **Quod si, in casibus de quibus in §§ 1 et 2, dubia remaneat baptismi collatio aut validitas, baptismus ne conferatur nisi postquam baptizando, si sit adultus, doctrina de baptismi sacramento exponatur, atque eidem aut, si de infante agitur, eius parentibus rationes dubiae validitatis baptismi celebrati declarentur.**

- § 1. If there is doubt as to whether a person was baptised or whether a baptism was conferred validly, and after serious enquiry this doubt persists, the person is to be baptised conditionally.
- § 2. Those baptised in a non-catholic ecclesial community are not to be baptised conditionally unless there is a serious reason for doubting the validity of their baptism, on the ground of the matter or the form of words used in the baptism, or of the intention of the adult being baptised or of that of the baptising minister.
- § 3. If in the cases mentioned in §§ 1 and 2 a doubt remains about the conferring of the baptism or its validity, baptism is not to be conferred until the doctrine of the sacrament of baptism is explained to the person to be baptised, if that person is an adult. Moreover, the reasons for doubting the validity of the earlier baptism should be given to the person or, where an infant is concerned, to the parents.

SOURCES: § 1: c. 749  
 § 2: cc. 750, 751; SCHO Resp., 15 nov. 1941; SCHO Resp., 28 dec. 1948 (AAS 41 [1949] 650); DE/1967 I: 12-14; RCIA appendix, 7  
 § 3: DE/1967 I: 15, 18

CROSS REFERENCES: cc. 845, 850, 851, 852, 864, 865, 868, 875-878

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 COMMENTARY
 

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*María Blanco*

This canon contains two different situations. On the one hand, it refers to the administration of baptism *sub condicione* (§ 1), and on the other, it establishes the general prohibition against conditionally baptizing those who already were baptized in a non-Catholic ecclesial community (§ 2). Finally, the legislator includes a precaution related to the instruction and information necessary when baptism must be conferred *sub condicione* (§ 3).

1. When is it possible to administer baptism conditionally? The *CIC* alludes to the case where there is "doubt" regarding either the fact that the baptism took place or its validity. This doubt must be a positive doubt.

The *Ordo admissionis valide iam baptizatorum in plenam communionem Ecclesiae Catholicae* discusses the topic in the following terms: "The sacrament of baptism cannot be repeated and, therefore, it is prohibited to confer baptism again *sub condicione*, unless there is a prudent doubt 'of the fact' or of the validity of the baptism already conferred. If after serious investigation because of a prudent doubt 'of the fact' or of the validity of the baptism already conferred, it seems necessary to repeat the baptism *sub condicione*, the minister shall explain in a timely fashion the reasons why in such a case baptism is conferred *sub condicione* and shall administer it in private.

"The local Ordinary must find out, in each case, which rites must be maintained upon conferring the baptism *sub condicione* and which must be omitted."<sup>1</sup>

To be certain, it is necessary to carry out diligent investigations, but if these do not produce certainty regarding the effective administration of the baptism or its validity, baptism shall be administered *sub condicione*, thus giving the opportunity to receive this sacrament (necessary for salvation). In short, the *sub condicione* characteristic highlights the indelible character of baptism and the resulting impossibility of its repetition (cf. c. 845 § 1).

2. Paragraph 2 of this canon contains a presumption of validity of baptism conferred within a non-Catholic Christian community. Regarding this topic, the decision of the SCHO of December 28, 1949<sup>2</sup> is especially clear. It establishes that baptism administered by the Disciples of Christ,

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1. RCIA, Appendix, no. 7.

2. AAS 41 (1949), p. 650. Regarding Baptism in separated ecclesial communities, cf. DE/1993, 99.

Presbyterians, Congregationalists, Baptists, and Methodists, assuming the necessary matter and form, must be considered valid as long as in each particular case it is not proven otherwise.

3. Finally, the caution contained in § 3 emphasizes, not only the necessity of baptism for salvation, but also the necessary instruction to live an authentically Christian life.

**870** **Infans expositus aut inventus, nisi re diligenter investigata de eius baptismo constet, baptizetur.**

An abandoned infant or a foundling is to be baptised unless diligent enquiry establishes that it has already been baptised.

SOURCES: c. 749

CROSS REFERENCES: cc. 849, 869 § 1, 876

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COMMENTARY

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*María Blanco*

This canon results from a joint application of provisions established in cc. 849 and 869 § 1. In other words, the legislator has only made explicit a specific situation within the general norms already cited; it is obvious that a foundling must be baptized. Similarly, it is obvious that, if it is already baptized, the baptism must not be repeated. Perhaps what the legislator wanted to say is that if, after a diligent investigation, there is a suspicion that the child may have been baptized, a suspicion or doubt that is not confirmed but is grounded, baptism must be administered *sub condicione*. However, that would not be necessary either, since c. 869 § 1 already considers that situation. In conclusion, c. 870 touches upon what has already been regulated in the previous canons, applying it to a specific situation.



## 871 Fetus abortivi, si vivant, quatenus fieri potest, baptizentur.

Aborted fetuses, if they are alive, are to be baptized, in so far as this is possible.

SOURCES: cc. 746, 747

CROSS REFERENCES: cc. 849, 850, 864, 869 § 1

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### COMMENTARY

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*María Blanco*

"The life of any human being has to be respected absolutely from the very moment of conception because man is the only creature on earth that God 'has loved for itself' (GS 24), and the soul of each man is 'created immediately' by God." The Instruction *Donum Vitae* of the CDF<sup>1</sup> expresses itself in this way, and the canon under discussion follows the same lines. In fact, this same doctrine is the grounds for the practice of procuring baptism for aborted fetuses, which was also regulated by the *CIC/1917*.

Overall, the *CIC* has simplified considerably all the casuistry related to the baptism of aborted fetuses that the *CIC/1917* regulated in cc. 746 and 747. For this reason, it is interesting to point out some of the general directives, deduced from all the juridical regulations of baptism, which guide the conduct in each case.

In the first place, the *CIC* does not distinguish between provoked abortions and spontaneous abortions.

Second, the conditional clause *si vivant* may be interpreted in the sense that, as long as there is no certainty of death, *baptizentur*. Comparing the provisions of c. 747 in the *CIC/1917* and the wording in c. 871, it is easy to understand that the legislator does not distinguish in this general norm between absolute baptism and conditional baptism. In any case, if an aborted fetus lives, it must be baptized. Were there any doubt, it could be said: "if you are alive ...," thus preserving the correct intention of the minister and not exposing the sacrament to invalidity. In fact, what is known as baptism *sub condicione* does not affect the liturgical form (ab-lution plus trinitarian formula), but rather the intention of the minister,

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1. CDF, Instr. *Donum Vitae*, February 22, 1987, I, 4. The document itself, at the end of the text, refers to: PIUS XII, Enc. *Humani Generis*, in AAS 42 (1950), p. 575; PAUL VI, *Professio fidei*, in AAS 60 (1968), p. 436.

which explains why the liturgical books do not contain any reference to such a baptism.

Furthermore, it is clear that the *CIC* does not intend *a priori* to establish a detailed regulation of aspects and concrete circumstances, which must be evaluated by the minister of baptism. Certainly, the minister will act according to moral principles related to the administration of baptism and the future pastoral guidelines that could be issued in relation to new situations or greater difficulty in response to the request entrusted to the pastors by c. 861 § 2 (think, for example, about embryos resulting from artificial insemination and *in vitro* fertilization, situations mentioned by the Instruction *Donum Vitae*, 1,6).

Finally, from the literal meaning of the expressions used, it may be deduced that the legislator has implicitly established a protection to avoid any abuses that could arise; only a living human being (*homo*) may be baptized. That is, if one relates the provisions of c. 864 to the contents of c. 871, it is obvious that if both conditions are not present (being *homo*, and also, *vivus*), the baptism would be invalid.

**CAPUT IV  
De patrinis**

**CHAPTER IV  
Sponsors**

- 872** **Baptizando, quantum fieri potest, detur patrinus, cuius est baptizando adulto in initiatione christiana adstare, et baptizandum infantem una cum parentibus ad baptismum praesentare itemque operam dare ut baptizatus vitam christianam baptismo congruam ducat obligationesque eidem inhaerentes fideliter adimpleat.**

In so far as possible, a person being baptised is to be assigned a sponsor. In the case of an adult baptism, the sponsor's role is to assist the person in christian initiation. In the case of an infant baptism, the role is together with the parents to present the child for baptism, and to help it to live a christian life befitting the baptised and faithfully to fulfil the duties inherent in baptism.

SOURCES: c. 762; SCDS Instr. *Ex responsionibus datis*, 25 nov. 1925 (AAS 18 [1926] 44-47); OBP *Prae gen.*, 8; RCIA 42, 43, 135-137, 236

- 873** **Patrinus unus tantum vel matrina una vel etiam unus et una assumantur.**

One sponsor, male or female, is sufficient; but there may be two, one of each sex.

SOURCES: c. 764; OBP *Prae* 6

874 § 1. Ut quis ad munus patrini suscipiendum admittatur, oportet: (1) ab ipso baptizando eiusve parentibus aut ab eo qui eorum locum tenet aut, his deficientibus, a paroco vel ministro sit designatus atque aptitudinem et intentionem habeat hoc munus gerendi; (2) decimum sextum aetatis annum expleverit, nisi alia aetas ab Episcopo dioecesano statuta fuerit vel exceptio iusta de causa paroco aut ministro admittenda videatur; (3) sit catholicus, confirmatus et sanctissimum Eucharistiae sacramentum iam receperit, idemque vitam ducat fidei et muneri suscipiendo congruam; (4) nulla poena canonica legitime irrogata vel declarata sit innodatus; (5) non sit pater aut mater baptizandi.

§ 2. Baptizatus ad communitatem ecclesiam non catholicam pertinens, non nisi una cum patrino catholico, et quidem ut testis tantum baptismi, admittatur.

- § 1. To be admitted to undertake the office of sponsor, a person must:
- 1° be appointed by the candidate for baptism, or by the parents or whoever stands in their place, or failing these, by the parish priest or the minister; to be appointed the person must be suitable for this role and have the intention of fulfilling it;
  - 2° be not less than sixteen years of age, unless a different age has been stipulated by the diocesan Bishop, or unless the parish priest or the minister considers that there is a just reason for an exception to be made;
  - 3° be a catholic who has been confirmed and has received the blessed Eucharist, and who lives a life of faith which befits the role to be undertaken;
  - 4° not labour under a canonical penalty, whether imposed or declared;
  - 5° not be either the father or the mother of the person to be baptised.
- § 2. A baptised person who belongs to a non-catholic ecclesial community may be admitted only in company with a catholic sponsor, and then simply as a witness to the baptism.

SOURCES: § 1: c. 765; OBP *Præ* gen., 10; RCIA 43  
 § 2: DE/1967 I: 48, 57; OBP *Præ* gen., 10, 3

CROSS REFERENCES: cc. 877, 892, 893, 895

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COMMENTARY

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María Blanco

1. The institution of the sponsor probably came into being for practical reasons, since at the beginning of the Church, if a pagan or a Hebrew wanted to convert, he or she was presented to the presbyters by a known Christian, who gave witness to the person's good disposition. In times of persecution, this was even more necessary because of fear of bringing traitors into the community of the faithful. This Christian was the *adductor*, the *fidedictor*, as is expressly stated in the sources, including the *Traditio apostolica* (cf. 1, 16), the *Apostolic Constitutions* (cf. 8, 32, 2) and the *Peregrinatio Aeternae*.<sup>1</sup> However, it was not enough to attest to the honesty of the persons presented; they also had to be helped during the catechumenate period, especially close to baptism, during Lent and Holy Week, and in the numerous preparatory rites and diverse baptismal ceremonies.

The *Apostolic Constitutions* (cf. 3, 16; 8, 32) also states that the assistance given to the neophyte was provided to men by the deacon and to women by the widows (deaconesses). Later, other persons began participating.

In any case, all these offices proved necessary for the baptism of children, and the sponsors were always responsible for the Christian education of their spiritual children.<sup>2</sup>

The concept of spiritual paternity was developed by Saint Augustine, who linked it with the doctrine of original sin, so that the mission of the sponsor would be something like a new spiritual generation that does not transmit sin because it proceeds from spiritual love: "The concept of paternity (spiritual filiation) had its origin in the duty to instruct; *magister* was equal to *pater*."<sup>3</sup> These relationships of paternity and filiation created problems regarding marriage: "A subsequent carnal relationship, even if blessed by the Church, would stain the purity of that affection. This results in the diriment impediment of a spiritual relationship."<sup>4</sup> This impediment was regulated up to the *CIC/1917*, but it was abolished in the current Code.

2. The *CIC* first regulates the proper function of the sponsors and, then, it refers to the requirements that must be met by those who will fulfill that function.

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1. Cf. P.H. OPENHEIM, *Ius liturgiae baptismalis* (Turin 1943), p. 116.

2. Cf. A. LANZA-P. PALAZZINI, *Principios de Teología moral* (Madrid 1958), note 40, pp. 65-66.

3. *Ibid.*, note 41.

4. *Ibid.*, p. 66.

a) Let us examine, then, what that *function* properly consists of in light of the provisions of c. 872. The legislator has distinguished in this case between the baptism of adults and the baptism of children. In the case of adults, the sponsors assist in the Christian initiation of the person being baptized: "this sponsor will have helped at least in the latter phase of the preparation for the sacrament and, after the baptism, will contribute to the person's perseverance in the faith and in the Christian life."<sup>5</sup> In the case of a child, the sponsors must present him, together with the parents and, in addition, "try to ensure that the child being baptized lives a life that is consistent with the baptism and faithfully fulfills the duties inherent to it." This sponsor "represents the family, and, if necessary, helps the parents so that the child eventually professes the faith and expresses it in his life."<sup>6</sup>

b) Canon 874, on the other hand, enumerates the *requirements* to be admitted as a sponsor.

The requirements demanded by the legislator are the following:

— *Choice of a person with the capacity for this mission and intention to fulfill it.* Although c. 211 says that the basic right and duty of "all the faithful" is "to work so that the divine message of salvation may increasingly reach the men of all times throughout the world," here this general apostolic mission concentrates specifically on the sponsors' obligatory functions, despite the fact that they are secondary to the parents' function.<sup>7</sup>

Selection of the sponsors is incumbent upon the person being baptized, the parents, or whoever stands in their place and, as a last resort, upon the parish priest or the minister.

— *Sixteen years of age.* While this canon establishes two exceptions, the first of them refers to private law: "unless the diocesan bishop establishes otherwise." In other words, the legislator is contemplating the possibility that the bishop may establish an older or younger age, taking into account the specific circumstances of the diocese, to be able to fulfill the mission of sponsor.

The second reason is discretionary: the determination of whether, in this specific case, there is a proportional cause that justifies such an exception is left to the judgment of the parish priest or the minister.

— *To have received the three sacraments of Christian initiation and lead a life congruent with the faith and the mission that they are about to fulfill.* This is intimately related to the provisions set forth in § 1,1° of the same canon.

5. *Praenotanda generalia*, 8.

6. *Ibid.*

7. Cf. G. DAMMACO, "Missione dei genitori e munus dei padrini," in *Monitor Ecclesiasticus* 115 (1990), p. 640.

— *Not to be under any canonical penalty.*

— *Not to be the mother or father of the baptized.* Obviously, it would make no sense due to the secondary nature of the sponsors' mission itself in relation to the mission of the parents.

All that has been said up to now lends special strength to the provision included in c. 874 § 2. Consequently, it is understandable that, given the importance granted by the legislator to the distinctive mission of the sponsors, a member of a separate ecclesial community may only be admitted as a *witness to the baptism* and not as a sponsor. Furthermore, in the case where a witness from a separate ecclesial community is present, he or she will be admitted together with a Catholic sponsor.

**CAPUT V**  
**De collati baptismi probatione et adnotatione**

**CHAPTER V**  
**Proof and Registration of Baptism**

**875** **Qui baptismum administrat curet ut, nisi adsit patrinus, habeatur saltem testis quo collatio baptismi probari possit.**

Whoever administers baptism is to take care that if there is not a sponsor present, there is at least one witness who can prove that the baptism was conferred.

SOURCES: c. 779

CROSS REFERENCES: cc. 849, 872, 873, 874

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**COMMENTARY**

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*María Blanco*

This canon opens the chapter addressed to "proof and registration of the Baptism administered" (cc. 875-878). The juridical situation derived from the reception of this sacrament demands that necessary safeguards be applied to protect not only the public good of the Church, but also the rights of the faithful that flow from it.<sup>1</sup>

This canon turns out to be a novelty, in comparison with the previous code regulation. The legislator ensures the proof in situations where the sponsor is absent from the celebration. The literal meaning of c. 872 must not be forgotten: "quantum fieri potest." In other words, the presence of the sponsors is only a prudent measure of convenience, which in no way affects the substance of the sacrament. In the specific case where

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1. Cf. E. TEJERO, commentary on cc. 875-878, in *Pamplona Com.*



the celebration takes place in the absence of a sponsor, the presence of a witness who may confirm the celebration of the sacrament is established as a precaution. If, the intention is only to obtain a *guarantee of the proof*, then this is not a requirement for the licit administration of the sacrament, since the legislator uses the expression "curet," meaning that if it is impossible for the witness to be present, there is no reason for the minister not to perform the baptism. Consider, for example, a case where there is danger of death and no possibility of informing a third person, or the case of a minister, Catholic or not, who is unaware of the existence of this legal precaution. All of this is understood without in any way underestimating the legal "demands" for a sponsor and witnesses, something which would not be consistent with the *mens legislatoris*.

It is clear, that proof that baptism has been conferred is an eminently practical matter, because doubts frequently arise as to its celebration and, given that baptism is a *ianua sacramentorum* (cf. c. 849), it is necessary at times to show a certificate that it was conferred.

**876** **Ad collatum baptismum comprobandum, si nemini fiat praeiudicium, sufficit declaratio unius testis omni exceptione maioris, aut ipsius baptizati iusiurandum, si ipse in aetate adulta baptismum receperit.**

To prove that baptism has been conferred, if there is no conflict of interest, it is sufficient to have either one unexceptionable witness or, if the baptism was conferred upon an adult, the sworn testimony of the baptised person.

SOURCES: c. 779

CROSS REFERENCES: cc. 869 § 1, 870, 875

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### COMMENTARY

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*María Blanco*

In situations where the celebration of a baptism cannot be proven from the baptismal certificate, the legislator provides for the admission of other proofs, namely, testimonial proof. This canon is a practical application of such a type of proof.

The legislator uses the expression "si nemini fiat praeiudicium." Obviously, "the fact that someone receives baptism does not harm anyone; but the condition of having been baptized may be a reason for others not to enjoy certain advantages they would have a right to, had the person not been baptized. For example, if one of the spouses were to request the annulment of the contracted marriage on the grounds of not being baptized (impediment of disparity of cult), it could be detrimental to the other spouse ...; being baptized and having suitable proof of it could also be detrimental to someone, because then the Pauline privilege would not be applicable."<sup>1</sup>

What the canon under discussion does is to protect, in the extent that the law makes it possible, the *res veritatis*. To do so, it facilitates using different means of proof. In this specific case, with the exception previously mentioned, the following are admitted:

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1. A. ALONSO LOBO, *Comentarios al Código de Derecho Canónico II* (Madrid 1963), pp. 154-155.

— the declaration of a sole witness, with two conditions: one objective (that no harm be brought to anyone) and the other subjective (that it be a witness above all suspicion). If one of these two circumstances is missing, this probative means is invalid.

— the sworn testimony of the person baptized; the only requirement in this case is that baptism must have been conferred upon an adult.

**877** § 1. **Parochus loci, in quo baptismus celebratur, debet nomina baptizatorum, mentione facta de ministro, parentibus, patrinis necnon, si adsint, testibus, de loco ac die collati baptismi, in baptizatorum libro sedulo et sine ulla mora referre, simul indicatis die et loco nativitatis.**

§ 2. **Si de filio agatur e matre non nupta nato, matris nomen inserendum est, si publice de eius maternitate constet aut ipsa sponte sua, Codex plerumque non definit ritus, qui in actionibus liturgicis inscribendum est, si eius paternitas probatur aliquo publico documento aut ipsius declaratione coram parocho et duobus testibus facta; in ceteris casibus, inscribatur baptizatus, nulla facta de patris aut parentum nomine indicatione.**

§ 3. **Si de filio adoptivo agitur, inscribantur nomina adoptantium necnon, saltem si ita fiat in actu civili regionis, parentum naturalium ad normam §§ 1 et 2, attentis Episcoporum conferentiae praescriptis.**

§ 1. The parish priest of the place in which the baptism was conferred must carefully and without delay record in the register of baptism the names of the baptised, the minister, the parents, the sponsors and, if there were such, the witnesses, and the place and date of baptism. He must also enter the date and place of birth.

§ 2. In the case of a child of an unmarried mother, the mother's name is to be entered if her maternity is publicly known or if, either in writing or before two witnesses, she freely asks that this be done. Similarly, the name of the father is to be entered, if his paternity is established either by some public document or by his own declaration in the presence of the parish priest and two witnesses. In all other cases, the name of the baptised person is to be registered, without any indication of the name of the father or of the parents.

§ 3. In the case of an adopted child, the names of the adopting parents are to be registered and, at least if this is done in the local civil registration, the names of the natural parents in accordance with §§ 1 and 2, subject however to the rulings of the Bishops' Conference.

SOURCES: § 1: c. 777 § 1; SCCouncil Resp., 31 ian. 1927; SCDS Normae, 2 oct. 1941; OBP *Prae* gen., 29  
 § 2: c. 777 § 2; CodCom Resp., 14 iul. 1922 (AAS 14 [1922] 528)

**878** *Si baptismus neque a parochus neque eo praesente administratus fuerit, minister baptismi, quicumque est, de collato baptismo certiores facere debet parochum parochiae in qua baptismus administratus est, ut baptismum adnotet ad normam can. 877 § 1.*

If the baptism was administered neither by the parish priest nor in his presence, the minister of baptism, whoever that was, must notify the parish priest of the parish in which the baptism was administered, so that he may register the baptism in accordance with can. 877 § 1.

SOURCES: c. 778; SCCouncil Resp., 31 ian. 1927

CROSS REFERENCES: cc. 535 § 2, 857 § 2, 1137, 1138, 1139, 1140

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## COMMENTARY

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*María Blanco*

1. These canons regulate the registration of baptism. It is important to emphasize that until 1870 in Spain, the ecclesiastical registries functioned as civil registries: "The guarantees offered from the beginning by the ecclesiastical registry were such that its use in the civil courts became practically indispensable. Thus, during three centuries, a purely ecclesiastical institution was able to meet the needs of legal existence, regarding the proof of some of the most important legal status data, as effectively as civil registries have later, and, of course, without any complication or expense on the part of the state."

Even in areas under the influence of the Protestant reform, the churches, continued Perè Raluy, "copied the registration system of the Catholic Church and even today, in some states, its registries constitute the normal means of announcing baptisms, marriages and deaths."<sup>1</sup>

Along these lines, it is interesting to find a judicial decision from Spain's Supreme Court at the beginning of the century in which the claimant, born on February 1, 1869, as demonstrated by a certificate of baptism, proves that, on June 22, 1891 he was 22 years, 4 months and 22 days old. In other words, that since he was not 23 years old yet (after publication of the Civil Code of 1889), he was a minor.

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1. J. PERÈ RALUY, *Derecho del Registro Civil* (Madrid 1962), p. 33.

2. Returning to the present canonical regulations, the legal text (c. 877 § 1) is clear when it applies the expressions *diligently and without delay* to the registration. Similarly, it is quite clear when it enumerates the requirements that must be entered in the registry: name of the baptized, name of the minister, name of the parents, name of the sponsors and witnesses if used, place and day of birth, and place and day in which the baptism was celebrated.

3. Besides these prescriptions, the diocesan provisions tend to add some other requirements, which Mostaza specifies as follows:

— *Place of Baptism*: indicating in this case the city or town, the church with its title, the diocese, and sometimes the civil province (to avoid eventual conflicts when several towns have the same name).

— *Date of baptism*: day, month, and year.

— *Name of the minister*: stating whether he is a deacon or a presbyter; if he had permission from the parish priest to baptize.

— *Name of the baptized*: the Ritual of Christian Initiation of Adults admits the imposition of a name according to the civil custom of the region as long as it may assume a Christian sense (RCIA, 203. See commentary on c. 855). The *CIC*, although encouraging the imposition of a Christian name, does not establish different provisions in cases where the name is alien to the Christian viewpoint, although for years the practice has been to add the name of a saint, entering the previous name in parentheses.

— *Date of birth*: if this fact is unknown, the approximate age may be entered.

— *Data relevant to filiation*: name of the parents, domicile.

— *Sponsors and witnesses*: if any, their name and address will be entered.

— *Baptism "sub condicione"*: if so, it must be acknowledged; also, if it was reiterated *sub condicione* because of doubts regarding the first baptism.

— *Signature of the parish priest*: it is the custom for the minister who administered the baptism to sign.

— *Parish seal*.<sup>2</sup>

4. The duty to register the baptism is the responsibility of the parish priest of the place where it is celebrated (c. 877 § 1), in contrast to the *CIC/1917* established in c. 777 § 1: "Parish priests must carefully and without delay record in the register of baptism the names of the baptized, the minister, the parents, the sponsors and the place and date of baptism." For

2. J. MANZANARES, *Nuevo Derecho parroquial* (Madrid 1988), pp. 148-149.

this reason, c. 878 of the *CIC* refers to c. 877 § 1, to ensure the registration when the minister is not the parish priest.

In short, according to the new normative provisions, the following must be taken into account:

a) the place where the registration must be made is in the parish where the baptism is performed, not the parish to which the person baptized would eventually belong because of his domicile (cf. 877 § 1);

b) the person responsible for entering the information in the registry is the parish priest of the place where the baptism is celebrated (c. 877 § 1);

c) if the parish priest of the place is not the person performing the baptism, then the minister, must report the celebration of the sacrament so that the necessary registration may be made (cf. c. 878).

It is clear, therefore, that it is no longer necessary for the minister to report the celebration of the sacrament to the parish priest of the person being baptized (*ratione domicilii*) as was prescribed by c. 778 of the *CIC/1917*: "With this repeal, any inconvenience arising from the duplicate registration of the baptism regarding possible marginal entries to be made on the certificate of baptism according to c. 535 § 2 (confirmation, marriage, adoption, sacred orders, perpetual profession in a religious institution, change of rite, etc.)."<sup>3</sup> In other words, the disadvantages of the double registration are no longer possible.

5. Furthermore, the *CIC* establishes that, in the case of a *child of an unmarried mother*, the registration must be done as follows (c. 877 § 2):

a) registration of the name of the woman: if it is publicly known or if she voluntarily requests it (in writing or before two witnesses);

b) registration of the name of the father: if paternity is proven by a public document or by the father's own declaration before the parish priest and two witnesses;

c) registration only of the name of the person baptized: in cases that do not include the situations above.

In comparison with the *CIC/1917*, the new Code has greatly simplified this matter, taking into account that a distinction is no longer made between legitimate and illegitimate children as to the juridical effects; distinction is only made regarding their characterization (see commentaries to cc. 1137-1140).

6. In the case of an *adopted child*, registration must include (c. 877 § 3):

a) the name of the adopting parents;

3. *Ibid.*, p. 148.

b) the name of the natural parents: when it is thus entered in the civil registry of the region, taking into account the provisions of the bishops' conference in this matter.

The Spanish Bishops' Conference<sup>4</sup> has established the following in art. 9 of the General Decree on complementary norms to the Code of Canon Law: "In observance of the provisions of c. 877 § 3, parish priests must be careful that the registration of an adoptive child in the Book of the Baptized, include the name or names of the adopting parents, and other data contained in the registration of adoption entered in the Civil Registry, for which purpose the parish priest shall demand, before recording the information in the Book of the Baptized, the relevant Civil Registry document that legitimately certifies the adoption made."

4. For English Speaking Conference of Bishops see Vol. V, Appendix III.