

Can. 167 §1. When the summons has been lawfully made, those who are present on the day and in the place specified in the summons have the right to vote.

Can. 170. If the freedom of an election has in any way been in fact impeded, the election is invalid by virtue of the law itself.

Can. 172 §1. For a vote to be valid, it must be:

1° free; a vote is therefore invalid if, through grave fear or deceit, someone was directly or indirectly made to choose a certain person or several persons separately;

2° secret, certain, absolute and determinate.

Can. 173 2°. The scrutineers are to collect the votes and, in the presence of the one who presides at the election, to check whether the number of votes corresponds to the number of electors; they are then to examine the votes and to announce how many each person has received.

4° All the proceedings of an election are to be accurately recorded by the one who acts as notary. They are to be signed at least by that notary, by the person who presides and by the scrutineers, and they are to be carefully preserved in the archive of the college.

Comparing the facts given to the law set forth above, it would appear that the action of the first two nominees in declaring their withdrawal publicly may be considered to have impeded the freedom of the election, since the implied conclusion in the minds of those assembled is that only one choice is now available to them. [It is assumed that no request for nominations from the floor was made.]

It appears further that what followed was in effect an attempt to elect by acclamation. There is no provision for that procedure in canon law or in our Constitutions; on the contrary, Canon 172 specifically provides that no vote is valid which is not secret, certain, absolute and determinate. No such vote appears to have been taken here.

In addition, it would seem impossible to carry out the required procedure in Canon 173 §2 and §4, wherein the votes are tallied, announced, and the result recorded, attested to and preserved in the archives.

Is the use of acclamation after the announcement described, rather than a secret written ballot, a defect of sufficient magnitude that the election should be declared invalid? Yes, because of the wording of Canon 172: a vote by oral acclamation is clearly not valid.