

No. \_\_\_\_\_

---

# In the Supreme Court of Texas

---

*In re* STATE OF TEXAS,

*Relator.*

---

## PETITION FOR WRITS OF QUO WARRANTO

---

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
Tel.: (512) 936-1700  
Fax: (512) 474-2697

WILLIAM R. PETERSON  
Solicitor General  
State Bar No. 24065901  
William.Peterson@oag.texas.gov

WILLIAM F. COLE  
Principal Deputy Solicitor General

MEAGAN CORSER  
MARK A. CSOROS  
Assistant Attorneys General

*Counsel for Relator*

---

## IDENTITY OF PARTIES AND COUNSEL

### **Relator:**

The State of Texas

### **Counsel for Relator:**

Ken Paxton

Brent Webster

William R. Peterson (lead counsel)

William F. Cole

Meagan Corser

Mark A. Csoros

Office of the Attorney General

P.O. Box 12548 (MC 059)

Austin, Texas 78711-2548

William.Peterson@oag.texas.gov

(512) 936-1700

### **Respondents:**

Ron Reynolds (District 27)

Texas Capitol, Room 4N.7

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0494

James Talarico (District 50)

Texas Capitol, Room E2.902

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0821

Vikki Goodwin (District 47)

Texas Capitol, Room E2.318

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0652

Lulu Flores (District 51)

Texas Capitol, Room E2.310

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0674

Gina Hinojosa (District 49)

Texas Capitol, Room 4S.2

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0668

Mihaela Plesa (District 70)

Texas Capitol, Room E2.210

P.O. Box 12910

Austin, Texas 78711-2910

(512) 463-0356

Suleman Lalani (District 76)  
Texas Capitol, Room E1.212  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0596

John Bucy III (District 136)  
Texas Capitol, Room GN.9  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0696

Chris Turner (District 101)  
Texas Capitol, Room 1N.5  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0574

Gene Wu (District 137)  
Texas Capitol, Room GW.5  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0492

Ana-Maria Ramos (District 102)  
Texas Capitol, Room E2.204  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0454

Christina Morales (District 145)  
Texas Capitol, Room GN.10  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0732

Jessica Gonzalez (District 104)  
Texas Capitol, Room E2.808  
P.O. Box 12910  
Austin, Texas 78711-2910  
(512) 463-0408

## TABLE OF CONTENTS

	Page
Identity of Parties and Counsel .....	i
Index of Authorities .....	iv
Record References .....	vii
Statement of the Case .....	vii
Statement of Jurisdiction .....	viii
Issue Presented .....	ix
Statement of Facts .....	1
I. Factual Background .....	1
II. Procedural History .....	2
Argument.....	4
I. This Court Should Exercise Its Original Jurisdiction to Issue Writs of Quo Warranto. ....	4
II. This Court Should Declare That Respondents Have Vacated Their Offices as State Representatives.....	8
A. Public officials vacate their offices through abandonment. ....	8
B. Respondents have vacated their offices through abandonment.....	12
Prayer .....	17
Rule 52(j) Certification .....	18
Certificate of Compliance .....	18
Certificate of Service.....	18

## INDEX OF AUTHORITIES

Page(s)

### Cases:

<i>In re Abbott</i> , 628 S.W.3d 288 (Tex. 2021) .....	x, 1, 3, 12, 14, 15, 16
<i>Alexander Oil Co. v. City of Seguin</i> , 852 S.W.2d 434 (Tex. 1991) .....	9
<i>State ex rel. Angelini v. Hardberger</i> , 932 S.W.2d 489 (Tex. 1996) .....	4, 5, 6, 9
<i>City of Williamsburg v. Weesner</i> , 176 S.W. 224 (Ky. App. 1915) .....	11, 12
<i>In re Dallas County</i> , 697 S.W.3d 142 (Tex. 2024) .....	4, 9
<i>Errichietti v. Merlino</i> , 457 A.2d 476,486 (N.J. Super. Ct. Law Div. 1982) .....	12
<i>FM Props. Operating Co. v. City of Austin</i> , 22 S.W.3d 868 (Tex. 2000) .....	13
<i>Fuller Springs v. State ex rel. City of Lufkin</i> , 513 S.W.2d 17 (Tex. 1974) .....	4
<i>Hamman v. Hayes</i> , 391 S.W.2d 73 (Tex. App.—Beaumont 1965, writ ref'd) .....	4
<i>Honey v. Graham</i> , 39 Tex. 1 (1873) .....	13
<i>Love v. Wilcox</i> , 28 S.W.2d 515 (Tex. 1930) .....	6
<i>State ex rel. McKie v. Bullock</i> , 491 S.W.2d 659 (Tex. 1973) .....	9
<i>N. Pipeline Const. Co. v. Marathon Pipe Line Co.</i> , 458 U.S. 50 (1982) .....	17
<i>Neb. Territory v. Lockwood</i> , 70 U.S. 236 (1865) .....	4-5
<i>In re Occidental Chem. Corp.</i> , 561 S.W.3d 146 (Tex. 2018) .....	5
<i>Paxton v. Annunciation House, Inc.</i> , No. 24-0573, 2025 WL 1536224 (Tex. May 30, 2025) .....	ix, 5, 8, 9-10

<i>State ex rel. R. C. Jennett v. Owens</i> , 63 Tex. 261 (1885).....	4
<i>Rex v. Corporation of Wells</i> , (1767) 98 Eng. Rep. 41.....	11, 13
<i>State v. Read</i> , 278 S.W. 71 (Tenn. 1925).....	11
<i>State v. S. Pac. R.R. Co.</i> , 24 Tex. 80 (1859).....	5
<i>Steingruber v. City of San Antonio</i> , 220 S.W. 77 (Tex. Comm’n App. 1920, judgm’t adopted).....	9, 13
<i>Wright v. Allen</i> , 2 Tex. 158 (1847) .....	4, 5
<b>Constitutional Provisions and Statutes:</b>	
Tex. Const.:	
art. III, § 1 .....	x
art. III, § 5.....	x, 6
art. III, § 10 .....	x, 2, 15, 16, 17
art. III, § 40.....	x, 6
art. IV, § 8.....	x
art. IV, § 22.....	5
art. V, § 3 .....	ix, 5
Tex. Gov’t Code § 22.002 .....	ix, 5
<b>Other Authorities:</b>	
1 W.S. Holdsworth, <i>A History of English Law</i> (3d ed. 1922) .....	8
63 Am. Jur. 2d, <i>Public Officers and Employees</i> .....	12
<i>The American and English Encyclopedia of Law</i> (John Houston Merrill, ed., Long Island, N.Y., Edward Thompson Co. 1887) .....	10, 13
Bob Garcia-Buckalew, <i>The Year the ‘Killer Bees’ Fled the Texas Capitol to Block a Proposed Election Law</i> , KVUE (Aug. 4, 2025), <a href="https://perma.cc/WJA3-Y8H2">https://perma.cc/WJA3-Y8H2</a> .....	14
Comment, <i>Quo Warranto and Private Corporations</i> , 37 Yale L.J. 237 (1927) .....	8
Floyd R. Mechem, <i>A Treatise on the Law of Public Offices and Officers</i> (Chi., Callaghan & Co. 1890) .....	10, 13
H.J. of Tex., 89th Leg., 1st C.S. (2025) .....	3, 13

J.C. Wells, <i>Treatise on the Jurisdiction of Courts</i> (Saint Paul, West Publishing Co. 1880) .....	11
James L. High, <i>Treatise on Extraordinary Legal Remedies, Embracing Mandamus, Quo Warranto, and Prohibition</i> (Chi., Callaghan & Co. 1874) .....	11
Kayla Guo & Eleanor Klibanoff, <i>Texas House Democrats Flee the State in Bid to Block GOP’s Proposed Congressional Map</i> , Tex. Tribune (Aug. 3, 2025), <a href="https://perma.cc/WSM8-7BKL">https://perma.cc/WSM8-7BKL</a> .....	1
Maria Simon, <i>Bribery and Other Not So “Good Behavior”: Criminal Prosecution as a Supplement to Impeachment of Federal Judges</i> , 94 Colum. L. Rev. 1617 (1994) .....	10
Patrick Svitek & Cassandra Pollock, <i>How the Quorum Break Got Broken: Texas Democrats Splintered During Second Session Break</i> Tex. Tribune (Sept. 10, 2021), <a href="https://perma.cc/3K6K-N8H7">https://perma.cc/3K6K-N8H7</a> .....	15
<i>Understanding the Rump Senate of the Twelfth Texas Legislature</i> , Tex. State Hist. Ass’n (June 1, 1995), <a href="https://perma.cc/E8TR-YHTA">https://perma.cc/E8TR-YHTA</a> .....	14
1 William Hawkins, <i>A Treatise of the Pleas of the Crown</i> (London, Eliz. Nutt 1716) .....	11

## RECORD REFERENCES

“QWR” refers to the quo warranto record filed concurrently alongside this petition.

## STATEMENT OF THE CASE

*Nature of the Case:* The State of Texas brings this original proceeding for writs of quo warranto. Respondents, thirteen members of the Texas House of Representatives, have fled from the State with the intent to, and for the admitted purpose of, interfering with the operation of the Legislature. Respondents have also willfully refused to return when the Legislature has been convened by the Governor and despite the Speaker of the House’s issuance of warrants for their arrest.

Because Respondents have abandoned their offices as State Representatives, the Attorney General, on behalf of the State, seeks a declaration that those positions are vacant.

*Offices Held by Respondents:*

- State Representative, District 27
- State Representative, District 47
- State Representative, District 49
- State Representative, District 50
- State Representative, District 51
- State Representative, District 70
- State Representative, District 76
- State Representative, District 101
- State Representative, District 102
- State Representative, District 104
- State Representative, District 124
- State Representative, District 136
- State Representative, District 137



## STATEMENT OF JURISDICTION

The Court has jurisdiction under Texas Government Code section 22.002(a). *See also* Tex. Const. art. V, § 3(a); *Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, at \*7 (Tex. May 30, 2025) (“[T]he Texas Constitution and state law currently authorize *direct* actions seeking a writ of quo warranto in this Court . . . .”).

## ISSUE PRESENTED

The Texas Constitution “confers on the legislature the power to physically compel the attendance of absent members to achieve a quorum.” *In re Abbott*, 628 S.W.3d 288, 292 (Tex. 2021) (orig. proceeding). It strikes a “careful balance between the right of a legislative minority to resist legislation and the prerogative of the majority to conduct business.” *Id.*

This petition asks this Court to reaffirm the power of the Texas House of Representatives to achieve a quorum. Members of a legislative minority are intentionally interfering with “the prerogative of the majority to conduct business.” *See id.* Despite that the Speaker of the House issued warrants for their arrest, these absent legislators have refused to comply with their legal obligations to attend the Special Session convened by the Governor, Tex. Const. art. III, §§ 5(a), 40, art. IV, § 8(a), and have flouted the authority of the House to compel their attendance, *id.* art. III, § 10.

These actions aim to prevent the Legislature from exercising the legislative power conferred on it by the Texas Constitution, Tex. Const. art. III, § 1, depriving the people of Texas of a functioning government and, if allowed to continue, would create “an absolute supermajoritarian check on the legislature’s ability to pass legislation opposed by a minority faction.” *In re Abbott*, 628 S.W.3d at 297.

The issue presented is: whether Respondents—who, despite the issuance of warrants for their arrest, absented themselves from the State and refuse to perform their duties with the admitted intent of disrupting the operation of the Texas Legislature—have abandoned their offices as State Representatives.

## STATEMENT OF FACTS

### I. Factual Background

On July 9, Governor Abbott called a Special Session of the 89th Legislature commencing at noon on Monday, July 21, 2025. *See* QWR.122-24. The Special Session would involve significant legislation important to the State, including flood relief, election integrity, and possible redistricting ahead of the March 2026 primaries. *Id.*

For the first two weeks, the Special Session proceeded according to the ordinary legislative process: the Texas Legislature held hearings and discussed potential legislation. But on Sunday, August 3, a legislative minority, apparently disappointed with the anticipated results of the legislative process, fled the State and now refuses to return and participate in the business of the Texas Legislature. Kayla Guo & Eleanor Klibanoff, *Texas House Democrats Flee the State in Bid to Block GOP's Proposed Congressional Map*, Tex. Tribune (Aug. 3, 2025), <https://perma.cc/WSM8-7BKL>.

Respondents, thirteen Democratic members of the Texas House of Representatives, are among more than fifty Democrats who have fled the State for the express purpose of denying the House a quorum to do business and thereby prevent the passage of certain legislation that they oppose. Each Respondent has released a public statement admitting that the purpose and intent of the absences is to disrupt the work of the House. *See* QWR.3-118. In one Respondent's words, their departure means that the "special session is over," QWR.115; *see also* QWR.54, and they "will do everything in [their] power" to prevent the Legislature from having a quorum to conduct business, QWR.26.

## II. Procedural History

The Constitution provides that “[t]wo-thirds of [the] House”—that is, 100 of the 150 members—“shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as [the] House may provide.” Tex. Const. art. III, § 10. Yet more than 50 House Democrats have now fled the State and refused to return, depriving the House of the quorum necessary to conduct business. Without a quorum, the Texas Legislature cannot address the important legislation for which the Special Session was called.

As Governor Abbott explained, “these absences were premeditated for an illegitimate purpose” of “abdicating the duties of their office and thwarting the chamber’s business”:

Rather than doing their job and voting on urgent legislation affecting the lives of all Texans, they have fled Texas to deprive the House of the quorum necessary to meet and conduct business.

These absences are not merely unintended and unavoidable interruptions in public service, like a sudden illness or a family emergency. Instead, these absences were premeditated for an illegitimate purpose—what one representative called “breaking quorum.” Another previously signaled that Democrats “would have to go by an extreme measure” of a quorum break “to stop these bills from happening.” In other words, Democrats hatched a deliberate plan not to show up for work, for the specific purpose of abdicating the duties of their office and thwarting the chamber’s business.

### QWR.1.

The Texas Constitution strikes a “careful balance between the right of a legislative minority to resist legislation and the prerogative of the majority to conduct

business” by providing present members “a remedy against the absent members when a quorum is lacking.” *In re Abbott*, 628 S.W.3d at 292. Relying on this “foundational constitutional rule[] governing the law-making process in Texas,” *id.*, on August 4, after a roll call indicated a quorum was lacking, the present members ordered a call of the House and “instruct[ed] the sergeant-at-arms to send for all absentees to secure and maintain their attendance, under warrant of arrest,” *see* H.J. of Tex., 89th Leg., 1st C.S. 20-22 (2025) (cleaned up). Consistent with this instruction and his promise to “immediately sign the warrants for the civil arrest of these members” if the motion prevailed, *id.* at 20, on August 4, the Speaker signed arrest warrants for the truant members, including the thirteen Respondents here, *see* QWR.8.

Likewise, Governor Abbott “ordered the Texas Department of Public Safety to locate, arrest, and return to the House chamber any member who has abandoned their duty to Texans.” QWR.8. And Attorney General Paxton warned that “the continued refusal to perform legislative duties by Texas House Democrats who broke quorum constitutes abandonment of office” and that he would “pursue a court ruling ensuring that their seats are declared vacant” should the absent members not return to the House Chamber by the Speaker’s August 8 deadline. QWR.120.

Despite express and unequivocal notice that their continued failure to perform the duties of their offices would constitute an abandonment of those offices, members of the legislative minority have continued their course of action. To restore a functioning legislative department to the people of Texas, the Attorney General petitions this Court, on behalf of the State of Texas, for writs of quo warranto declaring Respondents’ offices vacant.

## ARGUMENT

### I. This Court Should Exercise Its Original Jurisdiction to Issue Writs of Quo Warranto.

“A writ of quo warranto is an extraordinary remedy available to determine disputed questions about the proper person entitled to hold a public office and exercise its functions.” *State ex rel. Angelini v. Hardberger*, 932 S.W.2d 489, 490 (Tex. 1996) (orig. proceeding) (citing *State ex rel. R.C. Jennett v. Owens*, 63 Tex. 261, 270 (1885)). “[Q]uo warranto proceedings are those through which the State acts to protect itself and the good of the public generally, through the duly chosen agents of the State who have full control of the proceeding.” *Fuller Springs v. State ex rel. City of Lufkin*, 513 S.W.2d 17, 19 (Tex. 1974) (citations omitted). A writ of quo warranto, moreover, “is the exclusive legal remedy afforded to *the public* by which it may protect itself against the usurpation or unlawful occupancy of a public office by an illegal occupancy.” *Hamman v. Hayes*, 391 S.W.2d 73, 74 (Tex. App.—Beaumont 1965, writ ref’d) (emphasis added) (citation omitted).

This Court’s precedent states that a quo warranto proceeding “can only be brought by the attorney general, a county attorney, or a district attorney.” *In re Dallas County*, 697 S.W.3d 142, 152 (Tex. 2024) (orig. proceeding) (citation omitted). That is consistent with the common law, under which “[t]he writ of *quo warranto* . . . could only be sued out in the name of the attorney general on the part of the crown.” *Wright v. Allen*, 2 Tex. 158, 159-60 (1847). Because “no statute in this state extend[s] the right to the citizen to sue out this writ, . . . it should be in the name of the state, by the prosecuting officer.” *Id.* at 160; *see also Neb. Territory v. Lockwood*, 70 U.S.

236, 239 (1865) (“In this country the proceeding is conducted in the name of the State or of the people, according to the local form in indictments, and a departure from this form is a substantial and fatal defect.” (citing *Wright*, 2 Tex. at 158)); *State v. S. Pac. R.R. Co.*, 24 Tex. 80, 117-19 (1859). Where, as here, the quo warranto writ has been filed as an original action in this Court, the relevant “prosecuting officer” to bring an action “in the name of the state” is the Attorney General, *see Wright*, 2 Tex. at 160, who is charged with the mandatory duty to “represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party.” Tex. Const. art. IV, § 22.

The Texas Constitution and the Legislature supply this Court with original jurisdiction to issue writs of quo warranto. *Hardberger*, 932 S.W.2d at 490 (citing Tex. Const. art. V, § 3; Tex. Gov’t Code § 22.002(a)); *Annunciation House*, 2025 WL 1536224, at \*7 (citations omitted). The exercise of such jurisdiction is proper if a case “involves questions which are of general public interest and call for a speedy determination,” and “it is made plain that urgent necessity calls for the exercise of the original jurisdiction of the Supreme Court.” *In re Occidental Chem. Corp.*, 561 S.W.3d 146, 155 (Tex. 2018) (orig. proceeding) (citation omitted). The same compelling reasons that have justified exercising this Court’s “discretion to decide this matter without first requiring presentation to the district court,” *Hardberger*, 932 S.W.2d at 490, justify doing so here.

*First*, as in *Hardberger*, “time is of the essence.” *Id.* The Governor called a Special Session of the Legislature, which began on July 21. QWR.122-24. But because the Texas Constitution limits special sessions to no more than 30 days, this Session

concludes on August 20. *See* Tex. Const. art. III, § 40. Recognizing this temporal limitation, Respondents have coordinated with fellow members of the legislative minority to flee the State, thereby depriving the Texas House of a quorum and preventing the Legislature from conducting business. Prompt relief is necessary to prevent the disruption of the Special Session from succeeding—and from setting the stage for the obstruction of future special sessions.

*Second*, important legal consequences flow from this decision. The purpose of this Special Session is to consider and act upon legislation critical to the interests of the State, including “a revised congressional redistricting plan” to be used in the March elections. QWR.122-24. As in *Hardberger*, “the candidates should know their status as soon as possible.” 932 S.W.2d at 490. So here, “[a] speedy, final determination of such questions is at times possible only through the exercise of jurisdiction elsewhere than in the district court.” *Love v. Wilcox*, 28 S.W.2d 515, 520 (Tex. 1930).

More concretely, the issue before this Court is whether an intransigent minority of one Chamber can stymie the ability of the Texas Legislature to carry out its constitutional charge to meet “when convened by the Governor.” *See* Tex. Const. art. III, § 5(a). Indeed, the State’s petition concerns nothing less than the frustration of the “rights of citizens to participate in government” through their elected representatives due to the abdication of duty by Respondents and their coconspirators. *See Love*, 28 S.W.2d at 520. “No questions could arise of wider public interest or of graver importance to the state . . . .” *Id.*

*Third*, the relevant facts are undisputed. *See Hardberger*, 932 S.W.2d at 490. Respondents have fled the State and are present in New York and Illinois. *E.g.*,



QWR.10, 20, 32, 44, 59, 64, 71, 75, 92, 111. The Speaker has issued warrants for their arrest, and Governor Abbott has ordered them to be arrested “for dereliction of duty.” QWR.8. Yet they unequivocally and unapologetically refuse to return to the Capitol to fulfill the duties of their offices and, in the process, are blocking the functioning of one branch of the State government. Worse yet, Respondents readily admit that they intend to disrupt the operation of the Texas House of Representatives and the Legislature more broadly. *See* QWR.9-118. Respondents’ persistent and willful refusal to perform their duties is undisputed—indeed, gleefully conceded—and therefore demonstrates as a matter of law an intent to abandon and relinquish their offices. *See infra* at 8-17.

Under these sui generis circumstances, this Court should exercise original jurisdiction over this petition.

## **II. This Court Should Declare That Respondents Have Vacated Their Offices as State Representatives.**

In addressing this critical question of statewide importance, this Court should declare that Respondents have vacated their offices on grounds of abandonment.

### **A. Public officials vacate their offices through abandonment.**

1. Quo warranto actions have a long, storied pedigree at common law dating back to at least “the thirteenth century.” *Annunciation House*, 2025 WL 1536224, at \*3. Such writs were historically “[i]ssued by royal courts or ‘eyres’ traveling throughout England,” and “[e]nquire[d] by what authority”—in Latin, *quo warranto*—a person ‘who claimed or usurped any office, franchise, liberty, or privilege belonging to the crown’ maintained his right to do so.” *Id.* (third alteration in original) (quoting 1 W.S. Holdsworth, *A History of English Law* 229-30 (3d ed. 1922)). “[U]pon proof of ‘either mal-user, or non-user,’ the eyre would revoke the claimed franchise back to the crown.” *Id.* (quoting 1 Holdsworth, *supra*, at 89). Over time, “the writ of quo warranto gave way to the ‘information in the nature of quo warranto,’” *id.* at \*4 (quoting Comment, *Quo Warranto and Private Corporations*, 37 Yale L.J. 237, 238 (1927)), with the principal benefit being “that the attorney general could directly file the information with the Court of King’s Bench,” *id.* (citing 1 Holdsworth, *supra*, at 229-30). But “[u]nder either procedure, defendants had to show ‘by what authority’ they purported to exercise some governmentally sanctioned power.” *Id.*

“[Q]uo warranto subsequently followed English lawyers to the American colonies” and “survived the American Revolution, too,” albeit with a focus on

“addressing abuse of corporate charters.” *Id.* at \*4-5. Still, “[a]side from corporate malfeasance,” quo warranto actions “continue to be filed in other areas, such as challenges to improper usurpation of an elected office.” *Id.* at \*7 (citing *State ex rel. McKie v. Bullock*, 491 S.W.2d 659, 661 (Tex. 1973) (per curiam)). Thus, in this State, “[t]he purpose of a quo warranto proceeding is to question the right of a person or corporation, including a municipality, to exercise a public franchise or office.” *In re Dallas County*, 697 S.W.3d at 152 (quoting *Alexander Oil Co. v. City of Seguin*, 852 S.W.2d 434, 436-37 (Tex. 1991)). Such writs remain “available to determine disputed questions about the proper person entitled to hold a public office and exercise its functions.” *Hardberger*, 932 S.W.2d at 490.

2. Here, the Attorney General has instituted this petition to question the authority of Respondents to continue to exercise the office of State Representative on grounds of abandonment. It has long been established that public offices become vacant when they are abandoned. *Steingruber v. City of San Antonio*, 220 S.W. 77, 78 (Tex. Comm’n App. 1920, judgm’t adopted). Abandonment is a voluntary act of “relinquishment through nonuser.” *Id.* “The failure to perform the duties pertaining to the office must be with actual or imputed intention on the part of the officer to abandon and relinquish the office.” *Id.* “The intention may be inferred from the acts and conduct of the party, and is a question of fact.” *Id.* Though here, the relevant facts are undisputed, rendering the legal question of abandonment ripe for this Court’s resolution now. *See supra* at 6-7.

Although Texas law on this issue is sparse, the common law has long recognized abandonment as a ground for vacatur of public office. *See also Annunciation House*,

2025 WL 1536224, at \*5 (explaining that Texas adopted the quo-warranto doctrine, derived from “the Common Law of England” from its early days as a Republic). At common law, a public official abandoned his office by “refus[ing] or neglect[ing] to perform the duties of his office for such a period as to warrant the presumption that he did not intend to perform them.” *The American and English Encyclopedia of Law* 562c\* (John Houston Merrill, ed., Long Island, N.Y., Edward Thompson Co. 1887). Such a refusal required more than a “mere temporary accidental or excusable failure to exercise the functions of the office for a short period or in a single instance.” *Id.* at 562c\*-562d\*. But “if the officer refuses or neglects to exercise the functions of the office for so long a period as to reasonably warrant the presumption that he does not desire or intend to perform the duties of the office at all, he will be held to have abandoned it.” Floyd R. Mechem, *A Treatise on the Law of Public Offices and Officers* § 435, at 278 (Chi., Callaghan & Co. 1890). An office may be abandoned through “refusal,” particularly “where [the officer] is bound to attend upon request, and refuses.” *Id.* § 435, at 278 & n.3 (discussing Earl of Shrewsbury’s Case, (1611) 77 Eng. Rep. 798, 804-06; 9 Co. Rep. 46b, 50a-50b).

These principles are rooted in the English concept of “an office as a grant of” authority that is subject to implied conditions. Maria Simon, *Bribery and Other Not So “Good Behavior”: Criminal Prosecution as a Supplement to Impeachment of Federal Judges*, 94 Colum. L. Rev. 1617, 1662 (1994). Indeed, “[p]ublic offices are held upon the implied condition that the officer will diligently and faithfully execute the duties belonging to them.” Mechem, *supra*, § 435, at 278.

These common-law principles have remained consistent across the centuries. Lord Mansfield explained that a public official does not give up his office by “the bare [act of] being once absent” but does do so by “general[ly] neglect[ing], or refus[ing] to attend the duty of such an office,” *even* where “his non-attendance” causes “no inconvenience.” *Rex v. Corporation of Wells*, (1767) 98 Eng. Rep. 41, 44-45; 4 Burr. 1999, 2004-05. By the late nineteenth century, a public official still “forfeited [his office] by neglect or abuse.” James L. High, *Treatise on Extraordinary Legal Remedies, Embracing Mandamus, Quo Warranto, and Prohibition* § 592, at 424-25 & n.1 (Chi., Callaghan & Co. 1874) (collecting authorities). And because “every office is instituted, not for the sake of the officer, but for the good of some other,” 1 William Hawkins, *A Treatise of the Pleas of the Crown*, at 167 (London, Eliz. Nutt 1716) (cleaned up), that sort of “misconduct” may result in “forfeiture of office,” J.C. Wells, *Treatise on the Jurisdiction of Courts* § 465, at 464 n.(i) (Saint Paul, West Publishing Co. 1880). If an official “either neglects or refuses to answer the end for which this office was ordained,” then he loses his claim to that office. 1 Hawkins, *supra*, at 167 (cleaned up).

Even into the twentieth century, American law continued to recognize what common law had always made clear: A public official who “willfully neglected or willfully refused to perform a public duty” is “subject to ouster.” *State v. Read*, 278 S.W. 71, 73 (Tenn. 1925). Lawmakers who “refus[e] to qualify and perform the duties of the office,” “have removed themselves from office, and their place is already vacant.” *City of Williamsburg v. Weesner*, 176 S.W. 224, 226 (Ky. App. 1915). In such a circumstance “a court of equity can take cognizance of this situation and grant

relief,” by “declar[ing]” that the officeholders “have or have not forfeited their offices”—particularly where the absence of the lawmakers denies the body “a quorum.” *Id.* Thus, a legislator’s “neglect and abandonment of his duty to attend legislative sessions” may “creat[e] the vacancy in office.” *Errichietti v. Merlino*, 457 A.2d 476,486 (N.J. Super. Ct. Law Div. 1982). After all, “[t]he duty of good faith execution of a public office without neglect of duty existed at common law.” *Id.* (citing 63 Am. Jur. 2d, *Public Officers and Employees* § 190, at 744).

## **B. Respondents have vacated their offices through abandonment.**

1. Applying these authorities, Respondents have vacated their offices through abandonment. Respondents have not only refused to show up at the Capitol to consider, debate, and vote on potential legislation—the quintessentially legislative duties that run with their offices—but they have absented themselves from the State with the express purpose of denying the House a quorum so that the Legislature as a *whole* cannot carry out its constitutional lawmaking function. *See* QWR.9-118.

Worse yet, by fleeing to far flung jurisdictions outside of the State, Respondents have attempted to place themselves beyond the reach of civil arrest warrants and thereby negate the House’s constitutional prerogative to compel the attendance of absent members—“one of the foundational constitutional rules governing the lawmaking process in Texas.” *In re Abbott*, 628 S.W.3d at 292. That effort upsets “the Texas Constitution’s careful balance between the right of a legislative minority to resist legislation and the prerogative of the majority to conduct business.” *Id.* And in so doing, a minority of one House of the Legislature has held hostage the entire “legislative power” of the State, denying to the People “the power to make rules and

determine public policy.” *FM Props. Operating Co. v. City of Austin*, 22 S.W.3d 868, 873 (Tex. 2000) (citations omitted).

These “acts” demonstrate a “failure to perform the duties pertaining to the office,” and Respondents’ unequivocal statements confirm an “actual intention to abandon the office” of State Representative. *Steingruber*, 220 S.W. at 78 (cleaned up). The common law establishes that abandonment occurs by “refus[ing] or neglect[ing] to perform the duties of his office for such a period as to warrant the presumption that he did not intend to perform them.” *The American and English Encyclopedia of Law*, *supra*, at 562c\*. Here, no “presumption” is necessary because Respondents admittedly refuse to perform the duties of their offices. *See* QWR.9-118. That is particularly true where, as here, the official “is bound to attend upon request, and refuses.” Mechem, *supra*, § 435, at 278 n.3. Undeniably, Respondents have “refus[ed] to attend the duty” of their offices, *Corporation of Wells*, 98 Eng. Rep. at 44; 44 Burr. at 2004, after being formally compelled to so do through the issuance of arrest warrants, QWR.8; H.J. of Tex., 89th Leg., 1st C.S. 20-22 (2025).

Respondents’ conduct goes far beyond any “mere temporary accidental or excusable failure to exercise the functions of the office for a short period or in a single instance.” *The American and English Encyclopedia of Law*, *supra*, at 562c\*-562d\*. And it looks nothing like “the bare [act of] being absent,” *Corporation of Wells*, 98 Eng. Rep. at 45; 4 Burr. at 2005, or an officer merely leaving “a public office . . . in charge of an unbonded clerk,” which did not “amount to an abandonment of the office,” *Honey v. Graham*, 39 Tex. 1, 17 (1873) (McAdoo, J., concurring). Instead, Respondents’ conduct amounts to an intentional, concerted effort to stop all legislative

activity by refusing to show up—let alone hear testimony, debate, or vote on legislation. By any metric that constitutes abandonment of office.

2. Although there is a history of quorum-breaking in Texas, the advent of legislators fleeing the State to do so is of recent vintage. “[T]he present members of each chamber [have] a remedy against the absent members when a quorum is lacking.” *In re Abbott*, 628 S.W.3d at 292. “Just as article III, section 10 enables ‘quorum-breaking’ by a minority faction of the legislature, it likewise authorizes ‘quorum-forcing’ by the remaining members.” *Id.* This provision “ensures that the legislature can continue to do business despite efforts by a minority faction to shut it down by breaking quorum.” *Id.* at 297.

For much of Texas history, legislators attempting to break a quorum remained physically in the State and were thus unquestionably subject to the power of present members to compel their attendance. In 1870, for example, state senators were arrested and brought to the Senate to secure a quorum. *See Understanding the Rump Senate of the Twelfth Texas Legislature*, Tex. State Hist. Ass’n (June 1, 1995), <https://perma.cc/E8TR-YHTA>. Likewise, in 1979, the “Killer Bees” quorum breakers hid in a garage apartment in Austin. *See* Bob Garcia-Buckalew, *The Year the ‘Killer Bees’ Fled the Texas Capitol to Block a Proposed Election Law*, KVUE (Aug. 4, 2025), <https://perma.cc/WJA3-Y8H2>. These events reflect the “careful balance” of the quorum-breaking of a minority faction and quorum-forcing of the remaining members. *In re Abbott*, 628 S.W.3d at 292.

The innovation of a minority faction fleeing the State to avoid the present members’ quorum-forcing powers appears to date to 2003, when House Democrats fled



to Oklahoma and Senate Democrats later fled to New Mexico. And it was just four years ago that this Court confirmed the authority of the Texas Legislature to subject quorum breakers “to arrest and compelled attendance,” *In re Abbott*, 628 S.W.3d at 294, and almost immediately after that decision, the quorum breakers returned and exercised the duties of their offices, *see* Patrick Svitek & Cassandra Pollock, *How the Quorum Break Got Broken: Texas Democrats Splintered During Second Session Break* Tex. Tribune (Sept. 10, 2021), <https://perma.cc/3K6K-N8H7>.

Respondents’ conduct of fleeing the State thus has a pedigree of roughly 20 years, and their attempt to prevent the Legislature from fulfilling its constitutional duty marks the first attempt to do so since this Court’s analysis of the Texas Constitution’s quorum-forcing provisions in *In re Abbott*. By fleeing the State, Respondents believe that they cannot be arrested and compelled to attend. But their theory would upset the “careful balance” of powers that this Court recognized in *In re Abbott*, leaving the Texas Legislature unable to force a quorum and the people of Texas without a body capable of exercising legislative power. Respondents’ conduct, if blessed by this Court, would “impose an absolute supermajoritarian check on the legislature’s ability to pass legislation opposed by a minority faction.” *In re Abbott*, 628 S.W.3d at 297. Respondents have not merely disregarded their constitutional duty to meet but also seek to flout the Legislature’s authority under article III, section 10—the provision intended to “ensur[e] that the legislature can continue to do business despite efforts by a minority faction to shut it down by breaking quorum.” *Id.*

The Texas Legislature has attempted to exercise its power to “compel the attendance of absent members.” *See* Tex. Const., art. III, § 10. Because Respondents have fled the State to evade the exercise of that power and have announced that they refuse to perform the duties of their offices, they have abandoned them, and this Court should declare their offices vacant.

\* \* \*

The Attorney General does not file this petition lightly. The Texas Constitution, statutes, and rules provide a broad range tools for members of a legislative minority to be heard. But those tools do not include concerted effort by members of the minority to disrupt the functioning of the Legislature by abdicating their duties, including spurning the constitutional authority of the remaining members to compel their attendance. When members of the Legislature disregard arrest warrants, refuse to perform their duties, and announce that they intend to prevent the Legislature from exercising its constitutional responsibilities, they have, through words and conduct, demonstrated an intent to relinquish and abandon their offices. The alternative would empower a minority faction to disrupt the operation of the chamber.

The question before this Court is not “whether the proposed . . . legislation giving rise to this dispute is desirable.” *In re Abbott*, 628 S.W.3d at 291. The legal question for this Court concerns only whether the Texas Constitution entitles the people of Texas to a Legislature capable of executing the legislative power or whether a minority faction can deprive the Legislature of its ability to fulfill its constitutional

function through willful refusal to perform their duties and willful disregard of the powers of compulsion provided by article III, section 10.

### **PRAYER**

For these reasons, this Court should declare that Respondents have vacated their offices as State Representatives. In the alternative, this Court should conditionally issue the writs, stating that the writs declaring each office vacant will issue only if Respondents fail to return to Texas and resume their official duties within 48 hours of the issuance of this Court's decision. *Cf. N. Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 88 (1982).

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
Tel.: (512) 936-1700  
Fax: (512) 474-2697

/s/ William R. Peterson  
WILLIAM R. PETERSON  
Solicitor General  
State Bar No. 24065901  
William.Peterson@oag.texas.gov

WILLIAM F. COLE  
Principal Deputy Solicitor General

MEAGAN CORSER  
MARK A. CSOROS  
Assistant Attorneys General

## **RULE 52(J) CERTIFICATION**

Pursuant to Texas Rule of Appellate Procedure 52.3(j), I certify that I have reviewed this petition and that every factual statement in the petition is supported by competent evidence included in the appendix or record. Pursuant to Rule 52.3(k)(1)(A), I certify that every document contained in the appendix is a true and correct copy.

/s/ William R. Peterson  
WILLIAM R. PETERSON

## **CERTIFICATE OF COMPLIANCE**

Microsoft Word reports that this document contains 4,495 words, excluding exempted text.

/s/ William R. Peterson  
WILLIAM R. PETERSON

## **CERTIFICATE OF SERVICE**

On August 8, 2025, this document was served electronically on Respondents at:

Ron.Reynolds@house.texas.gov  
Vikki.Goodwin@house.texas.gov  
Gina.Hinojosa@house.texas.gov  
James.Talarico@house.texas.gov  
Lulu.Flores@house.texas.gov  
Mihaela.Plesa@house.texas.gov  
Suleman.Lalani@house.texas.gov

Chris.Turner@house.texas.gov  
Ana-Maria.Ramos@house.texas.gov  
Jessica.Gonzalez@house.texas.gov  
John.Bucy@house.texas.gov  
Gene.Wu@house.texas.gov  
Christina.Morales@house.texas.gov

Hard copies will also be provided to Respondents at their offices in the Texas State Capitol.

/s/ William R. Peterson  
WILLIAM R. PETERSON