Quorum Rules in Historical Perspective: Their Use and Abuse

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Quorum standards are arguably the most fundamental of all parliamentary rules. They establish the number of members who must be present for a deliberative body to make formal decisions. Over the course of American history quorum rules have played a fascinating role in the legislative process, with different groups at different times attempting to exploit them to their advantage. Indeed, as recently as 2011 minority party legislators in Indiana and Wisconsin took advantage of quorum rules to impede the majority party's will.

In this paper I trace the use of quorum standards in American legislatures from the colonial era to the present. After documenting shifting standards I examine instances where minority parties have exploited them through disappearing quorums and bolting quorums. This analysis allows me to indentify the conditions under which quorums can more easily be abused for partisan purposes.

Quorums in the Colonial Era

The first quorum standard in the Americas was established in the 1629 Massachusetts Bay Colony Charter. That document held that 7 of the 18 assistants along with the governor or deputy governor was a sufficient number for the "dispatching of all such buysinesses" (Shurtleff 1853, 10-11). This quorum rule is notable because it was put in place 11 years before the English House of Commons first established one. It was only in 1640, that "It was declared as a constant Rule, that Mr. Speaker is not to go to his Chair till there be at least forty in the House" (Hatsell 1818, 173; Redlich 1908, 75-76). Eventually, Massachusetts followed the House of

Commons precedent and in 1692 it also set 40 representatives as the "number sufficient to constitute a house, pass bills, and to transact and do any business proper to be done in that house" (*Charters and General Laws of the Colony and Province of Massachusetts Bay* 1814, 743).

But the House of Commons quorum standard was not adopted elsewhere in the colonies. In 1683 *The Frame of the Government of the Province of Pennsylvania and Territories thereunto annexed, in America* established that in its Assembly "not less than two thirds shall make a Quorum in the passing of all Bills into Laws" (*Minutes of the Provincial Council of Pennsylvania, from the Organization to the Termination of the Proprietary Government* 1838, xxxvii). In most of the other colonial assemblies quorum rules were actually recalibrated from time to time to meet the needs of particular bodies and their attendance patterns (Clarke 1943, 174-75; Cook 1931, 259-60; Greene 1963, 216-19; Luce 1922, 24-27; Squire 2012). Virginia, for example, frequently changed its quorum for conducting business, from 25 of its 56 members (45 percent) in 1720, to 41 out of 84 members in 1748 (49 percent), 25 out of 104 members in 1756 (24 percent), and 50 out of 116 members excluding the speaker (43 percent) in 1766 (Pargellis 1927a, 83, Miller 1907, 111). Some colonies adopted quorum rules that were even looser than those in Virginia. Maryland approved a remarkably lax standard in 1642: "Any tenn members of the house at any time assembled at the usuall or appointed time (whereof the Leivten^{t} Generall & Six Burges's to be Seaven) shall be a house unless sickness do hinder that number In which Case only the members present to make the House" (Browne 1883, 146). The 1663 Rhode Island charter established its quorum as whatever number of deputies attended, a rule that was reaffirmed in subsequent years (Bartlett 1857, 472).

Over time quorum rules generally became more complex in the colonies. Most assemblies devised at least two quorums: a higher standard for transacting business and a lower one for adjournment (Bassett 1894; Clarke 1943, 175). Additional quorum requirements were concocted for specific issues in some colonies. In 1769, New Jersey imposed a higher quorum requirement for decisions regarding government revenues than for other subjects: "but not less than sixteen be a sufficient Number to proceed to any other Business; nor less than eighteen, when any Money is to be raised, or applied." Three years later the numbers were adjusted to 20 and 24 respectively (*Votes and Proceedings of the General Assembly of the Province of New Jersey* 1769, 7; *Votes and Proceedings of the General Assembly of the Colony of New Jersey* 1772, 6). In 1762, the Bahamas assembly set a quorum requirement that required virtually every member to be present for a measure to pass, but allowed a lower quorum for the conduct of other business (Clarke 1943, 175).

It is worth noting that the strategic opportunities offered by quorum rules were well understood by politicians of the time. Perhaps the earliest episode of quorum exploitation occurred in Pennsylvania, not long after the two-thirds standard was established. In 1689, at the behest of Penn's deputy governor, a sufficient number of Assembly members were persuaded to leave the chamber to break the quorum in order to prevent the passage of a list of grievances against the proprietor (Belknap 1796, 437-38). In response, the bolters' remaining colleagues voted to denounce "that abominable Treachery and Practice of the said absent Members, in wilfully neglecting to appear at the Time, when they understood that this House were going about to call the Violators of the Liberties of the Freemen of this Government to Account." They went on to seek retribution by stating "That the said absent Members ought not to receive any Salary for the Service this Assembly; and are not worthy to be chose again, or be intrusted as

Delegates" (*Votes and Proceedings of the House of Representatives of the Province of Pennsylvania* 1752, 55). Despite the political fury generated by this first action, in later years Pennsylvania witnessed other efforts to abuse quorum rules for partisan advantage (e.g. *Votes and Proceedings of the House of Representatives of the Province of Pennsylvania* 1752, 146; *Journal of the Votes and Proceedings of the House of Representatives of the Province of Pennsylvania* 1727, 15-16).

And Pennsylvania was not the only assembly to suffer in this regard. In 1748, the South Carolina governor grumbled that, "A Party of pleasure made by a few of the Members renders it often impossible for the rest to enter upon Business, and sometimes I Have seen a Party made to go out of Town purposely to break the House as they call it (well knowing that nothing could be transacted in their absence)." The absent members' motivation for leaving was "to prevent the Success of what they could not otherwise oppose" (Greene 1963, 217). Similarly, in a 1747 letter to the Board of Trade, the North Carolina governor complained that a group of his lower house members,

> And being generally united under the conduct of a few designing Men who found their account in Keeping Public Affairs in confusion they have made the Governor and Council, and remaining Members of no weight in the Legislature for they could not so much as meet unless they thought fit to be present and after they were met if they did not like any Bill, they withdrew Privately and then the Majority of Burgesses being absent, no more Business could be done, so that the very being of Assemblies depended upon their whim and Humour, and not on the King's Writ; and Governours Proclamation and Prerogation. This is no Imaginary

> Consequence, but a real effect which has happened more than once within these few years past . . . (Saunders 1886)

During the colonial era, quorum rules became an established norm. In addition, two important precedents about their use were established. First, under certain circumstances lawmakers could exploit quorum rules to their advantage. Second, those who did not break quorum could seek retribution against those who were seen as abusing the rules.

Quorums Rules in the State Constitutions

With independence, the new states were given the opportunity to write constitutions to govern them. All of them opted to do so except Connecticut and Rhode Island, which continued to be governed under their (only cosmetically changed) charters until 1818 and 1843 respectively. In the constitutions that were written the new states had the chance to formally adopt quorum requirements and most did so, as documented in table 1. I focus on constitutional quorum requirements because they are the only ones that cannot be altered or manipulated by sitting legislators to suit their purposes. In the original constitutions a plurality of the states imposed simple majority quorum requirements in both chambers (Maryland, New Jersey, New York, and North Carolina), or in the case of Georgia, the only chamber. Pennsylvania stuck with its traditional two-thirds quorum for its unicameral assembly. Massachusetts also opted for a familiar standard, keeping its less than a majority quorum for both its houses. South Carolina adopted a less than a majority quorum for its lower house, but imposed a majority quorum requirement on its upper house. Delaware neglected to impose any quorum standard on either of its two small (9 members in the upper house, 21 members in the lower house) chambers. New

Hampshire and Virginia put in place majority quorum requirements for their upper houses but, curiously, did not require any quorum for their lower houses. In the chambers operating without a constitutional quorum standard, one was established in the rules. In 1776, for example, the 9th rule adopted by New Hampshire House held "That the Speaker & Thirty of the members returned, be a House to do Business" (Bouton 1874, 8).

(Table 1 about here)

The decision not to establish a constitutional quorum in the Virginia House of Delegates troubled Thomas Jefferson. Writing in *Notes on the State of Virginia*, he identified "That the assembly exercises a power of determining the quorum of their own body which may legislate for us" as a significant defect. Jefferson argued that,

> After the establishment of the new form they adhered to the *Lex majoris partis*, founded in common law as well as common right. It is the natural law of every assembly of men, whose numbers are not fixed by any other law. They continued for some time to require the presence of a majority of their whole number, to pass an act. But the British parliament fixes its own quorum: our former assemblies fixed their own quorum: and one precedent in favour of power is stronger than an hundred against it. The house of delegates therefore have lately voted that, during the present dangerous invasion, forty members shall be a house to proceed to business. They have been moved to this by the fear of not being able to collect a house. But this danger could not authorise them to call that a house which was none: and if they may fix it at one number, they may at another, till it loses its fundamental character of being a representative body. As this vote expires with

> the present invasion, it is probable the former rule will be permitted to revive: because at present no ill is meant. The power however of fixing their own quorum has been avowed, and a precedent [set]. From forty it may be reduced to four, and from four to one: from a house to a committee, from a committee to a chairman or speaker, and thus an oligarchy or monarchy be substituted under forms supposed to be regular (Jefferson 1788, 133).

Despite Jefferson's slippery slope line of reasoning, the House of Delegates survived without a constitutional quorum requirement until 1830. But when the state finally replaced its original constitution that year it fell in line with the other states by mandating a quorum requirement, something that Delaware and New Hampshire had also done years earlier when they replaced their original constitutions.

Thus, since 1830 every state constitution has mandated a quorum standard for its state legislature. Only rarely has that standard been less than a majority. The South Carolina House operated under a quorum requirement that stipulated a set number of representatives well less than a majority in its first two constitutions, but it adopted a majority quorum rule in 1790. Georgia imposed a one-third requirement during the brief period its second constitution was in force, but switched back to a majority standard in 1798 with its third constitution. Massachusetts stayed with a less than majority quorum for a much longer period. It upped its required number of representatives in an 1857 amendment (at the same time it set its number of House seats at 240), but did not join the rest of the states in requiring at least a majority for a quorum in both chambers until an 1891 amendment.

Most states have required a majority to form a quorum in their legislative chambers, the same requirement set for both houses of Congress by the U.S. Constitution. A handful of states have done so (and a few continue to do so) without an accompanying constitutional power to compel absent members to attend. The rest have supplemented their majority quorum requirement with a constitutional authorization to force attendance. Given the dominance of a two-party system in most states for most years, a majority quorum requirement means that the majority should be able to organize and operate a chamber as long as it can get a sufficient number of its own members to attend, thereby greatly reducing the minority party's ability to use quorum rules for purposes of obstruction. But before the twentieth century legislative attendance was not a given and seats were often left vacant. Moreover, majority parties were not always cohesive and factionalism occasionally took root. Under such circumstances a minority could use quorum requirements to their advantage, even if only a majority requirement was the constitutional standard. Poor attendance and a large number of vacant seats, for example, allowed the minority party to exploit quorum rules in the U.S. House during much of the nineteenth century. The same was true in many state legislative chambers.

At some point in their history, eight states have had a constitutional two-thirds quorum requirement. This stringent standard was eventually replaced by a laxer majority quorum standard in four states (Arkansas, Illinois, Ohio, and Pennsylvania). But the other four states—Indiana, Oregon, Tennessee, and Texas—still have a two-thirds standard in place. Another three states employ constitutional two-thirds quorum requirements for either budget bills (New York and Wisconsin) or to raise a state tax (Vermont). In a two-party system a two-thirds quorum requirement gives a minority party the possibility of exercising considerable leverage over the

legislative process. Indeed, it is under a two-thirds quorum requirement that we should expect to see the greatest number of cases of quorum rules being abused.

In American legislative history, quorum rules have been exploited in two notable ways. The first is through a disappearing quorum. The other is through a bolting quorum.

Disappearing Quorums

The disappearing quorum is most commonly associated with the U.S. House of Representatives. A disappearing quorum is one where lawmakers who are physically in the chamber refuse to answer a call to vote, thereby appearing not to be present. If a quorum is only evident when a sufficient number of members actually vote, lawmakers can block a quorum by their silence. The disappearing quorum first surfaced in the U.S. House in 1832, when John Quincy Adams, the former president who had returned to service in the House, refused to express a vote on a pro-slavery bill. Enough of his colleagues joined him to prevent a quorum and block the measure from consideration (Davidson and Oleszek 1977, 23-24). The precedent of the disappearing quorum was observed in the House for the next 48 years, with both parties using it to their advantage when they were in the minority and complaining about its abuse when in the majority. The use of the disappearing quorum was ended by Speaker Thomas Reed's (R-ME) controversial parliamentary ruling in 1890. During a raucous debate over a contested election Reed counted Democrats who were present in the chamber but had not voted as being present for the purpose of determining a quorum.

In hindsight, Reed's ruling is seen as a watershed moment in the history of the U.S. House, one which went a long way toward limiting the ability of the minority party to engage in obstruction (Cheney and Cheney 1996, 104-07; Galloway 1961, 52-53; Peters 1997, 62-67;

Strahan 2007, 106-07). Although some claim that the speaker's ruling was based on the "the practice of the English House of Commons, the rules and precedents of the House of Representatives, and the Federal Constitution" (Galloway 1961, 52), Reed himself actually pointed toward earlier decisions taken in various state legislatures (Hinds 1907, 66-67; Reed 1890, 387-88).

Disappearing quorums had been a plague in the states. One close observer of legislatures during the first half of the nineteenth century recalled

> I was once present at an important session of the Indiana House of Representatives, when under a ruling that a quorum could only be considered present by counting the responses to the roll call. There was present nearly a full house. On the roll call some thirty or more members would step outside the railing and though in full view of the Clerk, and within hearing of the call gave no response. The Speaker declared no quorum present. A call of the House would then be had, when all would pass inside [the bar] and answer. Voting would then begin, and the going outside the railing would be repeated, and so business was delayed for days, until a majority was forced to yield to a faction minority" ("Drift" 1890, 342).

In Illinois it was noted, "Sometimes one side, sometimes the other . . . refrained from voting, the object being to break a quorum" (Moses 1892, 904). Over time, various attempts were made to overcome this sort of problem. Not all were successful. In 1855, for example, the California Senate voted down a proposal "That when a quorum is present and not found voting upon the third reading or final passage of any bill or resolution, those present and not voting shall be

counted and recorded in the affirmative" (*Journal of the Sixth Session of the Legislature of the State of California, Begun on the First Day of January, 1855, and Ended on the Seventh Day of May, 1855 at the City of Sacramento* 1855, 12). Clearly, many lawmakers found the disappearing quorum to be of sufficient use to protect it.

The earliest parliamentary ruling against a disappearing quorum cited by Reed was from the Ohio House in 1846, as shown in table 2. The House was voting on an amendment to a state bank bill. According the journal, "Whereupon the Speaker declared that a quorum had not voted; that forty-seven members had voted, and that Messrs. Higgins and Vallandigham were not of the number; but that there was a quorum present within the bar, and a majority having voted in the affirmative, the bill was passed." Decades later the speaker recalled having announced, "that no quorum had voted, but a quorum was present, and majority of the whole had voted affirmatively, and that the bill was passed" ("Drift" 1890, 342). In citing this example with approval, Reed (1890, 388) shortened the speaker's quote to a more pithy "no quorum had voted, but a quorum was present." But the fact that Reed cited another Ohio House decision made 38 years later suggests this initial decision actually had problems sticking (Reed 1890, 387-88).

(Table 2 about here)

Reed referred only in passing a decision rendered by Speaker Sanford in the Massachusetts House of Representatives in 1874. This is unfortunate, because in making his ruling Sanford gives perhaps the first substantial analysis of the problem. A bill regarding "the descent and distribution of real and personal property" had lost on a vote of 42 to 43. A representative then raised a point of order that a quorum was not present. A count revealed 118 members in the chamber, sufficient for a quorum. The representative raised another point of

order requesting a second vote on the bill. Speaker Sanford ruled against the request, determining, "It is not necessary to the valid decision of a question that 100 members actually *vote,* if the requisite number are present. . . . But if a quorum of the House is ascertained to have been present when a vote was taken, the decision is valid" (*Journal of the House of Representatives of the Commonwealth of Massachusetts* 1874, 563-64).

In their analyses both Reed and Hinds (Reed's clerk and later compiler of parliamentary precedents in the House) placed greater weight on the decision handed down by Lieutenant Governor Hill acting as president in the New York Senate in 1883 (Hinds 1907, 66; Reed 1890, 387). The previous year Hill's predecessor had ruled that because a required two-third quorum had not voted on a railroad commission bill, the measure had failed, even though more than two-thirds of the members had been present in the chamber (*Journal of the Senate of the State of New York: at their One Hundred and Fifth Session* 1882, 724; *New-York Tribune* 1883). But when in 1883 the Senate voted for final passage on a measure to create the office of the Commissioner of the New Capitol, Hill had 10 senators listed as "present but refuses to vote" thereby creating a quorum and allowing the bill to pass. Hill then stated that "The action of the Senate just taken requires a ruling from the chair, and an explanation of that ruling is proper at this time." Following a lengthy analysis, Hill concluded, "The question as to how many voted, in addition to a majority, is wholly immaterial so long as three-fifths are present. Their presence is not to be determined solely and only by the ayes and nays" (*Journal of the Senate of the State of New York: at their One Hundred and Sixth Session* 1883, 358-63).

Several other precedents were cited briefly by Reed. He noted that "If any one desires to see a model statement of the case [against the disappearing quorum], let him look at President Pillsbury's decision in the Massachusetts Senate in 1885" (Reed 1890 388). On a measure

dealing with the "granting of licenses for the sale of intoxicating liquors in a building near a public school," Pillsbury had determined that it lost on a vote of 4 to 7. He then ruled against a point of order that a quorum had not voted, leading off his extended analysis by observing simply, "It is immaterial that a quorum does not vote, if a quorum is present" (*Journal of the House of Representatives of the Commonwealth of Massachusetts* 1874, 352, 584-85).

Both Reed and Hinds also point to the speaker's decision on a disappearing quorum in the Tennessee House of Representatives in 1885 (Hinds 1907, 66-67; Reed 1890, 387). On a highly contentious voter registration bill, the journal records that "The Speaker decided that the bill passed the third reading by the following vote: Ayes 54 Noes 6. . . . The Speaker directed the Clerk to record on the Journal as present and not voting [names of 30 representatives]" (*House Journal of the Forty-Fourth General Assembly of the State of Tennessee, Which Convened at Nashville, on the First Monday in January, A. D. 1885* 1885, 566). Hinds and Reed cite this precedent not only because it fits with Reed's ruling, but because it was also an example of a Democratic speaker making a ruling against Republican antics. But they leave out several critical bits of information. First, although a news report said that the following day there was "A Lively Discussion Over the Registration Bill Vote," no member appeared to protest the speaker's ruling (*Nashville Banner* 1885). Second, as will be mentioned below, the registration bill later died in the Senate because Republicans bolted, blocking a quorum. When the measure was resurrected during a special session, House Republicans killed it, again by bolting. Finally, during the next legislative session in 1887, on two separate occasions Republican House members refused to vote on a resolution that would have institutionalized the ruling against the disappearing quorum. Both times the speaker held that he had no power to compel members to

respond with a vote, and he substantiated his decision with an extended analysis, citing examples from the U.S. House (*New York Times* 1887a; 1887b; "What is a Quorum?" 1887, 305-06).

Reed drew his favorite example from the Pennsylvania Senate, claiming "in 1880, occurred an incident which adorns with an illumination quite picturesque the doctrine of constructive absence." In Reed's rendition,

> There had been much filibustering of the congressional sort during the session, the Democrats refusing to vote. Senator Rayburn, in the chair, decided that those Democrats who demanded the yeas and nays were present. There was much disatisfaction, and one day when a Democrat was in the chair the same question arose, and he promptly decided that those who demanded the yeas and nays were not there. Thereupon the friends of tyranny of that period, in the person of Mr. Cooper, made the point that the Chair was present, and the Chair decided that he was not! It was felt, however, that the great principle had somehow or other then and there received a great stain, and the Senate thereafter behaved and obstruction ceased (Reed 1890, 388).

This story was repeated by Follett (1896, 202-03) in her history of the U.S. House speakership, and she cited it as the "*reductio ad absurdum*" of the disappearing quorum.

In this instance the actual details of the incident got badly mangled in the telling. Pennsylvania's 1874 constitution had moved the legislature to biennial sessions and there was no meeting in 1880. The event in question actually took place in 1883 when President Pro Tempore *Reyburn* held that a resolution on the scheduling of Senate sessions had passed even though a quorum had not voted because two members present

in the chamber who were paired with two members who were not present had failed to formally vote. President Pro Tempore Reyburn determined that members of paired votes who were present should be counted, providing the necessary quorum. That decision was appealed in writing by five members who were present but had not voted. As the appeal was heard, President Pro Tempore Reyburn stepped down, handing the gavel to Senator Kennedy, who was one of the senators who had signed the appeal. During the vote on whether to uphold Reyburn's ruling Senator Kennedy determined that less than a quorum had voted, with Kennedy himself being among those not recording a vote and thereby blocking a quorum. (The journal does not say if Senator Cooper, who was there and voting, commented on Senator Kennedy's actions at this point.) Returning to the podium, Reyburn "directed the clerk to call the names of the Senators who signed the appeal from the decision of the chair . . . and make a record of the same; which was done." Then Reyburn held that "with the twenty-three Senators voting, the two Senators recorded as present and paired, and the records on the question [raised by the five senators], a quorum was present . . ." (*Journal of the Senate of the Commonwealth of Pennsylvania, for the Extraordinary Session Begun at Harrisburg, on the 7th Day of June, 1883* 1883, 143-46).

With this decision, Reyburn effectively ruled out the use of the disappearing quorum. But his decision was not as revolutionary as the Reed and Follett wished to make it appear. Pennsylvania Senate rule XXXVI in place at the time stated that "if it is ascertained that a quorum is present, either by answering to their names, or by their presence in the Senate, the President shall again order the yeas and nays, and if any Senator or Senators present refuse to vote, the name or names of such Senator or Senators

shall be entered on the Journal as 'present but not voting' and such refusal shall to vote shall be deemed a contempt . . ." (*Legislative Directory, with Names of Members and Heads of Departments, Committees of Both Houses, Constitution of 1874, and the Rules of the Senate and House* 1883, 31). Moreover, in a subsequent listing of Pennsylvania Senate parliamentary precedents only Reyburn's ruling on counting paired votes as contributing to a quorum was noted (*Smull's Legislative Hand Book, and Manual of the State of Pennsylvania* 1889, 578).

What impact did Speaker Reed's well publicized ruling have on subsequent behavior in American legislatures? First, it is important to note that when Democrats retook control of the U.S. House in 1893 they did not adopt Reed's quorum counting rule. The former speaker spent the next two years seeking to goad the Democrats into accepting his earlier decisions on limiting the minority party's ability to obstruct the majority, eventually nudging them most of the way in that direction. When the GOP retook control of the House in 1895 they fully reinstated Reed's ruling on counting a quorum (Grant 2011, 316-27).

The ruling's influence on state legislatures was, at best, mixed. In a few states it was referenced and implemented. In the Iowa Senate the presiding officer specifically cited Reed's decision "in counting a sufficient number of Democrats 'present and not voting' to constitute a quorum," something his House counterpart also did in 1896 (Upham 1919a, 56; 1919b 257). An analysis of the rules of the Michigan House in 1905 revealed that Reed's precedent had been adopted in 1893 "and its efficacy in restraining filibustering is unquestioned" (*Michigan Official Directory and Legislative Manual for the Years 1905-1906* 1905, 108). But elsewhere the disappearing quorum lived on, with

Democrats refusing to vote on judicial nominations in Rhode Island (*New York Times* 1891a), and Republicans joining with "free silver and gold" Democrats to prevent Kentucky from electing a U.S. Senator in 1897 (*New York Times* 1897a; 1897b). In 1907, the lieutenant governor acting as president of the Wisconsin Senate explicitly refused to recognize the Reed rule, getting around the problem by invoking a chamber rule directing senators who were present to vote (*Senate Manual Wisconsin*, 1913, 11). But improving legislative attendance patterns and more cohesive majority parties made disappearing quorums less viable. Additionally, legislative chambers adopted rules explicitly prohibiting the practice. In the Washington House, for example, rule 10 in 1897 held "For the purpose of determining whether a quorum be present, the speaker . . . shall count all members present, whether voting or not" (*House Journal of the Fifth Legislature of the State of Washington, Begun and Held at Olympia, the State Capital, January 11, 1897* 1897, 117). These developments collectively caused the disappearing quorum to eventually disappear.

Bolting Quorums

In contrast to a disappearing quorum, a bolting quorum is when a sufficient number of lawmakers exit the chamber, a city, a state, or even in one instance allegedly the country, in order to prevent the requisite number from being present to conduct business. The rationale for bolting is straightforward. As a Louisiana senator argued during a debate over exploiting the quorum in that chamber, "The rules of a deliberative body are the only means by which the minority can hope for full protection against the attacks of the majority." The opposing side was

taken by another Louisiana senator who noted that under the previous argument "a factious minority might at any time break a quorum and prevent the passage of a bill to which they might be opposed. This would be putting the majority completely in the power of the minority" (*Legislature of the State of Louisiana* 1853, 133-34). Given their drama and visibility it is bolting quorums that draw public attention to arcane quorum standards. As documented in table 3, there is a long tradition of bolts in American history.

(Table 3 about here)

The first bolting quorum of note in the national era occurred in the unicameral Pennsylvania General Assembly in 1787. The legislature operated under a constitutional mandate of a two-thirds quorum, leaving it susceptible to abuse. During the morning session on Friday, September 28 on a vote of 43 to 19 the Assembly passed a resolution to create a convention to consider ratification of the newly written federal constitution. When the afternoon session convened a roll call revealed it was short of a quorum with 19 members missing. Of those missing, 18 had been on the losing side in the morning, members we can take to be anti-federalists attempting to slowdown the rush to ratify. The "Serjeant at Arms" was sent to retrieve the members and finding them gathered at a boarding house, learned that they refused to attend the session. In light of this information, the General Assembly adjourned for the day. The next morning a quorum again failed to materialize and again the Serjeant at Arms was dispatched to round up the missing members, joined this time by the assistant clerk. They found some of the absentees walking the streets, while others managed to avoid them. In their most important report, the assistant clerk told the chamber that at the "house of Major *Alexander Boyd*" he saw "Mr. *M^{c}Calmont* and Mr. *Miley*." After informing them of his responsibility to bring them to the chamber, the assistant clerk stated that like the other bolters, "they answered, they would not

attend" (*Minutes of the Third Session of the Eleventh General Assembly of the Commonwealth of Pennsylvania* 1787, 244).

This particular episode is of interest because after a long paragraph detailing the various failed attempts to get the bolters to attend, the journal's next entry is a benign statement that "Mr. *M^{c}Calmont* and Mr. *Miley* appeared in the Assembly-Chamber, and there being a quorum, the House resumed consideration of the remainder of the motion postponed yesterday" (*Minutes of the Third Session of the Eleventh General Assembly of the Commonwealth of Pennsylvania* 1787, 245). The mysterious appearance of the two bolters is explained in a letter written by the anti-federalists that appeared in Philadelphia newspapers a few days after the incident. Signed by 16 bolters, the letter listed their objections to the controversial resolution and then went on to claim,

> Thus circumstanced and thus influenced, we determined the next morning, again to absent ourselves from the House, when James M^{c}Calmont, Esquire, a member from Franklin, and Jacob Miley, Esquire, a member from Dauphin, were seized by a number of citizens of Philadelphia, who had collected together for that purpose, their lodgings were violently broken open, their clothes torn, and after much abuse and insult, were forcibly dragged through the streets of Philadelphia to the state house, and there detained by force . . ." (*Independent Gazetteer* 1787; *Pennsylvania Herald, and General Advertiser* 1787).

Thus, with a quorum present only through the use of force, the majority was able to proceed to complete the work necessary to pass the resolutions for the ratification convention.

Quorums continued to be occasionally abused during the first half of the nineteenth century. Perhaps most notoriously, in 1840, a young Whig member of the Illinois House,

Abraham Lincoln, jumped out of a window in Springfield's Second Presbyterian Church, which was being used because the new capitol had yet to be finished, in a futile effort to deny the majority Democrats a quorum (Simon 1971, 228). Lincoln's particular quorum breaking tactic was not altogether unusual. A Texas legislative journal in 1856 noted that during a squabble over a broken quorum in the House, "the Sergeant-at-arms was dispatched after Mr. Dancy, who made his escape through the window" while in the Louisiana House there was a move to expel two members "for their conduct in scaling the railing and breaking a quorum" (*Journal of the House of Representatives of the State of Louisiana* 1864, 223; *State Gazette Appendix, Containing Official Reports of Debates and Proceedings of the Sixth Legislature of the State of Texas* 1856, 220). Nor was Lincoln the only future president to engage in such shenanigans. In 1841, his successor in the White House, Andrew Johnson, then a Democratic member of the Tennessee Senate, was one of the "immortal thirteen" who blocked a quorum in the legislature's joint session to elect the state's two U.S. senators. The Democrats' successful efforts prevented the state from being represented in the U.S. Senate for two years and kept the state legislature from passing any legislation of note during the entire legislative session (Graf and Haskins 1967, 35).

As documented in table 3, bolting became more common as the nineteenth century progressed. This could be an artifact of the increased reporting of these incidents, but it is probably the case that as parties became more institutionalized and more cohesive the option to bolt became, under certain circumstances, more appealing. In any event, since the mid-point of the nineteenth century there have been a number of notable bolts, with a significant proportion of them taking place in legislatures operating under two-thirds quorums (signified in table 3 by the state being given in bold), particularly in Indiana and Tennessee.

An examination of nineteenth century politics in Indiana observed, "A 'bolt' is not an uncommon thing." This was because the two-thirds standard allowed, "a minority of more than one-thirds to put a veto upon any specially obnoxious measure by running away, and thus stopping all legislation" (Foulke 1899, 110-11). How common was bolting in Indiana? During an 1867 debate over a measure to inhibit bolting, one lawmaker said in reference to opponents of the bill, "Who was it that broke a quorum in 1855? Who was it—time and again—in 1857? Who was it that broke a quorum in 1859? Who was it who broke a quorum in 1858 and 1861?" (*Brevier Legislative Reports, Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana, Convened in Regular Session on the Tenth Day of January, 1867* 1867, 169. This legislator conveniently failed to mention his own party's bolt in 1863. Indeed, breaking quorum in Indiana was so frequent that lawmakers sometimes took it with humor. During a bolt in 1861, the legislative records reported the following discussion in the Senate:

> The PRESIDENT. I would ask if the Doorkeeper found the absentees?
>
> The Assistant Doorkeeper. (From the Doorkeeper's chair at the door.) I saw them pretty nearly all in a batch, and the answer was "Tell them to go to hell."
>
> Mr. WHITE. I move that we don't do that.
>
> The motion was agreed to (*Brevier Legislative Reports, Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana, Convened in Regular Session on the 10th Day of January, 1861* 1861, 346).

After debating possible solutions to the quorum breaking problem for several years, Indiana legislators passed a measure, referred to as the "bolting bill," designed to do so in 1867. The bill was broad in scope, directed against both bolting and disappearing quorums,

> That whenever it shall happen that a quorum shall not be present, or voting, in the Senate or the House of Representatives of the State of Indiana, by reason of the wilful, or intentional absence of any member of the same, or of their refusing to vote, or to answer to their names on any vote or roll call, any member of the General Assembly so refusing to vote, to be present, or to answer to his name, with the intent to defeat, delay, or obstruct legislation, or legislative action, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined one thousand dollars.

Giving teeth to the measure was its second section that gave original jurisdiction over all offenses arising under the law to the Marion Criminal Circuit Court (*Laws of the State of Indiana, Passed at the Forty-Fifth Regular Session of the General Assembly, Begun on the Tenth Day of January, A.D. 1867* 1867, 131). Not surprisingly, Democrats, who were in the minority, opposed the measure, with one promising ominously that if the bill passed, "Under no circumstances will I ever bolt or break a quorum. If measures are introduced here, which I think are intended to override all reason, I will at once hand to the Governor my resignation" (*Brevier Legislative Reports, Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana, Convened in Regular Session on the Tenth Day of January, 1867* 1867, 167).

That threat came to pass in 1869, in both chambers. As the regular session came to a close both houses were set to take up ratification of the Fifteenth Amendment to the U.S. Constitution. Democrats opposed the measure and they conspired to break the quorum in both chambers. Thus, on March 4, 37 representatives and 17 senators submitted their resignations to the governor. That same day the governor scheduled special elections for March 23 to fill the vacant seats (*Journal of the House of Representatives of the State of Indiana During the Forty-Sixth Regular Session of the General Assembly, Commencing Thursday, January 7, 1869* 1869, 893; *Journal of the Senate of the State of Indiana During the Forty-Sixth Session of the General Assembly, Commencing Thursday, January 7, 1869* 1869, 685-86). Not all of the Democrats in the General Assembly resigned; 3 senators and 6 representatives claimed that their colleagues asked them to remain in the chamber to look after their party's interests. Republicans charged that they did not resign because they feared they would not be reelected. When the special elections were held all of the Democrats were returned with many of them facing no opposition (*Fort Wayne Daily Gazette* 1869; Gerichs 1913, 139-49; *New York Times* 1869).

The abrupt close of the regular session forced by the resignations put the state in a difficult position because the legislature had failed to pass the bills necessary to fund the government. This omission prompted the governor to call a special session. In his address to the reassembled legislature the governor began by noting that 3 times in the previous 12 years a bolt had ended the legislative session before the appropriations bills had passed (*Journal of the Indiana Senate During the Special Session of the Forty-Sixth Session of the General Assembly, Commencing Thursday, April 8, 1869* 1869, 39-40). During the special session the appropriations bills were taken up first, and once they were well on their way to being finished the Democrats decided to again resign to block a quorum in each chamber, thereby preventing

any vote on ratification of the Fifteenth Amendment. Thus 16 senators and 41 representatives submitted their resignations. But this time the Democrats made two mistakes. First, while the senators turned in their resignations to the governor's office, they did not make sure that information was transmitted expeditiously to the Senate. Second, a number of the senators who thought they had resigned went to the Senate chamber to see the reaction to their decision. The Republican leadership took advantage of both errors; refusing to take cognizance of the resignations without proper notification from the governor and then counting the supposedly resigned senators in attendance for the purpose of determining the presence of a quorum. When the Democrats shouted that they had resigned and could not be counted, the Republicans countered that only senators were allowed to speak on the floor, therefore their colleagues must still be members of the body. The final vote on ratification showed 27 in favor, 1 opposed, and 10 "present but declined voting" (*Brevier Legislative Reports: Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana Special Session of 1869* 1869, 222-25; Gerichs 1913, 154-55; *Journal of the Indiana Senate During the Special Session of the Forty-Sixth Session of the General Assembly, Commencing Thursday, April 8, 1869* 1869, 475-76). The situation in the House, where the resignations were acknowledged, was solved by a novel parliamentary ruling, the speaker holding that the two-thirds quorum requirement applied only to passing legislation, not ratifying constitutional amendments. Thus, the House ratified the Fifteenth Amendment with far fewer than a quorum in attendance (*Brevier Legislative Reports: Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana Special Session of 1869* 1869, 239-45).

Appeals of these actions were made to the judicial system, although the case that reached the state supreme court was focused on an appropriations measure, not on the ratification vote.

The representatives who resigned did so after the House had passed the appropriations bill and sent it on to the Senate. Under the same circumstances in the two chambers as with the ratification vote, the Senate amended the appropriations bill and returned it to the House, which concurred in the amendments. A challenge to this process was taken to the state supreme court. In *Evans, Auditor of State v. Browne*, the court held that where a statue was signed by the presiding officer of each house, the court would take the signatures as sufficient evidence that appropriate procedures had been followed (*Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana, with Tables of the Cases and Principal Matters* 1869, 514-27). In any event, as appalled as Indiana Republicans said they were by the Democrats' resignations, two years later they were willing to pursue the same tactic to block a quorum on what they said was an objectionable redistricting plan.

Like Indiana, Tennessee has also witnessed a number of bolting quorums. Indeed, the Tennessee House was actually the first body to suffer from a mass resignation to block a quorum. In 1866, initial attempts by Conservative Republicans to prevent a vote on a restrictive voter franchise bill pushed by the majority Radical Republicans centered on the use of the disappearing quorum. Because of this behavior the temperature in the chamber grew so heated that at one point the speaker threw his gavel ("the hammer") at an obstreperous representative (*New York Times* 1866a). Eventually, 21 Conservative Republicans opted to resign to prevent a quorum and block a vote on the measure. The governor then quickly scheduled special elections to fill the vacant seats and almost all of the representatives who had resigned were returned to office. A few weeks later a quorum was again attained when the reelected and new members were sworn in and both chambers passed the franchise bill (Fertig 1898, 74-75).

The Tennessee legislature next met a few months later in a special session to take up ratification of the Fourteenth Amendment to the U.S. Constitution. The session was called for July 4, but many members dawdled in getting to the capital, probably because they opposed the measure and wanted to impede it. The Senate finally got a quorum and ratified the amendment on July 11. The House, however, did not get a quorum until July 19. As early as July 11 the speaker issued warrants for the arrest of absent members. On July 16, one absent representative was arrested at his home and brought to the capitol and held there under guard. Another representative was arrested and brought to the House floor two days later. The two arrested members provided a sufficient number for a quorum. But on the day of the second arrest the first arrested member was granted a writ of *habeas corpus* by a local judge. The House, however, refused to accept the writ and to hand over the member. Instead, the two arrested members were kept in a committee room near the floor. They refused an invitation to attend the session being held in the chamber. The speaker ruled that without their presence on the floor there was no quorum. But his decision was appealed and overturned. The House then ratified the amendment on a vote of 43 in favor, 11 opposed, and 2 refusing to vote, meeting the necessary quorum (Fertig 1898, 78; *New York Times* 1866b; 1866c; 1866d). The drama, however, did not end with ratification. The next year the legislature, still controlled by Radical Republicans, voted to impeach and convict the judge who had issued the writ, removing him from office (*Proceedings of the High Court of Impeachment, in the Case of the People of the State of Tennessee, vs. Thomas N. Frazier, Judge, Etc*. 1867). His banishment, however, did not last long. Under the provisions of the Tennessee Constitution of 1870 the judge was allowed to serve again and he was immediately returned to the bench by the voters (Fertig 1898, 79).

As documented in table 3, Tennessee continued to suffer from bolting quorums over the next several decades. As noted earlier, in 1885, after an attempt pursue a disappearing quorum was rebuffed, Republican senators bolted at the end of the regular session to block a voter registration bill and their House counterparts did likewise at the end of the subsequent special session for the same reason. Tennessee lawmakers bolted again in 1909, 1911, 1913 and 1920. Oregon also suffered from several bolts, with lawmakers leaving to block a quorum in 1860, 1885, 1897, 1971 and 2001. After the mass resignations in 1871, Indiana suffered bolts in 1915, 1925, 1951, 1975, 1991, 1995, 2001, 2004, 2005, 2006, 2008, 2011, and 2012. Indiana, Oregon, Tennessee, and Texas (with notable bolts in 1870, 1979, and 2003) are, of course, states that have always had a two-thirds quorum standard in place, giving the minority party greater leverage. Not surprisingly, of the 52 notable bolts listed, 42, or 81 percent, occurred in legislatures with a two-thirds quorum.

Curiously, however, there have been three episodes of majority party lawmakers bolting to prevent a quorum. In 1886, majority Democrats in the Ohio Senate fled to preempt a parliamentary ruling on four contested election case in the GOP's favor by the Republican lieutenant governor. The bolters fled to Michigan, Kentucky, Tennessee and, allegedly, Canada (*Hocking Sentinel* 1886; *Journal of the Senate of the State of Ohio, for the Regular Session of the Sixty-Seventh General Assembly, Commencing on Monday, January 4, 1886* 1886, 515-19; *New York Times* 1886, *Sun* 1886a; 1886b). Perhaps more notoriously, in 1924, a dispute in the Rhode Island Senate between the minority Democrats and the majority Republicans over the former's attempt to call for a constitutional convention led to an all night session. Tensions ran so high that the Democratic lieutenant governor feared to vacate his seat as the presiding officer because it might give the Republicans a chance to commandeer the floor. Consequently, as the battle

dragged on into the morning hours he summoned a barber to the podium to give him a shave so he would not have to leave his chair. GOP senators were desperate to end the session but they could not get recognized by the lieutenant governor to do so. The meeting was finally brought to an abrupt conclusion when gas fumes generated by a lit saturated newspaper—characterized in the press as a "gas bomb"—filled the chamber. Save for one member the Republicans, who alleged that the Democrats had packed the public gallery with "well-known thugs" to intimidate them, fled to Rutland, Massachusetts where they were beyond the Senate's legal reach. They stayed there for the rest of the legislative session, almost six months. Democrats were prevented from pursuing their policy agenda because the remaining GOP senator was available to raise a parliamentary point of order that a quorum was not present (Hubbard 1924; *New York Times* 1924a; 1925a). The final and most recent example occurred in 1999, when Democrats in the majority in the Alabama Senate broke quorum for eight days during a struggle over the powers accorded to the Republican lieutenant governor as the body's president (Squire and Moncrief 2010, 127-31). There was almost a fourth example. Republicans in the California Assembly thought they had a majority following the 1994 elections, but one of their members switched his affiliation to independent, depriving his former colleagues of the necessary number and throwing the chamber into a month long battle over the speakership. The remaining 40 Assembly Republicans initially responded to their changed circumstances by boycotting several legislative sessions, preventing a quorum.

Finally, it is worth noting that on rare occasion it is not the machinations of a party that leads to a broken quorum, but rather the designs of a lobbyist. On March 21, 1901, the Texas House of Representatives was scheduled to take up the Galveston Commission bill. A former secretary of state, D. H. Hardy, wanted to defeat the measure. He seized on the appearance of a

traveling opera, advertised as the "very best of its kind—comic opera—that ever came to this State;" securing tickets for a large number of representatives and cajoling the manager of the theater to refuse entry to the sergeant-at-arms when he showed up to retrieve the errant lawmakers. In its investigation of the incident a special legislative committee concluded in breaking quorum "That no member of this House was guilty of any conduct unbecoming a gentleman and a Representative of Texas." Instead, they found "that D. H. Hardy was desirous that the House have no session on the said night" (*Journal of the House of Representatives of Texas, Being the Regular Session of the Twenty-Seventh Legislature, Convened at the City of Austin, January 8, 1901* 1901, 939).

Is any political price paid for bolting? No doubt bolters who leave the capitol are selective in deciding where to flee, picking places where if discovered they will not be forcibly returned. Not surprisingly then, residents of the areas to which they have fled have welcomed them with open arms. The Indiana senators who took off to Covington, Kentucky in 1886 had local politicians there "helping to make their exile pleasant. They were given an excursion . . . along the Kentucky shore of the [Ohio] river on the towboat Alexander Montgomery, and . . . carriages were provided and they were driven over some of the sightly roads upon the bluffs" (*New York Times* 1886). The Tennessee senators who bolted to Hopkinsville, Kentucky in 1909 were reported to be "getting along pleasantly" and "making many acquaintances in the city" (*Hopkinsville Kentuckian* 1909b). When Tennessee House members bolted to Decatur, Alabama 11 years later, the fleeing representatives were invited to "spend their 'exile'" in Montgomery, and the citizens in Athens, Alabama were said to be "prepared to throw open their homes to them for as long as necessary for them to remain away from Tennessee to break a quorum" (*New York Times* 1920b). The Rhode Island Republican senators who stayed in "healthful and picturesque"

Rutland, Massachusetts for almost six months in 1925 were "copiously guarded at their comfortable hotel by a force of 'constables'" (*New York Times* 1924b).

There also is no evidence that the voters back home mind the bolters' actions. According to a news report, when the Tennessee senators who had left the state returned in 1909, "The runaways received a rousing reception when they stepped from their train, and were escorted to the Capitol by their friends" (*New York Times* 1909). Even more impressively, as noted earlier, almost all of the Tennessee representatives who resigned in 1866 were immediately returned to office by their voters as were all of the Indiana senators and representatives who resigned three years later. Much more recently, of the eight Wisconsin Democratic senators who were targeted for recall in 2011 because they had bolted, only three were actually forced to a ballot, and all of them survived their elections quite comfortably. When given the opportunity, the voters do not choose to punish bolters.

Finally, it appears that non-bolting lawmakers almost never follow through with promised punishments. Republican senators in Indiana sought indictments of their Democratic colleagues who fled in 1925, seeking penalties of $1,000 for their actions (*New York Times* 1925b). But, when GOP leaders promised not to press the redistricting bill that had triggered the bolt, the absent senators agreed to return and were granted amnesty (*Post-Democrat* 1925). Similarly, Texas senators who left the state in 2003 were threatened with fines and had their cell phones and parking privileges taken away. But when they returned all was forgiven and their lost privileges and phones returned (Squire and Moncrief 2010 180). In Indiana, however, it appears that on occasion, bolters have lost their per diems and pro-rated salary. It seems likely that punishments are rescinded or softened for two reasons. First, there is apt to be a desire among the majority to promote comity in an obviously fractured institution. Second, those who

did not break the quorum may wish to reserve the right to do so without having to pay a price in the future.

Conclusions

Both the use and abuse of quorum rules have long and illustrious histories in the American experience. The first quorum standard was put in place before the English House of Commons established one. Eventually Massachusetts adopted the House of Commons standard, but the other colonial assemblies developed their own rules to meet the changing realities of their particular situations. But even going back to at least 1689 lawmakers understood the strategic opportunities offered by quorum rules and how they could be exploited for partisan purposes.

Quorum standards were later enshrined in state constitutions. Over time, the vast majority of states came to set a majority quorum with the right to compel the attendance of absent members. Those that opted for a more stringent two-thirds standard set themselves up for more frequent episodes of legislative mischief.

In general, American legislators have taken two approaches to breaking quorums. Disappearing quorums were in vogue in the nineteenth century. Because they were relatively costless to invoke, it was rational to deploy them on any measure. Thus, the precedents against them cited in table 2 were more often than not triggered by votes on seemingly minor bills. Eventually, parliamentary rulings, chamber rules, more cohesive majority parties, and majority quorum standards supported by better attendance made disappearing quorums unlikely to succeed.

In contrast to disappearing quorums, bolting quorums are generally more costly to pursue, with both a need for highly coordinated action to remove a sufficient number of lawmakers from the floor and, in many cases, to locate a place to secret them away from those sent to find them and bring them back to the chamber. Under most circumstances, bolting quorums are only an option for legislators operating under two-thirds quorums. As demonstrated in table 3, bolts are usually reserved for opposition to very high profile measures, and they disproportionally involve redistricting bills, ratification of constitutional amendments, and contested elections.

There is one final observation to offer. Legislators from all parties have exploited quorum rules when, given the opportunity, it has suited their purposes. Indeed, there is remarkable uniformity to the roles played by each side in these disputes. Those breaking the quorum always center their defense on the need to protect the minority from majority tyranny. In turn, the majority always blasts those breaking quorums for their "revolutionary" actions. Importantly, the parties making these charges are, over time, interchangeable. Legislative rules may not exist to be broken, but they do present irresistible opportunities for exploitation by all involved in the process.

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Table 1. State Constitutional Quorum Provisions, 1776 to the Present

<table>
<tr><th>None Specified</th><th>Less than a Majority</th><th>Majority</th><th>Super Majority</th></tr>
<tr><td rowspan="4">DE (1776-1792);
NH (House, 1776-1784);
VA (House: 1776-1830)</td><td rowspan="4">GA (1/3: 1789-1798);
MA (16 senators, 60 representatives: 1780-1857; 16 senators, 100 representatives, 1857-1891);
SC (49 representatives: 1776-1778; 69 representatives 1778-1790)</td><td>Without explicit power to compel attendance</td><td rowspan="4">AR (2/3: 1836, 1861, 1864-1868);
IL (2/3: 1818, 1848-1870);
IN (2/3: 1816, 1851-);
NY (2/3: 1874, 1894, 1938-[d]);
OH (2/3: 1802-1851);
OR (2/3: 1857-);
PA (2/3: 1776-1790);
TN (2/3: 1796, 1835, 1870-);
TX (2/3: 1845; 1861, 1866, 1869, 1876-);
VT (2/3: 1786, 1793-[d]);
WI (2/3: 1848-[d])</td></tr>
<tr><td>GA (1777-1789); IL (1870, 1970-); KS (1859-); MD (1776-1851); NE (1875, 1934-); NH (Senate: 1776-1784, both houses 1784-[b]); NJ (1776-1844[c]); NY (1777, 1821, 1846-1874; 1874, 1894, 1938-[d]); NC (1776, 1868, 1971-); SC (Council: 1776-1778; Senate 1778-1790); VT (1786, 1793-[d]); VA (Senate: 1776-1830)</td></tr>
<tr><td>With explicit power to compel attendance</td></tr>
<tr><td>AL (1819, 1861, 1865, 1868, 1875, 1901-); AK (1956-); AZ (1911-); AR (1868, 1874-); CA (1849, 1878-); CO (1876-); CT (1818, 1965); DE (1792, 1831, 1897-); FL (1838, 1861, 1865, 1868, 1885, 1968); GA (1798, 1861, 1865, 1868, 1877, 1945, 1976, 1982-); HI (1950-[a]); ID (1889-); IA (1846, 1857-); KY (1792, 1798, 1850, 1891); LA (1812, 1845, 1852, 1861, 1864, 1868, 1879, 1898, 1913, 1921, 1974-); ME (1819-); MD (1851, 1864, 1867-); MA</td></tr>
</table>

		(1891-); MI (1835, 1850, 1908, 1963-); MN (1857-); MS (1817, 1832, 1869, 1890-); MO (1820, 1865, 1875, 1945-); MT (1889, 1972-);NE (1866-1875); NV (1864-); NJ (1844, 1947-); NM (1911-); ND (1889-); OH (1851-); OK (1907-); PA (1790, 1838, 1874, 1968-); RI (1843, 1986-); SC (1790, 1861, 1865, 1895-); SD (1889-); UT (1895-); VA (1830, 1851, 1864, 1870, 1901, 1971-[e]); WA 1889-[e]); WV (1863, 1872-); WI (1848-[d]); WY (1889-)	

Source: state constitutions and amendments.

a. Hawaii requires a constitutional majority on all final votes.

b. New Hampshire requires that when less than two-thirds are present votes on final passage require two-thirds of those present.

c. New Jersey set a majority as a quorum in the upper house, but required a majority of members in both chambers to vote in favor on final passage of any measure.

d. New York and Wisconsin require two-thirds quorums on budget measures. Vermont requires two-thirds to be present to raise a state tax.

e. Explicit lower quorum standard in event of enemy attack.

Table 2. Notable Parliamentary Rulings against Disappearing Quorums

Year	Chamber	Ruling
1846	Ohio House	Speaker Drake: "Whereupon the Speaker declared that a quorum had not voted; that forty-seven members had voted, and that Messrs. Higgins and Vallandigham were not of the number; but that there was a quorum present within the bar, and a majority having voted in the affirmative, the bill was passed."
1874	Massachusetts House	Speaker Sanford: "It is not necessary to the valid decision of a question that 100 members actually *vote*, if the requisite number are present. . . . But if a quorum of the House is ascertained to have been present when a vote was taken, the decision is valid . . ."
1883	New York Senate	Lt. Governor Hill (as President): "The question as to how many voted, in addition to a majority, is wholly immaterial so long as three-fifths are present. Their presence is not to be determined solely and only by the ayes and nays."
1883	Pennsylvania Senate	President Pro Tempore Reyburn: "with the twenty-three Senators voting, the two Senators recorded as present and paired, and the records on the question, a quorum was present . . ."
1884	Ohio House	Speaker Pro Tem Brunner: "decided that a quorum was present, and that a majority of a quorum having voted in favor of Mr. Bargar's motion, it was agreed to . . ."
1885	Massachusetts Senate	President Pillsbury: "It is immaterial that a quorum does not vote, if a quorum is present."
1885	Tennessee House	Speaker Manson: "The Speaker decided that the bill passed the third reading by the following vote: Ayes 54 Noes 6. . . . The Speaker directed the Clerk to record on the Journal as present and not voting [names of 30 delegates]."
1890	U.S. House	Speaker Reed: "Inasmuch as the Constitution provides for their attendance only, that attendance is enough. If more was needed the Constitution would have provided for more."

Source: *Hinds' Precedents of the House of Representatives of the United States*, vol. IV 1907, 67; *House Journal of the Forty-Fourth General Assembly of the State of Tennessee, Which Convened at Nashville, on the First Monday in January, A. D. 1885* 1885, 566; *Journal of the House of Representatives of the Commonwealth of Massachusetts* 1874, 584; *Journal of the Senate for the Year 1885* 1885, 584; *Journal of the House of Representatives of the State of Ohio; Being the First Session of the Forty-Fourth General Assembly, Held in the City of Columbus, Commencing on Monday, December 1, 1845* 1846, 216; *Journal of the House of Representatives, of the State of Ohio, for the Regular Session of the Sixty-Sixth General Assembly, Commencing Monday, January 7th, 1884* 1884, 140-41; *Journal of the Senate of the Commonwealth of Pennsylvania, for the Extraordinary Session Begun at Harrisburg, on the 7th Day of June, 1883* 1883, 146; *Journal of the Senate of the State of New York: at their One Hundred and Sixth Session* 1883, 363.

Table 3. Notable Bolting Quorums

Year	State and Chamber (two-thirds rules in bold)	Bolting Party and Issue	Special Notes
1787	**Pennsylvania** General Assembly	Anti-Federalists, creation of convention to ratify U.S. Constitution	2 Anti-Federalists were dragged from their boarding house to the state house to make a quorum.
1855	**Indiana** House	Democrats, 2 banking bills	
1855	**Indiana** Senate		
1857	**Indiana** House	Republicans, elections to fill state offices	On repeated votes, news account reported "No quorum. Republicans had bolted."
1859	**Illinois** House	Republicans, apportionment bill	Reportedly, the Republicans "have all gone home."
1859	Iowa House	Democrats, voter registration bill	Democrats bolted to break quorum and thereby defeat bill.
1860	**Oregon** Senate	Breckenridge Democrats, election of U.S. senators	6 Breckenridge Democrats fled, 5 of them spent 11 days in a barn near Salem. The other bolter was arrested but escaped custody.
1861	**Indiana** Senate	Democrats, redistricting and state militia bills	House Republicans tried to bolt to block militia bill, but two bolters wandered back to watch proceedings and were counted as present, providing a quorum.
1863	**Indiana** Senate	Republicans, bill to weaken governor's power over state militia	Republicans fled to Madison, Indiana, over Ohio River from Kentucky, were accused of being on a "big drunk."
1866	**Tennessee** House	Conservative Republicans opposed to Radical Republicans' restrictive franchise bill	21 Conservative Republicans resigned seats to obstruct a quorum. Most were reelected in special elections.
1866	**Tennessee** House	Conservative Republicans opposed to ratification of 14th Amendment to U.S. Constitution	7 Conservative Republicans bolted to prevent House from voting on ratifying the 14th Amendment. 2 bolters were arrested and brought to capitol to make quorum.
1869	**Indiana** Senate	Democrats, opposed to ratification of 15th Amendment to U.S. Constitution	17 Senate Democrats resigned to block a quorum. All were returned to office in subsequent special election.
1869	**Indiana** House	Democrats opposed to ratification of 15th Amendment to U.S. Constitution	37 House Democrats resigned to block a quorum. All were returned to office in the subsequent special election.

1870	**Texas** Senate	13 Democrats, militia bill	13 Democratic senators left the floor and barricaded themselves in a committee room. All were arrested, four released to make quorum, and the others listed as "Under arrest and not voting" for several weeks.
1871	**Indiana** House	Republicans, redistricting bill	34 Republican House members resigned to block a redistricting bill.
1872	Louisiana Senate	Court-house Republicans and Democrats, election of lt. governor	Bolting senators initially hid in a room in the U.S. Custom-House. They then took refuge on the revenue cutter *Wilderness* plying the Mississippi River for about a week. Once cutter was ordered back to shore bolters lived in tents in Bay St. Louis, Mississippi.
1885	**Oregon** House and Senate	Democrats, joint session to elect U.S. senator	A news report stated, "All the Democratic seats were vacant. Nearly all the Democrats left by an early morning train."
1885	**Tennessee** Senate	Republicans, voter registration law	12 Republicans broke a quorum at the end of the regular session to block a voter registration bill.
1885	**Tennessee** House	Republicans, voter registration law	All but 5 Republicans broke a quorum by leaving the chamber at the end of the special session to block a voter registration bill.
1886	Ohio Senate	Democrats, 4 contested state senate election cases	Majority Democrats bolted to preempt parliamentary ruling in GOP favor by Republican Lt. Governor. Bolters fled to Michigan, Kentucky, Tennessee and, allegedly, Canada.
1890	Montana Senate	Democrats, contested election results	6 Democrats fled to Portland, Oregon to break a quorum in protest of parliamentary ruling.
1891	Florida Senate	Anti-Call Democrats, U.S. Senate election	17 Anti-Call Democrats fled to Georgia in attempt to prevent a quorum in a joint session to elect a U.S. senator.
1897	**Oregon** House	Populists and Republicans, U.S. Senate election	House failed to organize, leaving the Senate unable to conduct any legislative business for the entire session.
1909	**Tennessee** House	Democrats, election bills	13 Democrats fled to Hopkinsville, Kentucky
1909	**Wisconsin** Assembly	Democrats and Social Democrats, U.S. Senate election	All Democrats, save for one, and all Social Democrats bolted for several days to prevent vote on U.S. senator.

1911	**Tennessee** House	Democrats and Republicans, election and prohibition bills	Independent Democrats and Republicans fled to Decatur, Alabama and stayed away for a month.
1911	West Virginia Senate	Republicans, U.S. Senate election	15 senators fled to Cincinnati, Ohio.
1913	**Tennessee** House	Republicans, state elections bill	Republicans allied with independent Democrats fled to Murfreesboro, Tennessee and Florence, Alabama. One bolter armed with a six shooter threatened to "kill the first man who attempted to force his way" into Pullman car in which four lawmakers were fleeing.
1915	**Indiana** House	Republicans, bill to increase power of Indianapolis mayor	Bolters fled to private club, then to a hotel. When found they vowed they would never be "taken alive."
1920	**Tennessee** House	Democrats and Republicans opposed to 19th Amendment to U.S. Constitution	27 Democrats and 10 Republicans bolted, most to Decatur, Alabama to prevent ratification of the 19th Amendment.
1924	Rhode Island Senate	Republicans, call for constitutional convention	22 majority Republicans fled to Rutland, Massachusetts to avoid Democratic Lt. Governor's attempt to force vote on call for constitutional convention.
1925	**Indiana** Senate	Democrats, redistricting bill	18 Democrats fled to Dayton, Ohio. When the Democrats returned to Indianapolis, they were singing "When the Roll is Called Up There, I'll Be There."
1951	**Indiana** House	Democrats and insurgent Republicans, "home rule" welfare bill	31 lawmakers, mostly Democrats, walked out to break quorum. One representative was arrested in his hotel room and brought to chamber to make quorum.
1971	**Oregon** Senate	"Regular" Democrats, ratification of 26th Amendment to U.S. Constitution	14 Democrats bolted, fearing GOP parliamentary procedures would cause ratification of amendment to lose.
1975	**Indiana** House	Republicans, contested election	40 Republicans bolted after party had asked to caucus for 15 to 20 minutes. They returned the following day.
1979	**Texas** Senate	Democrats, primary elections bill favorable to Republican Governor John Connally	12 Democrats, known as the Killer Bees, bolted. 9 hid in garage apartment in Austin, one hid in the Rio Grande Valley, one fled to Oklahoma, and the last simply kept on the move.
1991	**Indiana** House	Republicans, force compromises on budget and redistricting	At least 36 Republicans left chamber to force Democrats and governor to negotiate.

1994-1995	California Assembly	Republicans, speakership election	40 Republicans stayed in hotel to prevent a quorum in dispute over speakership election. Issue was not settled for a month.
1995	**Indiana** Senate	Democrats, contested election	19 Democrats walked out to prevent a quorum for a vote on a contested election. Dispute lasted several days.
1995	**Indiana** House	Democrats, redistricting bill and proposal to reduce the size of the House by 1 seat	44 Democrats "checked out of their Indianapolis hotels and apartments, and gone back to their homes across the state."
1999	Alabama Senate	Democrats, contested vote over lt. governor's vote count on plan to accord him more power	18 majority Democrats broke quorum for 8 days in attempt to keep the GOP Lt. Governor from exercising powers traditionally accorded to office.
2001	**Indiana** House	Republicans, redistricting bill	47 Republicans stayed in committee room, blocking quorum on redistricting bill and preventing budget from being taken up. Dispute lasted two days.
2001	**Oregon** House	Democrats, redistricting bill	25 Democrats fled to the Warm Springs Reservation and broke quorum for a week to prevent the Republicans from passing a redistricting plan.
2003	**Texas** House	Democrats, redistricting bill	53 House Democrats fled to Ardmore, Oklahoma for five days, long enough to kill the measure.
2003	**Texas** Senate	Democrats, redistricting bill	11 Senate Democrats fled to Albuquerque, New Mexico for 46 days in futile effort to impede bill.
2004	**Indiana** House	Republicans, attempt to force vote on same-sex marriage ban amendment	Republicans broke quorum in attempt to force vote on same-sex marriage ban amendment.
2005	**Indiana** House	Democrats, complaints about legislative agenda	Democrats broke quorum on critical deadline day, effectively killing 132 bills.
2006	**Indiana** House	Democrats, Indianapolis Airport Authority expansion	Democrats denied breaking quorum, but stayed in caucus meeting preventing legislative business from moving forward.
2008	**Indiana** House	Republicans, ability to amend immigration bill	Republicans stayed in caucus meeting preventing legislative business from moving forward over a dispute on minority party's ability to amend legislation.
2011	**Wisconsin** Senate	Democrats, public sector union bill	14 Senate Democrats fled to Rockford, Illinois.
2011	**Indiana** House	Democrats, public sector union bill	37 House Democrats fled to Urbana, Illinois.

2012	**Indiana** House	Democrats, right to work law	Democrats prevented a quorum for several days.

Source: *Appeltons' Annual Cyclopedia and Register of Important Events of the Year 1885* 1889, 747; *Appletons' Annual Cyclopedia and Register of Important Events of the Year 1897*, 1898, 659-60; *Austin American-Statesman* 1994; *Brevier Legislative Reports, Embracing Short-Hand Sketches of the Journals and Debates of the General Assembly of the State of Indiana, Convened in Regular Session on the 10th Day of January, 1861* 1861, 343-46; Calhoun 1978, 240; Corcoran and McNeil 2005; *Daily Alta California* 1890; *Dawson's Daily Times* 1861; Fertig 1898, 77-79; *Fort Wayne Sentinel* 1857a; 1857b; 1859; Geer 1912, 399; Foulke 1899, 239; Heider and Dietz 1995, 28-29; Herriott 1907, 203; *Hopkinsville Kentuckian* 1909a; *In Assembly, Journal of Proceedings of the Forty-Ninth Session of the Wisconsin Legislature* 1909, 360-77; *Indianapolis Star* 2001; 2011*;* Journal *of the House of Representatives of the State of Indiana During the Forty-Sixth Regular Session of the General Assembly, Commencing Thursday, January 7, 1869* 1869, 893; *Journal of the House of Representatives of the Twenty-First General Assembly of the State of Illinois, at Their Regular Session, Begun and Held at Springfield, January 3, 1859* 1859, 883-88; *Journal of the House Proceedings of the Legislative Assembly of Oregon, during the First Regular Session Thereof, Begun September 10th, and Ended October 19th, 1860* 1860, 26; *Journal of the Senate of the State of Indiana During the Forty-Sixth Session of the General Assembly, Commencing Thursday, January 7, 1869* 1869, 685-86; *Journal of the Senate of the State of Ohio, for the Regular Session of the Sixty-Seventh General Assembly, Commencing on Monday, January 4, 1886* 1886, 515-19; *Kokomo Tribune* 1951; Legislative Reference Library of Texas 2004; *Los Angeles Herald* 1909; *Minutes of the Third Session of the Eleventh General Assembly of the Commonwealth of Pennsylvania, which Commenced at Philadelphia, on Tuesday, the Fourth Day of September, in the Year of Our Lord One Thousand Seven Hundred and Eighty-Seven* 1787, 244-45; Morain 1994; *Nashville Union and American* 1871; *Nation* 1872, 54; *New York Times* 1871; 1885a; 1885b; 1886; 1891b; 1909; 1911; 1920a; 1925a; 1925b; 1951; *New-York Tribune* 1913; 1920; *Proceedings of the High Court of Impeachment, in the Case of the People of the State of Tennessee, vs. Thomas N. Frazier, Judge, etc.* 1867, 5; Ruthhart 2008; *Sacramento Daily Union* 1860; Schneider 1995; *Senate Journal of the Forty-Fourth General Assembly of the State of Tennessee, Which Convened at Nashville, on the First Monday in January, A.D. 1885* 1885, 627-41; *Senate Journal of the Twelfth Legislature, State of Texas* 1870, 250-73; Simpson and Fahy 1995; Solida 2004; Squire and Moncrief 2010, 127-31, 178-80; *Sun* 1886a; 1886b; Traub 1991; U.S. House 1872, 49-52, 73-74; Walsh 1987, 189, 192, 208, 217-18, 346-48; 636-37; Walton 2006; Willis 1971.