

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	
Original Proceeding Pursuant to Article VI, Section 3 of the Constitution of the State of Colorado	
In Re: Interrogatory Propounded by Governor John Hickenlooper Concerning the Constitutionality of Certain Provisions of Article XXI, § 3 of the Constitution of the State of Colorado.	Supreme Court Case No: 2013SA 214
ORDER OF COURT	

Pursuant to Section 3 of Article VI of the Colorado Constitution, the Governor submitted an interrogatory to this Court on August 23, 2013, concerning the constitutionality of article XXI, § 3, of the Colorado Constitution. The Interrogatory propounded by Governor John Hickenlooper is:

Colorado Constitution Article XXI, § 3 requires an elector who wishes to vote for a successor candidate in a recall election to also cast a ballot on the recall issue. Is this requirement consistent with the First and Fourteenth Amendments to the United States Constitution?

We ordered that the Governor, the Attorney General, the Secretary of State, the El Paso County Clerk and Recorder, the Pueblo County Clerk and Recorder, Senator Angela Giron, Senator John Morse, the Colorado Democratic Party, the Libertarian Party of Colorado, the Republican Party of Colorado and any other interested persons be permitted to file simultaneous Briefs concerning the

Interrogatory with the Clerk of the Colorado Supreme Court. We received briefs from Secretary of State Scott Gessler; Senator Angela Giron, Senator John Morse and the Colorado Democratic Party; the Libertarian Party of Colorado and Gordon Roy Butt.

This Interrogatory presents an “important question upon solemn occasion[.]” invoking our original jurisdiction pursuant to Article VI, Section 3, of the Constitution of the State of Colorado. The Court therefore announces that it will accept the Interrogatory as propounded by Governor John Hickenlooper.

The provision in Article XXI, Section 3, of the Constitution of the State of Colorado stating that “no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office,” conflicts with the First and Fourteenth Amendments to the United States Constitution. We therefore answer the Interrogatory in the negative.

An opinion will follow.

BY THE COURT, EN BANC, AUGUST 27, 2013.

JUSTICE COATS and JUSTICE MÁRQUEZ, dissent.