

## **Former Chief Justices offer thoughts on Idaho's judicial elections**

*By Retired Chief Justices Robert E. Bakes, Gerald F. Schroeder, and Linda Copple Trout*

Over the next month, the voters in Idaho will have the opportunity to consider and vote on two judicial positions on the Idaho Supreme Court, one Court of Appeals position, and also on most of the district judge positions in the judicial district where the voter resides. One of the Supreme Court positions and a district judge position in both the 2<sup>nd</sup> and 5<sup>th</sup> judicial districts will involve an election contest, while in the remainder of the positions, the incumbent judge or candidate is running unopposed. Judicial elections are not like the typical statewide elected official or legislative elections voters are accustomed to because judicial elections are nonpartisan and are governed by a set of judicial ethics which regulate what can take place. As a matter of general background information, it's important to explain some of the ethical rules and standards which govern judicial elections.

Justices on the Idaho Supreme Court are elected in statewide elections, on a nonpartisan ballot, for a term of six years. A Supreme Court Justice or candidate for office must be a qualified elector, at least 30 years of age, who has resided in Idaho for at least two years preceding the election and been admitted to the practice of law for at least ten years. District judges are elected by the voters within the judicial district in which they will serve and are elected to a four year term. District judges must meet the same qualifications for election as Supreme Court justices and must reside in the county where their principal office is located. For the 2<sup>nd</sup> district position, that will be in Idaho County and for the 5<sup>th</sup> district position, that will be in Blaine County. These locations are established by the state legislature. Because there are only two candidates for each of the contested elections this year, those elections will be decided in the May primary election. Judicial elections are nonpartisan, they appear at the very end of the ballot, and should be voted on regardless of the voter's political affiliation.

The Canons of Judicial Ethics guide judges and judicial candidates during elections and, if violated, could result in disciplinary action being taken against the judge or judicial candidate. Canon 5 of the Idaho Code of Judicial Conduct requires that candidates for judicial office refrain from inappropriate political activity, maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary. The Idaho Code of Judicial Conduct may be found online at: <http://www.judicialcouncil.idaho.gov/code.pdf>. Candidates for judicial office should not make pledges or promises of conduct in office that commit the candidate to a position on cases that may come before the court, including making statements or answering questions in a written questionnaire that commit or appear to commit the candidate to a particular position on cases or issues that are likely to come before them. A party in a lawsuit has a right to expect the judge to remain impartial and not commit to the outcome of the lawsuit before hearing all the facts and studying the law. Application of constitutional and

legal standards may require a judge to determine a case differently from a personal philosophy or viewpoint. Campaign statements by a candidate that suggest otherwise should be avoided.

So what should voters consider in determining for whom to vote in a judicial election? Qualifications such as demeanor, wisdom, writing ability, ability to be fair and impartial, knowledge of the law and compatibility of activities outside working hours with the requirements of being a judge, are important for a well qualified judge. The Idaho State Bar Association has adopted a procedure for conducting a survey of judicial candidates' qualifications which is useful in informing the public about judicial candidates in contested elections. The Bar survey is sent to attorneys throughout Idaho asking for input based on each member's personal knowledge or professional experience with the candidates. The survey results are then made available to the public to help in making an informed decision.

These are important positions and can affect the livelihood, freedom and safety of our citizens. In the coming month, we hope the people of Idaho will keep these considerations in mind and will exercise the constitutionally protected right to vote.

*Note: Former Chief Justices Bakes, Schroeder, and Trout served a combined total of over 16 years as chief justice of the Idaho Supreme Court.*