

As a Idaho legislator and as someone who has known Justice Roger Burdick for more than 25 years, I watched with interest this week as Justice Burdick and his challenger, Judge John Bradbury, debated on IPTV television on Thursday evening.

Although this is a non-partisan election for Supreme Court positions, it nonetheless struck me as odd that Judge Bradbury repeatedly attacked the Supreme Court's ruling on public schools funding, saying it was a mistake that the court did not direct the Legislature to increase schools funding, a position mostly aligned with Idaho's Democratic Party. Judge Bradbury's argument seems to me to be an interventionist and activist interpretation (ie, get more money to the schools) of what should be the rule of law in Idaho and a clear violation of the separation of powers of our Idaho Constitution. Justice Burdick, on the other hand, was careful to explain why the court's ruling should not direct the Legislature to make any such funding. In doing so, he clearly outlined his view that the laws were within the Legislature's power to enact, but into which the courts should not intrude.

As someone who has followed the schools funding case for years, Justice Burdick's understanding wholly conforms with a conservative, originalist approach to Idaho's lawmaking power, invested by the Idaho Constitution in the Legislature, and its judicial review authority, as invested in our Supreme Court.

Under Judge Bradbury's logic, the courts would essentially assume the lawmaking power to themselves. In my view, this would be an an inappropriate role for the court and would run counter to the clear language of our Idaho Constitution.

I would also note the results of the Idaho state Bar Association poll in which Justice Burdick was ranked far higher in various measures than Judge Bradbury by more than 600 Idaho attorneys. While such polls sometimes can be misleading (as Judge Bradbury asserted in the debate), it is apparent from this poll who Idaho attorneys prefer in this contest.

As someone who has known Justice Burdick for many years, I can attest to his integrity, common sense and legal knowledge. He has proven himself on the Idaho Supreme Court and he has my support for another term.

Rep. Stephen Hartgen  
District 23 (Twin Falls and Owyhee Counties)  
Idaho House of Representatives