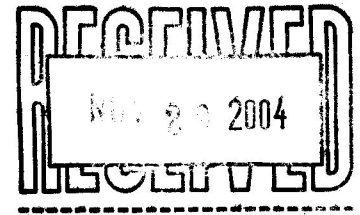


JUDICIAL ETHICS COMMITTEE
Advisory Opinion 03-4
Issued: December 5, 2003



Issue

May a Justice of the Superior Court accept an appointment to serve on the Board of Directors of the about-to-be-established Lincoln and Sagadahoc MultiCounty Jail Authority created by Chapter 228 of the Public Laws of Maine 2003?

Statement of Facts

A Justice of the Superior Court has received a request from a Lincoln County Commissioner to be allowed to place his name in nomination to serve on the Board of the Authority as the Lincoln County Commissioners designate as provided in § 1854 of Chapter 228 of P.L. of Me., 2003.

The functions of the Board are described in various places in the statute creating the Authority. Reference is made to 30-A M.R.S.A. §§ 1801 et seq. and particularly, § 1901.

Discussion

The inquiry made to the Committee leads the Committee to review Canon 4(C), Governmental, Civic or Charitable Activities. The pertinent portion of Canon 4, namely, Canon 4(C)(2) provides as follows:

A judge shall not accept appointment to any office that judges are prohibited to hold by Article VI, Section 5 of the Maine Constitution, - -

Article VI, Section 5 of the Constitution of Maine provides as follows:

No justice of the Supreme Judicial Court or any other court shall hold office under the United States or any other state, nor under this state, except as justice of the peace or as a member of the Judicial Council.

In the view of the Committee, the proposed nomination is not to the office of justice of the peace, nor as a member of the Judicial Council. It would appear to the Committee that this provision of the Maine Constitution prohibits the Justice from accepting the proposed appointment.

Conclusion

In conclusion, the Committee is of the opinion that the Superior Court Justice is prohibited by the provisions of the Maine Constitution from accepting the proposed nomination to be a Director of the Authority.