

**Sec. 1—Judicial Power, Courts, Judges**

Created in 1982,<sup>45</sup> this court has exclusive jurisdiction to hear appeals from the United States Court of Federal Claims, from the Federal Merit System Protection Board, the Court of International Trade, the Patent Office in patent and trademark cases, and in various contract and tort cases. One of those courts, the Court of International Trade, began life as the Board of General Appraisers, became the United States Customs Court in 1926, was declared an Article III court in 1956, and came to its present form and name in 1980.<sup>46</sup> Finally, the Judicial Panel on Multidistrict Litigation, staffed by federal judges from other courts, is authorized to transfer actions pending in different districts to a single district for trial.<sup>47</sup>

To facilitate the gathering of foreign intelligence information, through electronic surveillance, search and seizure, as well as other means, Congress in 1978 authorized a special court, composed of seven regular federal judges appointed by the Chief Justice, to receive applications from the United States and to issue warrants for intelligence activities.<sup>48</sup> Even greater specialization was provided by the special court created by the Ethics in Government Act;<sup>49</sup> the court was charged, upon the request of the Attorney General, with appointing an independent counsel to investigate and prosecute charges of illegality in the Executive Branch. The court also had certain supervisory powers over the independent counsel.

**Legislative Courts**

Legislative courts, so-called because they are created by Congress pursuant to its general legislative powers, have comprised a significant part of the federal judiciary.<sup>50</sup> The distinction between constitutional courts and legislative courts was first made in *American Ins. Co. v. Canter*,<sup>51</sup> which involved the question of the admiralty jurisdiction of the territorial court of Florida, the judges of

<sup>45</sup> By the Federal Courts Improvement Act of 1982, Pub. L. 97-164, 96 Stat. 37, 28 U.S.C. § 1295. Among other things, this Court assumed the appellate jurisdiction of the Court of Claims and the Court of Customs and Patent Appeals.

<sup>46</sup> Pub. L. 96-417, 94 Stat. 1727.

<sup>47</sup> 28 U.S.C. § 1407.

<sup>48</sup> Pub. L. 95-511, 92 Stat. 1788, 50 U.S.C. § 1803.

<sup>49</sup> Ethics in Government Act, Title VI, Pub. L. 95-521, 92 Stat. 1867, as amended, 28 U.S.C. §§ 591-599. The court is a "Special Division" of the United States Court of Appeals for the District of Columbia; composed of three regular federal judges, only one of whom may be from the D. C. Circuit, who are designated by the Chief Justice. 28 U.S.C. § 49. The constitutionality of the Special Division was upheld in *Morrison v. Olson*, 487 U.S. 654, 670-85 (1988). Authority for the court expired in 1999 under a sunset provision. Pub. L. 103-270, § 2, 108 Stat. 732 (1994).

<sup>50</sup> In *Freytag v. Commissioner*, 501 U.S. 868 (1991), the Court held Article I courts to be "Courts of Law" for purposes of the appointments clause. Art. II, § 2, cl. 2. See id. at 888-892 (majority opinion), and 901-914 (Justice Scalia dissenting).

<sup>51</sup> 26 U.S. (1 Pet.) 511 (1828).