

U.S. Court of Federal Claims: The People's Court

THE ROLE OF the U.S. Court of Federal Claims is integrally related to the fundamental principle of the U.S. Constitution that individuals have rights against the government. The court traces its origins directly back to 1855, when Congress established the U.S. Court of Claims to provide for the determination of private claims against the United States. The legislation was signed into law on Feb. 24, 1855, by President Franklin Pierce. Throughout the court's 150-year history, it has undergone notable changes in name, size, scope of jurisdiction, and procedures, but its purpose has remained the same: In this court the federal government stands as the defendant and may be sued by citizens seeking monetary redress. For this reason, the court has been referred to as both the "keeper of the nation's conscience" and the "People's Court."

As originally created in 1855, the Court of Federal Claims lacked the essential judicial power to render final judgments. This oversight was resolved by legislation passed in 1866, in response to President Lincoln's insistence in his Annual Message to Congress in 1861 that, "It is as much the duty of Government to render prompt judgment against itself, in favor of citizens, as it is to administer the same between private individuals."

In 1887, Congress passed the Tucker Act, by which the court's jurisdiction was significantly expanded to include all claims against the government except tort, equitable, and admiralty claims. Today the court has nationwide jurisdiction over most suits for monetary claims against the government and sits—without a jury—to determine issues of law and fact. The general jurisdiction of the court, as described in 28 U.S.C. § 1491, is over claims for just compensation for the taking of private property, refund of federal taxes, military and civilian pay and allowances, and dam-

ages for breaches of contract with the government. The court also has jurisdiction over claims for patent and copyright infringement against the United States as well as over certain suits by Indian tribes and cases transferred from the Indian Claims Commission. In 1987, the court's jurisdiction was expanded by the National Childhood Vaccine Injury Act, which created the court's Office of Special Masters to rule on petitions for compensation for injuries attributed to specified vaccines. This jurisdiction over vaccine injury cases has been enlarged in recent years to encompass claims stemming from a number of additional vaccines, including, for example, varicella, hepatitis B, and influenza.

In addition, the Court of Federal Claims has jurisdiction to hear both pre-award and post-award bid protest suits brought by disappointed bidders on government contracts. Although a provision of the Administrative Dispute Resolution Act of 1996 gave the Court of Federal Claims and U.S. district courts concurrent jurisdiction over post-award protests, subsequent legislation provided that, as of January 2001, the Court of Federal Claims would be the exclusive judicial forum for bid protest litigation.

A unique aspect of the court's jurisdiction throughout its history has been the authority to act on congressional references of legislative proposals for compensation of individual claims. As eventually codified in 28 U.S.C. § 1492, either House of Congress may refer a bill to the chief judge of the court for an investigation and a report to Congress. A judge of the court is assigned to act as the "hearing officer" and preside over the judicial proceedings; a three-judge review panel submits a report to Congress for its consideration and disposition of such claims for compensation.

Befitting its unique role, ever since its creation, the Court of Federal Claims has been located in Washington, D.C., in the vicinity of the White House or in the U.S. Capitol. The court first met in May 1855 at Willard's Hotel, as it was then called; the plaque commemorating the first meeting of the court hangs on the wall that fronts Pennsylvania Avenue of the modern Willard Hotel. In July 1855, the court moved into the Capitol; after briefly using the Supreme Court's chamber in the basement of the Capitol, it then acquired its own rooms there. In 1879, the court obtained space on the ground floor of the Freedman's Bank Building, which stood at the place now occupied by the Treasury Annex, adjacent to the southeast corner of Lafayette Park. Two decades later, in 1899, the court

moved to the building formerly occupied by William Corcoran's art collection across Lafayette Park at the intersection of 17th Street and Pennsylvania Avenue and remained there for 65 years. This building was designed by, and is named for, the architect James Renwick, who also designed the Smithsonian Institution's castle on the National Mall and St. Patrick's Cathedral in New York City. When the facilities there were deemed inadequate in the mid-1950s, the court asked Congress for a new location. Eventually the site at 717 Madison Place, NW, was chosen and the court moved to its present home on Aug. 1, 1967.

In 1863, the court's original composition of three judges was expanded to five judges, who would consider evidence proffered by claimants and weigh testimony taken by permanent or special commissioners employed by the court and dispersed across the United States. One of the first commissioners was Benjamin Harrison of Indiana, who would later become President. If oral argument was requested, the five judges would hear the case en banc. Appeal to the Supreme Court was by right if the amount in dispute was more than \$3,000. The growth in government caused by and coinciding with World War I made the system unworkable because of the considerable increase in the number of filed cases. In 1925, legislation enacted by Congress at the request of the court created a separate trial division consisting of seven commissioners and elevated the five judges to an appellate role. Initially, the trial commissioners would function as special masters in chancery and conduct formal proceedings either at the court's home in Washington, D.C., or elsewhere in the United States in a court facility amenable to the parties. The trial procedures evolved to resemble a nonjury civil trial in district court.

In 1948, the commissioners were authorized to make recommendations for conclusions of law. The number of commissioners was increased to 15 in 1953. In 1966, Congress provided that the court would have seven appellate judges with life tenure to be appointed by the President. In 1973, the title of commissioners was changed to trial judge and, by 1977, the Court of Claims had 16 trial judges, who conducted trials of cases in the first instance. Judgments, which are required to be paid out of appropriations by Congress, were originally paid by individual appropriations passed separately or as part of other appropriations bills. In 1955, Congress provided for a standing appropriation for judgments of \$100,000 or less. Finally, in 1977, Congress created a permanent, indefinite appropriation for all judgments awarded by the court.

The Federal Courts Improvement Act of 1982 created the modern court. The appellate division of the Court of Claims was combined with the U.S. Court of Customs and Patent Appeals to create the new U.S. Court of Appeals for the Federal Circuit, and the trial division of the Court of Claims became the U.S. Claims Court (and, in 1992, its name was changed

to the Court of Federal Claims). Appeals from the Court of Federal Claims are taken to the U.S. Court of Appeals for the Federal Circuit, and a judgment by that court is conclusive unless reviewed by the U.S. Supreme Court on a writ of certiorari. Decisions of the Court of Federal Claims are binding precedent on both its appellate and trial court successors.

The court as now constituted consists of 16 judges, who are appointed by the President and subject to confirmation by the U.S. Senate, for terms of 15 years. In addition, judges who have completed their statutory terms of office are authorized to continue to take cases as senior judges. This ongoing tenure serves as a mechanism to ensure judicial impartiality and independence.

In recent years, the court's docket has been increasingly characterized by complex, high-dollar demand as well as high-profile cases in such areas as, for example, the savings and loan crisis of the 1980s, the World War II internment of Japanese-Americans, and the federal repository of civilian spent nuclear fuel.

Nevertheless, regardless of the nature of the claim, the notability of the claimant, or the amount in dispute, the U.S. Court of Federal Claims acts as a clearinghouse in which the government must settle up with those it has legally wronged. As observed by former Chief Judge Loren A. Smith, the court is the institutional scale that weighs the government's actions against the standard measure of the law and helps make concrete the spirit of the First Amendment's guarantee of the right "to petition the Government for redress of grievances." **TFL**

This article was written by the judges and staff of the U.S. Court of Federal Claims.