

lobbying and conflicts of interest.²¹ During the George H.W. Bush administration, the Attorney General appointed three separate special counsels from outside the Department to investigate allegations of criminal conduct within the government. *See* Cong. Research Serv., *Independent Counsel Law Expiration and the Appointment of “Special Counsels”* 3-4 (2002). And when the Independent Counsel Act briefly lapsed during the Clinton Administration, the Attorney General appointed Robert Fiske to investigate the Whitewater allegations against the President and his former business partners. *See Independent Counsel: In re Madison Guaranty Savings & Loan Association*, 59 Fed. Reg. 5321-02 (Feb. 4, 1994).

When Congress was considering whether to allow the Independent Counsel Act to expire, it repeatedly sought information about “how the Department of Justice would handle matters that” were then handled by statutory Independent Counsels. *The Future of the Independent Counsel Act: Hearings Before the Senate Comm. on Governmental Affairs*, S. Hrg. 106-131, at 315 (1999). In response, the Department assured Congress that the Attorney General possessed adequate authority to name a special outside counsel and

²¹ 28 C.F.R. § 602.1 (“Independent Counsel: In re Franklyn C. Nofziger”); *see* 52 Fed. Reg. 22,439-01 (June 12, 1987); 52 Fed. Reg. 35,543-01 (Sept. 22, 1987).