

them prosecutorial authority over specifically identified matters—precisely the role of the Special Counsel.

The district court, however, read Section 515(b) as nothing more than a “logistics-oriented statute” providing “technical and procedural content” to “already-‘*retained*’ ‘special attorneys’ or ‘special assistants’ within DOJ.” Dkt. 672 at 26. That conclusion rested on three flawed rationales.

a. First, the district court erroneously attached significance to Section 515(b)’s use of the word “retain[]” rather than “appoint.” Dkt. 672 at 27-29. But the terms “retain” and “appoint” function synonymously in Section 515. Section 515(a)’s reference to “attorney[s] specially *appointed* by the Attorney General” refers to the very attorneys who are “specially retained” and “commissioned” by the Attorney General under Section 515(b). *Cf. Civil-Service Bill*, 17 Op. Att’y Gen. 504, 506 (1883) (“The use of the word ‘employ’ instead of the word ‘appoint’ is unimportant, the former being sometimes used in our legislation in a sense equivalent to appoint.”). The primary purpose of enacting the provision now codified at Section 515(a) was to ensure that the special attorneys retained and commissioned under the predecessor to Section 515(b) could “conduct any kind of legal proceeding” in any district. *See infra* at 44-45 (discussing relevant statutory history). That Congress described those attorneys as having been “appointed by the Attorney General” confirms that Congress