

'Literal Truth' Frees Lawyer

Washington

U.S. District Judge George L. Hart Jr. dismissed perjury charges yesterday against Texas lawyer Jake Jacobsen in connection with an alleged \$10,000 payoff for the Nixon administration's controversial 1971 increase in milk price supports.

Hart ruled that Jacobsen had spoken the "literal truth" when he answered what the judge indicated was a poorly worded question by the Watergate special prosecutor's office before a federal grand jury. The prosecutor's office had indicted Jacobsen on criminal perjury for that specific exchange.

The ruling frees Jacobsen, a former White House aide in the Johnson administration, of all charges in the milk fund case.

However, it does not block any future possible attempts by the special prosecutor's office to bring new charges

based on other exchanges in the grand jury testimony or in connection with other aspects of the milk case.

Jacobsen has also been indicted by a federal grand jury in Texas in connection with a savings and loan association investigation.

Jacobsen was indicted February 21 on a single count of lying under oath for the following exchange:

Q. And it is your testimony that that \$10,000 was the \$10,000 which you put into that box within a number of weeks after it was given to you by Mr. (Robert) Lilly (an Associated Milk Producers, Inc., lobbyist), and it was untouched by you between then and the time you looked at it with the FBI agent (on November 27, 1973)?

A. That is correct.

Q. You are certain about that?

A. Yes, sir."

Jacobsen's attorney, Charles A. McNelis, argued that the answers were "literally true" because "it was Jacobsen's testimony" that he had not touched the money. He was not asked if that statement was true or false, McNelis pointed out.

The ruling came under a January, 1973, decision by the Supreme Court, which placed the burden in perjury cases "on the questioner to pin the witness down to the specific object of the questioner's inquiry. Precise questioning is imperative as a predicate for the offense of perjury."

It doesn't matter if an answer is unresponsive to a question or even misleading, according to the Supreme Court opinion, as long as it is "literally true."

Hart read portions of the Supreme Court opinion to surprised members of the Watergate special prosecution force during a 20-min-



AP Wirephoto
JAKE JACOBSEN
Milk fund case

ute hearing on Jacobsen's motion to dismiss the indictment on the basis of that Supreme Court decision.

The prosecutor argued that, in the context of Jacobsen's total grand jury testimony, the charge should stand.

Jacobsen's indictment was the first disclosure by Watergate prosecutors of evidence that bribe money was paid by the milk producers who lobbied the White House for higher price supports.

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