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NIXON TAX LAWYER ON TRIAL ON COAST

Prosecution Opens Its Case
After Jury Is Selected

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LOS ANGELES, Sept. 18 —

The prosecution opened its case today in the trial of Frank DeMarco Jr., DeMarco Jr., the lawyer accused of preparing false documents to give President Nixon a substantial tax deduction on a donation of his Vice-Presidential papers to the National Archives.

Jay Horowitz, Watergate assistant special prosecutor, said in his opening statement that Mr. DeMarco was accused of making false statements in January, 1974, to Internal Revenue Service agents who were investigating Mr. Nixon's taxes for 1969 to 1972, and obstructing a Congressional committee's inquiry by giving false statements to a representative of a committee also looking into Mr. Nixon's tax situation in February, 1974.

Deduction Disallowed

In April, 1974, the deductions that had been taken on the Vice-Presidential papers were disallowed by the I.R.S. on the ground that the papers had not been formally transferred to the National Archives.

Mr. DeMarco signed the joint income tax return of Mr. Nixon and his wife, Patricia, for 1969. The Government contends that certain documents relating to the transfer of Mr. Nixon's papers to the National Archives were backdated by Mr. DeMarco because the law concerning such deductions changed in 1969 and that Mr. Nixon would have been ineligible for the deduction if the transfer deeds were not backdated.

Mr. DeMarco has said that he is innocent and that a proper deed was executed in 1969. He has also said a new deed was prepared in 1970 and that deed is the root of the controversy.

Last November, Edward L. Morgan, a former White House attorney, pleaded guilty in Washington to participating in a criminal conspiracy to create a fraudulent \$576,000 tax deduction for Mr. Nixon.

Prosecution Witness

Mr. Morgan is expected to be a principal prosecution witness. The charges against him said he had "maintained liaison" with persons who prepared the Nixons' 1969 joint Federal income tax return and that he had discussed with these persons the fact that a deduction claim would be made on the pre-Presidential papers. These persons would include Mr. DeMarco and Ralph G. Newman, the Chicago appraiser who evaluated the pre-Presidential papers.

The two men were indicated in Washington last February. At the heart of the indictment was the disputed gift of the papers to the National Archives. According to the indictment, both men "well knew" that the gift was not made before a change in the tax laws prohibiting deductions for such gifts, but nevertheless, they prepared documents showing the contrary.