

# Arnholt Smith Indicted on Fraud Charge

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C. Arnholt Smith, a longtime friend and political supporter of President Nixon, was indicted yesterday on charges of conspiring to defraud his bank of \$170 million.

The 25-count indictment was returned by a federal grand jury in San Diego, where Smith, a prominent civic figure, had built the U. S. National Bank and amassed the conglomerate Westgate-California Corp. that owned the San Diego Padres baseball team and numerous other businesses.

When the bank was declared insolvent last October, it was the largest bank failure in history.

The indictment is the latest in a series of calamities for Smith, 75, whose once-vast financial empire began to collapse last year under investigations by the Securities and Exchange Commission, the Internal Revenue Service, bank regulators and creditors.

He was one of Mr. Nixon's early California financial backers, and was so close to the President that he was invited to watch the November, 1968, election returns with the Nixon family.

Recently the President has sought to put some distance between himself and Smith. The presidential re-election campaign reportedly returned as much as \$200,000 in 1972 contributions to Smith at about the time the IRS entered a \$22.8 million lien against him for allegedly due 1969 income taxes.

The indictment said little about the use of the proceeds of the fraud beyond what it

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termed "the conversion of the proceeds . . . to the use and benefit of the defendants," Smith and the bank's former executive vice president, Philip A. Toft.

According to the indictment, Smith and Toft had conspired

since January, 1969, to use the borrowing power of the Westgate-California conglomerate to obtain loans from the bank, misstating the purposes of the loans and covering up the transactions with false reports to bank examiners.

Maximum penalty on each count is a five-year prison term and a fine of \$10,000. Neither Smith nor his attorney, Thomas Sheridan of Los Angeles, would comment on the 44-page indictment, which Sheridan said he had not yet seen.

No charges of tax fraud were contained in the indictment. Sheridan was notified recently that the tax phase of the long investigation would be closed without the filing of criminal charges. Government officials have refused to comment on this.

As part of the scheme, according to the indictment, both Smith and Toft "gave misleading testimony" to the SEC and induced another witness, identified as Edward P. Schroeder Jr., to mislead the SEC in testimony about the management and control of Westgate subsidiaries.

Before its failure and subsequent acquisition by the Crocker National Bank, Smith's bank had ranked 83d in the nation, with nearly \$1 billion in deposits and \$1.2 billion in assets.

The Federal Deposit Insurance Corp. said yesterday it would pay nearly \$49 million in claims, mostly by foreign banks, on money loaned to U.S. National, but said another \$42 million in claims would not be honored.

The indictment was signed by Warren P. Reese, chief assistant U. S. attorney in San Diego, who led the investigation. The name of U. S. Attorney Harry D. Steward also was printed on the indictment but he did not sign it.

Steward came under fire two years ago for allegedly suppressing a subpoena for the grand jury testimony of Harry Thornton, a Smith associate, during an investigation into possible illegal Smith contributions to the 1968 Nixon campaign.

The charges were explored during the 1972 confirmation hearings of former Attorney General Richard G. Kleindienst, but the investigation was curtailed over the protest of a minority on the Senate Judiciary Committee.

Justice Department officials said Steward's conduct was "highly improper" but not grounds for removal. He has been neither re-appointed nor replaced since the expiration of his four-year term last October.