

Final Digest Poll Shows a Landslide for Mr. Hoover

From The Literary Digest of November 2, 1928

Table with columns for Hoover and Smith, showing vote counts by state and total. Hoover leads significantly in most states.

FINAL RETURNS FROM NEW YORK, CHICAGO, PHILADELPHIA. In these three large cities the entire enrolled electorate was polled.

Table showing final returns for Hoover and Smith in New York, Chicago, and Philadelphia. Hoover leads in all three cities.

Hoover is shown ahead in 42 states and the 'Solid South,' which has been Democratic for more than fifty years, will be broken according to the final returns of The Literary Digest's huge national presidential poll published today.

Alabama and Arkansas are practically a stand-off between the two candidates in this pre-election balloting and The Literary Digest reports that most of the political observers are inclined to place both of these states in the Smith column.

With the exception of a few somewhat doubtful sections Hoover is leading by substantial majorities in all of the other 42 states and the returns indicate his probable election by a large margin.

Other than the marked pluralities accorded Hoover in the great majority of states the outstanding features of the poll are the indicated gain of the Democratic nominee over the returns of his party in the official 1924 election and the strong Republican invasion of the south.

Of the record-breaking total of 2,767,524 ballots cast in this 'pre-election election' Hoover has 2 per cent and Smith polls 35.7 per cent, with the small remainder distributed among the several minor candidates.

The Literary Digest in its columns calls especial attention to a possible last minute switch of votes, such as occurred between the LaFollette and Davis ranks immediately prior to the 1924 election day, which might reverse the returns in certain states from Hoover to Smith, and it is cautioned that this factor should be taken into consideration in determining the validity of the 'straw' poll, for all of the ballots were returned and counted more than two weeks before the regular election.

It is pointed out that in a separate polling of Philadelphia, where postcard ballots were sent to the entire electorate, Hoover polls 69,794 votes to Smith's 48,425, or about 44 to 3, whereas in the 1924 election the ratio between Coolidge and Davis was about 5 to 1.

Likewise in Chicago, where all the registered voters were asked to respond for their favorite candidate Hoover is leading Smith by 99,935 to 71,810, a ratio of about 10 to 7, while four years ago Coolidge received approximately 2 to 1 in favor over Davis in the regular election returns, showing a possible heavy Democratic trend in the larger cities.

The poll indicates Hoover leading in New York state with a plurality of 218,929 to 185,659 votes with all the returns counted. In New York City, where it is stated every accredited voter was asked to vote in this poll, Smith leads his Republican rival by 149,770 to 165,364, while in 1924 Coolidge carried all five boroughs of the city.

The tabulations show Hoover ahead in Massachusetts, which is considered by many astute political observers as the prize doubtful state of the entire union, by a margin of slight over 2 to 1.

The completed returns show Smith receiving about 38 per cent of his support from those who stated that they voted Republican in the last presidential election, while Hoover obtains over 75 per cent of his strength from those who professed they were Republicans in 1924.

Of the 444,370 who cast ballots in this 'straw' election but who did not vote in the official presidential election four years ago practically 60 per cent are voting Republican and over 38 per cent are voting Democratic in this 'straw' poll.

'The poll,' The Literary Digest states editorially, 'whose final results are tabulated herewith, has proved to be the greatest in history, with the complete returns some 389,890 votes beyond the record-making poll of 1924.'

'The total of votes received, 2,767,523 out of a total of approximately 19,000,000 ballots sent out, represent a proportion of 14.6 per cent, considerably above the average for polls of this sort.'

'The outstanding features of the completed poll are the great plurality given Mr. Hoover in most of the states, the indicated Democratic gain over 1924, especially in the largest cities, and the Republican strength developed throughout the south.'

'The Digest, as was announced in the first article on the poll, and as emphasized since, presents its figures in an absolutely non-partisan way, as an 'impartial' way, as one friendly editor puts it, with the desire only to get at the facts in the case and so fairly present them to its readers may draw their own conclusions.'

'The present huge polling list is the work of a number of years, founded originally on the telephone books of all parts of the country, expanded with the elimination of duplications, by the lists of automobile owners of the country, and, in many places, by registration lists.'

'The list of Digest subscribers is not included as a unit, as a group, many commentators seem to believe, when crediting the whole polling list with a 'high-brow' tendency, and a companion tendency to minimize the Democratic strength by from 5 to 10 per cent. As this poll now stands the electoral vote would be: Hoover 488, Smith 43.'

Respect Lansing, WASHINGTON, Nov. 1.—(AP)—Secretary Kellogg ordered the state department closed today at one o'clock out of respect to former secretary of state, Robert Lansing, whose funeral services will be held at his home. Burial will take place at Watertown, N. Y., tomorrow.

A tablet marks the site of Jeremy Addams Tavern in Hartford, Conn., in which a colonial court sat for 50 years.

COUGHS Apply over throat and chest - swallow small pieces of - VICKS VAPORUB Over 21 Million Jars Used Yearly

WHY DID JUDGE THOMAS NOT ANSWER THE GRAND JURORS' QUESTIONS AS TO GRAFT? WHY DOES HE NOT ANSWER THEM NOW? DAY AFTER DAY THE PEOPLE HAVE DEMANDED TO HAVE THESE ANSWERED.

On April 25, 1928, the grand jury of Jackson county, Oregon, in open court, and in the presence of the grand jury, presented to Judge Thomas a document in the following form and substance:

Medford, Oregon, April 25, 1928. In the Circuit Court of the State of Oregon for the County of Jackson.

PARTIAL REPORT OF THE GRAND JURY TO THE CIRCUIT COURT OF JACKSON COUNTY, STATE OF OREGON.

We want the court's advice on whether we shall indict in cases as follows:

- 1. Federal prohibition officers receiving from the county prohibition fund as much as \$100.00 per month for mileage while on a salary from the federal government. Is the taking of this money lawful? If not, what is the offense?
2. A state prohibition officer receiving money from the county prohibition fund while on a special work done while on a salary from the state. Is the taking of this money lawful? If not, what is the offense?
3. State traffic officers receiving as much as \$800.00 from the county prohibition fund while on a salary from the state for no special work done. Is the taking of this money lawful? If not, what is the offense?
4. State game wardens receiving money from the county prohibition fund for no particular work done while on a salary from the state. Is the taking of this money lawful? If not, what is the offense?
5. Police officers of different towns of the county receiving money from the county prohibition fund for no particular work done while on a salary as policemen. Is the taking of this money lawful? If not, what is the offense?
6. County officers receiving \$20.00 to \$45.00 a month from the county prohibition fund for no particular work done while on a salary from the county. Is the taking of this money lawful? If not, what is the offense?
7. What can we do when officers say this money drawn from the county prohibition fund was advanced to undercover men whose names they do not know?
8. If an officer cannot account for money received from the prohibition fund, is he guilty of an offense? If so, what offense?
9. Is the prosecuting attorney liable for money paid out as set forth in questions 1 to 6, inclusive?
10. This grand jury is not satisfied with the special prosecutor's instructions, therefore we ask the court for further advice and we are ready to follow the instructions of the court.

The amount of money turned into this special prohibition fund since January 1, 1925, is \$39,419.79. 75 percent of this amount under the 1927 law, is at the sole disposal of the prosecuting attorney and 25 percent of it is at the disposal of the sheriff. \$1,965.22 of the total sum is the amount turned to the general fund of Jackson county.

Respectfully submitted, KATIE M. GRIEVE, Forewoman.

Speaking of this document the Republican Central Committee, over the signature of its chairman, Frank Farrell, Deputy District Attorney, said:

IT IS OUR INFORMATION THAT A DOCUMENT DESIGNATED A PARTIAL REPORT, BUT IN FACT WHICH WAS A PRESENTMENT, WAS PRESENTED TO JUDGE THOMAS, SIGNED BY KATIE M. GRIEVE, FOREWOMAN.

Judge Thomas in his letter of October 25, 1928, published in the Medford Mail-Tribune, in attempting to explain why he did not answer the questions set forth in this document or presentment, stated:

ASSUMING THAT THIS DOCUMENT HAD BEEN PROPERLY VOTED UPON in the grand jury room I examined it and found it to be a series of questions which if answered by the court, would undoubtedly create the impression that I would not be impartial in the investigation under way. I told the grand jury that I would send the document to one of the assistant attorney generals, acting as attorney for the state, and the grand jury, and that he would answer them at the next meeting.

Here we have Judge Thomas' own statement that at the time this presentment was delivered to him HE ASSUMED THAT IT HAD BEEN PROPERLY VOTED UPON, so at this time he could not have had any objection to answering these questions upon the ground which he now urges, namely, that they had not been voted upon, nor does he state that he was not sufficiently advised of the law to answer the questions. It is a very significant fact, however, that Judge Thomas explains his refusal to answer these questions at the time they were presented by stating: "I examined it and found it to be a series of questions, which if answered by the court, would undoubtedly create the impression that I was not impartial in the investigation under way." What a bogus, flimsy, absurd and ridiculous excuse. Who believes that the answering of any of these questions by Judge Thomas would in the slightest degree show that he was not impartial in the investigation under way? WILL JUDGE THOMAS OR BERT ANDERSON, OR THE REPUBLICAN CENTRAL COMMITTEE, explain in what way or manner the answering of any of these questions would show that Judge Thomas was not impartial? If the answering of the questions propounded by the grand jury to Judge Thomas in this presentment would show him to be impartial then no judge could answer the questions asked in any presentment without being impartial, yet presentments to the court and the answering of the questions by the judge is a part of the procedure found in all criminal codes of our country. The law on this, taken from the Oregon Code, is as follows:

SECTION 1414. PRESENTMENT, DUTY OF COURT TO INSTRUCT THEREON. A presentment cannot be found and presented to the court except as provided in Section 1413, and when so found and presented, THE COURT SHALL GIVE SUCH INSTRUCTIONS to the grand jury concerning the law of the case as it may think proper and necessary.

Judge Thomas' violation of his plain duty to answer these questions at the time they were presented to him is a very grave matter and too serious to be evaded under the flimsy, absurd and ridiculous excuse offered by him at that time.

WHY DID JUDGE THOMAS NOT WANT TO GIVE THE GRAND JURY THE INFORMATION SOUGHT BY THEIR QUESTIONS? Read these questions and draw your own conclusions. WOULD THE ANSWERING OF THESE QUESTIONS BY JUDGE THOMAS REQUIRE HIM TO TELL THE GRAND JURY THAT THE ACTS IN REGARD TO WHICH THESE QUESTIONS WERE DIRECTED DID NOT CONSTITUTE CRIMES, OR WOULD HE HAVE TO TELL THEM THAT THESE ACTS DID CONSTITUTE CRIMES, FOR WHICH THE GRAND JURY SHOULD INDICT? JUDGE THOMAS, THE PUBLIC IS PATIENTLY WAITING FOR YOUR ANSWER.

If it were a fact and had Judge Thomas told the grand jury that the acts set forth in the presentment did not constitute crimes that would have absolutely ENDED the matter and the presentment under the law would not have been filed or preserved beyond the sitting of the grand jury. Had Judge Thomas answered the questions by stating that the acts set forth in the presentment did constitute crimes the grand jury would have

proceeded to indict the parties involved for the commission of the crimes set forth in the presentment and in that event the presentment would not be filed or preserved beyond the sitting of the grand jury as the law on this subject, taken from the Oregon Code, is as follows:

SECTION 1434. A PRESENTMENT is made to the court, by the foreman, in the presence of the Grand Jury, and with the CONCURRENCE OF FIVE of their number; BUT BEING A MERE FORMAL STATEMENT OF FACTS, FOR THE PURPOSE OF OBTAINING THE ADVICE OF THE COURT AS TO THE LAW ARISING THEREON, IS NOT TO BE FILED IN COURT OR PRESERVED BEYOND THE SITTING OF THE GRAND JURY.

DID JUDGE THOMAS REALLY DESIRE THAT THE GRAND JURY SHOULD ASCERTAIN WHETHER OR NOT THE ACTS SET FORTH IN THEIR QUESTIONS CONSTITUTED CRIMES?

His desire must be ascertained from the explanation of his letter and from what he said and did. He stated in his letter of explanation:

I TOLD the grand jury that I would send the document to one of the assistant attorney generals, acting as attorney for the state, and the grand jury, and that he would answer them at the next meeting.

The fact that Judge Thomas referred the answering of these questions to the assistant attorney general who had been acting for the grand jury is a very significant fact in determining whether Judge Thomas really wanted the questions answered by the GRAND JURY IN THEIR PRESENTMENT STATED: "10. THIS GRAND JURY IS NOT SATISFIED WITH THE SPECIAL PROSECUTOR'S INSTRUCTIONS, THEREFORE we ask the COURT for further advice AND WE ARE READY TO FOLLOW THE INSTRUCTIONS OF THE COURT."

Did Judge Thomas desire, or did he believe that the assistant attorney general, who had not given the grand jury satisfaction in the matter, would answer the questions? WELL, HE DID NOT, for Judge Thomas in his letter of explanation stated, "The document was sent to the assistant attorney general, who replied that each and all of the questions had been discussed and answered many times in the grand jury room, and FOR THAT REASON HE REFUSED TO ANSWER THEM AGAIN." Another wonderfully logical reason for silence on this matter. It is indeed very amazing that the assistant attorney general, who were selected by Judge Thomas to render the grand jury this service and who were paid \$1962.45 of the taxpayer's money for their service, should have refused to comply with Judge Thomas' request to answer the grand jury's questions upon the flimsy, absurd and ridiculous excuse that they had answered them before. To date Judge Thomas has absolutely failed to answer these questions or to have anyone else answer them for the grand jury.

Judge Thomas further stated in his letter of explanation: "I informed them of the reply of the assistant attorney general and then asked them if the document had been voted on by the grand jury. They all answered 'no.' I THEN TOLD THEM that NOTHING thereafter should be reported out until after discussion and vote and directed them to take the document, return to their room and vote on it. I EXPLAINED TO THEM THAT IF THEY VOTED TO RETURN IT INTO COURT AND DID SO, I WOULD FILE IT AND IT WOULD THEN BE A PUBLIC DOCUMENT."

THIS THREAT OF JUDGE THOMAS TO FILE THIS PRESENTMENT if it was returned by the grand jury and MAKE IT A PUBLIC DOCUMENT IN VIOLATION OF Section 1434 above quoted which provides that the PRESENTMENT IS NOT TO BE FILED IN COURT OR PRESERVED BEYOND THE SITTING OF THE GRAND JURY is very significant in view of the fact that at this time, as has been stated to us by some of the grand jurors, Judge Thomas was severe towards the grand jury and ADVISED THEM THAT THEY WOULD BE LIABLE FOR DAMAGES IF THEY VOTED TO PUT THAT ON RECORD, unless they indicted.

Their voting to bring in the presentment did not mean, as Judge Thomas said and threatened, that it must be filed and become a public document. We are wondering if Judge Thomas applies the same rule to the endorsement that he defrauded the attorneys out of. In his letter to Mr. Hough he says, "These endorsements have become public documents." Will Judge Thomas tell us when the attorneys VOTED on this endorsement?

WILL JUDGE THOMAS TELL US WHY HE ADVISED THE GRAND JURY THAT IF THEY RETURNED THE PRESENTMENT HE WOULD FILE IT AND IT WOULD BECOME A PUBLIC DOCUMENT? In view of the law above quoted which forbids the filing of the presentment or its preservation beyond the sitting of the grand jury we are AMAZED that Judge Thomas should put such a fear in the minds of the grand jurors.

FOR WHAT REASON WAS JUDGE THOMAS SO ANXIOUS TO KILL THIS PRESENTMENT? Was it because he would have to answer the questions by advising the grand jury that the acts inquired about did not constitute crimes, OR WAS IT BECAUSE HE WOULD HAVE TO ADVISE THEM THAT THE ACTS DID CONSTITUTE CRIMES FOR WHICH THE PARTIES INVOLVED SHOULD BE INDICTED? Judge Thomas, the public and voters would like to hear your explanation.

This judge, who pretends to abhor legal technicalities which defeat justice, as an excuse for the violation of his plain duty to assist the grand jury in stamping out crime by answering the questions of their presentment, now puts forth a false super technical reason, namely, that the presentment was not voted upon. He and his supporters have now abandoned the ridiculous excuse of "impartiality."

Is it any wonder that the grand jury after having presented this presentment to Judge Thomas in compliance with the requirements of the law should be afraid to reconsider the matter and take a formal vote on it after Judge Thomas had told them and threatened that he would unlawfully file the presentment and make it a public document and that they would be liable for and subject to damage suits? Was or was this not intimidation?

The presentment was delivered to the court in the presence of the entire grand jury and CONCURRED in by all of them as the matter was fully discussed by Judge Thomas and the grand jury and no objection was made by any grand juror to the presentment. WHY in the name of common sense should any of them have objected? Judge Thomas had told them to go to the bottom of this matter. THEY DID NOT FEAR TO MAKE THE PRESENTMENT until JUDGE THOMAS THREATENED TO FILE IT AND MAKE IT A PUBLIC DOCUMENT AND ADVISED THEM THAT IN THAT EVENT THEY WOULD BE SUBJECT TO DAMAGE SUITS.

Is it any wonder that when these same jurors were summoned into court that they endorsed the letter of explanation above quoted and which Judge Thomas has published as a political document? The explanation betrayed the writer.

BETTER GOVERNMENT LEAGUE.