Clanking Chains: DiLorenzo's "The Real Linclon": Politics of Reconstruction; Jefferson's "Wall": Context; Chicanery by the High Court

21- My assertion that the Fourteenth was illegally ratified needs documentation. I will take the time to provide extensive details in support of this contention from a current best-seller by:

> **DiLorenzo, Thomas J. *The Real Lincoln: A New Look at Abraham Lincoln, His Agenda, and an Unnecessary War.* (Roseville: Prima Publishing Co., 2002), 205-211:**
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> **THE POLITICS OF RECONSTRUCTION**
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> For the most part, Southern state governments were run by military dictatorships in the form of federally appointed U.S. Army generals. Those sitting governors of the Southern states whom the Federal army was able to capture at the end of the war were imprisoned without trial. The first order of business for these puppet governments was to convene "kangaroo" constitutional conventions that declared the ordinances of secession passed in 1860 and 1861 invalid.
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> President Andrew Johnson vetoed the Civil Rights bill of 1866 on March 27 of that year on the grounds that it federalized law enforcement and was therefore unconstitutional. The bill embodied an unheard-of intrusion of the Federal government within the sphere of the states, and was a stride toward centralization. Moreover, never before had Congress been known to arrogate to itself the power to regulate the civil status of the inhabitants of a state.
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> Congress overrode the president's veto, declared political war on Johnson, and almost succeeded in impeaching him.
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> Congress blackmailed the Southern states into passing the Fourteenth Amendment to the Constitution by prohibiting congressional representation by those states unless they ratified the amendment. After waging a war to force the Southern states back into the Union, they refused to allow those same states to be a part of that Union by denying them congressional representation in it. Every Southern state except Tennessee voted against ratifying the amendment. Southern legislators objected to (1) the fact that all high-ranking former Confederates were forbidden from running for public office, (2) the fact that the amendment would lead to a strong centralization of power in Washington, and (3) "the contention that , if the communities which the legislatures represented were really states of the Union, the presence of their members in Congress was essential to the validity of the amendment; while if those communities were not states, their ratification of the amendment was unnecessary."
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> Congress responded to the South's rejection of the Fourteenth Amendment by passing the Reconstruction Act of 1867, which established a comprehensive military dictatorship to run the governments of each of the ten states that were not yet restored to the Union. The law required passage of the Fourteenth Amendment before military rule would end in the state.
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> Great resources were expended on registering the adult male ex-slaves to vote, while a law denying the franchise to anyone involved in the late "rebellion" disenfranchised most Southern white men. So rigorous were the restrictions placed on white Southern males that anyone who even organized contributions of food and clothing for family and friends serving in the Confederate army was disenfranchised, as were all those who purchased bonds from the Confederate government. Even if one did not participate in the war effort, voter registration required one to *publicly* proclaim that one's sympathies were with the Federal armies during the war, something that very few white Southerners would have dared to do.

> The federally funded "Union Leagues" were run by Republican Party operatives and administered voter registration of the ex-slaves. This, too, was a dramatic change in the nation's political life, for tax dollars taken from taxpayers of all political parties were being used to register only Republican voters. The ex-slaves were promised many things, including the property of white Southerners, if they registered and voted Republican and, at times, were threatened or intimidated if they dared to register Democrat. All of this was funded by tax dollars. For years, these men, along with government bureaucrats associated with the "Freedman's Bureau," promised blacks that if they voted Republican they would be given the property of the white population (and, of course, they never were).
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> Any local officials who did not strictly adhere to the Republican Party were purged from office by the military. Before Reconstruction ended in 1877, the federal military authorities restaffed the municipal governments of every Southern city of any size. The rule of law meant next to nothing, for it could be superseded by military order at any time.
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> After being ruled by military dictatorships for a number of years, the Southern states finally acquiesced in the Fourteenth Amendment. But at that point New Jersey and Ohio, disgusted by Republican Party tyranny, voted to revoke their previous ratifications of the amendment. Congress failed to secure the constitutionally required three-fourths majority of the states, but simply issued a "joint resolution" declaring the Amendment valid anyway. To this day, the Fourteenth Amendment has not been properly ratified.

22- Nevertheless, it remains law today and continues to be quoted by the Supreme Court to justify the application of the Bill of Rights to the states, and most especially to the federal schools. DiLorenzo explains how initially the Fourteenth Amendment made this possible:

> The expansion of state and local government provided for tax-funded government schooling, influenced heavily by the federal government. Consequently, generations of Southerners and Northerners have been taught a politically correct version of history and of many other subjects in the federalized, government-run schools. (pp. 212-13)

23- Since federal dollars are now funneled into every public school in the country it has come about that the very mention of any biblical subject, character, or principle is considered to be the "establishment of religion." This has come about following Justice Black's majority opinion in *Everson v. Board of Education* which concluded that:

> No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the federal government can, openly or secretly, participate in the affairs of any religious organizations or groups, and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between church and State."

24- What this has come to mean is that the federal government is able to use tax money taken from the people to prevent the people from enjoying the "free exercise" of religion since their tax money's support of the schools is construed to cause their free exercise to result in the "establishment of a religion."

25- All of these rationales are supported by imputing into the constitutional debate a chance remark made by Thomas Jefferson to a religious organization in 1802:

> I contemplate with solemn reverence that act of the whole American people which declared that their legislature [Congress] should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church and State.

26- It now becomes necessary to learn the context in which this statement was made and how its intent has noting to do with its current application by the Supreme Court.

IV. Jefferson's "Wall of Separation": Context

1- We have now documented the impact that Jefferson's phrase "wall of separation between church and state" has had on post-*Everson* Supreme Court decisions.

2- This series of Court decisions has had immeasurable impact on the Free Exercise Clause of the First Amendment since its *protection* has been viewed as less important than the *prohibition* imposed by the Establishment Clause.

3- Since Everson in 1947, the entire legal corpus on church-state separation has been dominated by a sentence fragment penned by Jefferson.

4- We will now demonstrate that the emphasis given to this phrase by the several Courts is legally unsupportable:

1) Jefferson's phrase is absent any relevance to the discussion of the separation of church and state.

2) Its meaning has been misconstrued by the Court and given an interpretation that Jefferson did not intend.

3) Consequently, its use as a determining factor for interpreting the Establishment Clause is the result of either sloppy scholarship or willful intent.

5- Research into the circumstances surrounding Jefferson's letter to the Danbury Baptists reveals that the interpretation given to it by Justice Black is completely fabricated and the importance vested in it by subsequent Courts is judicial chicanery.

> ***Webster's Ninth New Collegiate Dictionary*, s.v. "chicanery":**
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> Deception by artful subterfuge or sophistry. Trickery: Questionable trickiness at law.
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> **Morris, William and Mary Morris. *Morris Dictionary of Words and Phrase Origins*. New York: Harper & Row, Publishers, 1977), 127:**
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> **Chicanery.** A few dishonest French golfers may have been responsible for *chicanery*, meaning "trickery." The word comes from the French *chicane* or *chicanerie*, meaning "a kind of golf." Scholars can only adduce that its present meaning came from a bit of cheating at the game, and hence any kind of trickery.