



## Behind the wall

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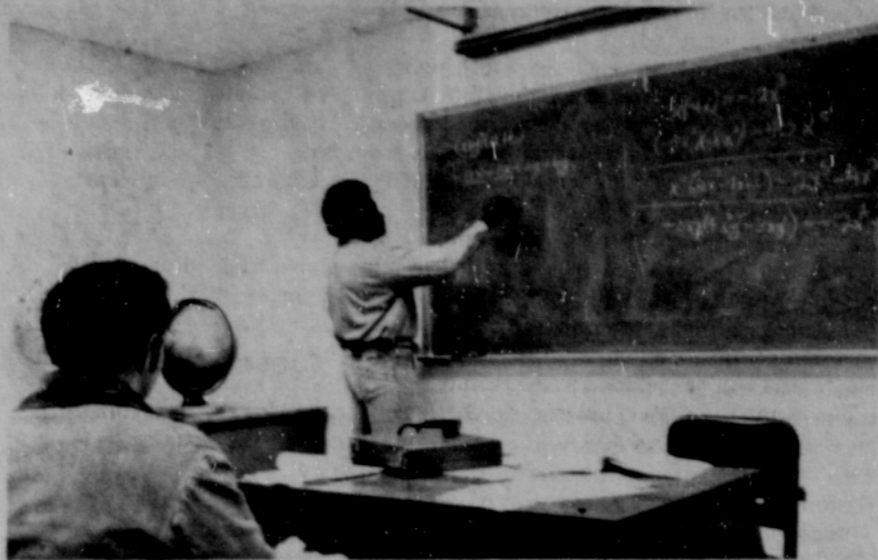
by Ernest Lee Watson #38917

Contrary to popular belief, a prisoner does not shed his constitutional rights at the prison gate. The high courts have held that the interests of inmates in freedom from imposition of serious disciplinary measures is a liberty entitled to Due Process protection. But in reality, when you are in front of Walter Shaw these noble holdings are little more than empty promises.

The rules, such as giving notice, is to give the accused an opportunity to prepare a defense, and a chance to present that defense. But what really happens is that an accused inmate is deprived of an enforceable constitutional right to the procedural tools essential to the presentation of any meaningful defense. Without the right to call witnesses and present documentary evidence, an inmate is not guaranteed the right to present any defense beyond his own word. Without the right to confront and cross-examine adverse witnesses the inmate is not afforded a means to challenge the word(s) of his accusers. There is no way one can resolve disputed factual issues in any rational or accurate way without this process. The hearing amounts to little more than a swearing in contest; to say the

inmate is invariably the loser. The right to present the testimony of impartial witnesses and real evidence is particularly crucial to an accused inmate, who obviously faces a severe credibility problem when trying to disprove the charges of a prison guard. Surely, the brief prolongation of the disciplinary committee to hear the testimony of a few witnesses before reaching what would otherwise be a pre-ordained decision provides no support what-so-ever for refusal to give inmates this right.

In almost every setting where important decisions turn on questions of fact Due Process requires an opportunity to confront and cross-examine adverse witnesses. There is a serious potential for abuse of the disciplinary process by persons motivated by malice, vindictiveness, intolerance, prejudice, jealousy, or Mr. Cupp's financial reward for information scheme. There is no rational means for resolving disputed questions of fact without providing confrontation and cross-examination. These basic constitutional rights are denied and leaves these matters to the "sound discretion" of prison officials. Mr. Cupp's concern for the safety of informants does not justify a wholesale denial of the right to confront and cross-examine ad-



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verse witnesses. Cross-examination is the principle means by which the believability of a witness and the truth of his testimony are tested. Mr. Cupp seems to think that by allowing this that there is a danger of hostility between the inmate and the guard or two inmates, or that cross-examination of a guard by an inmate would threaten the guard's traditional role of absolute authority, or that cross-examination would somehow weaken the disciplinary committee as a vehicle for

rehabilitation. These generalized, speculative and unsupported theories of Mr. Cupp's do not provide anything close to an adequate basis for denying the inmate the right to cross-examine his accusers.

Blind deference to correction officials does no real service to them. There is nothing more corrosive to the fabric of an institution than the feeling among those whom it contains that they are being treated unfairly.

Mr. Cupp's argument that there is a danger of violent response by the inmate against his accusers is great and that only prison officials are in a position to weigh the necessity of secrecy in each case. But this is precisely the un-checked power of prison officials which is the problem that due process safeguards are required to cure.

The goal of this prison is to reintegrate inmates into a society where men are supposed to be treated fairly by the government, not arbitrarily. The disciplinary committee is counter productive. Harsh treatment produces an orderly prison but it comes under criticism because of its inhumanity. With particular emphasis on the unfettered discretion of guards to impose punishment on the basis of vague charges which were never subject to detached or impartial evaluation. This is the central evil in Mr. Cupp's prison, the unreviewed administrative discretion granted to the poorly trained personnel that deal directly with the prisoner.

## Trees, bushes need emergency care

If the recent cold weather mixed with freezing rain damaged trees and shrubs in your yard, make repairs as soon as possible.

The earlier damaged plants are taken care of, the better the chance they will recover.

Most of the damage is likely to be minor, involving small limbs that are broken or cracked. Damaged twigs and limbs should be cut back to the nearest strong, healthy wood or bud. It is important to remove all broken, fractured or splintered wood to eliminate areas where rot could take hold.

When pruning back to healthy wood, make the pruning cut flush with the nearest side limb. Do not leave a stub or snag. If the pruning cut is one inch or more in diameter, apply a tree wound paint.

If tree limbs were bent but not cracked, don't cut them down right away. Remove extra weight from them, such as expendable side limbs, and leaves them alone. With time, they may straighten out.

In some hard hit areas of the state, the ice broke large limbs from trees, and even caused major splits in tree trunks.

A broken major limb should be sawed back to the trunk or major side limb and treated with a wound dressing.

Trunks that are split may be pulled together. Two methods are commonly used, one involving bolts placed through the trunk, the other using wire around the tree.

Bolt method. Holes are drilled at intervals through the split sections of the trunk. Bolts with huge washers at either end are inserted in the holes and tightened to pull the split areas together.

Wire method. Wire is inserted in rubber tubing and twisted around the

trunk so it pulls the split sections together. The problem with this method, is that the clamping pressure caused by the wire may girdle the tree. This method should be used only when minimum pressure is needed to hold the split sections together.

After the split sections are together, the outer edges of the split should be liberally painted with tree wound paint.

Some trees, of course, have been damaged beyond repair, or may require more work than people are willing to do. Young, fast-growing trees have the best chance to recover from major damage. Trees that show little regrowth each year, trees that have been damaged before, and old trees with scraggly growth are less likely to recover from significant damage.

In the early spring, an application of nitrogen fertilizer around the dripline area of the recovering trees and shrubs will encourage vigor and growth.

### Landscape plants

Landscape plants won't show some of the effects of this winter's unusually low temperatures until next spring.

Broadleaf evergreens, such as rhododendrons, camellias, and evergreen azaleas, are likely to develop brown, scorched-looking leaves, especially on the windward side. The brown leaves are caused by the plant's inability during sub-freezing weather to replace moisture carried out of the leaves by the wind.

Conifer evergreens, such as arbor vitae and cypress, also will have a browning of the foliage.

The brown leaves cannot be revived. However, McNeilan advises

a mid-spring application of fertilizer to stimulate new growth which may conceal the worst of the brown foliage.

Camellias, rhododendrons and other broadleaf evergreens will likely have fewer flower blooms this year because the developing buds were frozen.

To get an idea of the extent of flower damage, take a flower bud from the plant. Cut a cross section and look at the florets inside. They should be green, or the color of the flower bloom. Freeze-damaged florets will be brown or black.

### Cleanup plans

Commissioners Connie McCready and Mildred Schwab announced future plans regarding the cleanup after last week's ice storm. While City Park and Public Work crews continue to clear the streets and remove hanging limbs, the Commissioners stress the need for public help in removing the storm's damage.

Three avenues are available to citizens helping in the clean up effort.

First, brush and fallen limbs may be hauled to the parking lots at Washington Park Zoo, Gabriel Park, Westmoreland Park, Lents Park, Rose City Golf Course, and Cathedral Park. The use of these sites has been extended through Sunday, January 28th.

Secondly, citizens will be allowed to burn brush and limbs on days to be announced by the Department of Environmental Quality. No burning permits will be required but residents are reminded to observe the normal precautions of keeping the fire at least 25 feet away from a combustible building or material, remain in attendance while the fire is burning and keep a garden hose available at the burning site.

And third, wood and brush may be taken for use in fireplaces. Residents are also reminded that they are not allowed to cut limbs or trees in the parks.



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