

ONES NEW YORK

everyone is trying to keep up with us.



that available at places like Willowbrook, even when cleaned up.

In addition to their successes in New York and Alabama, advocates of the rights of the mentally handicapped are heartened by other evidence that the movement seems to be catching on. A few weeks ago, the Civil Rights Division of the Justice Department headed by Assistant Attorney General J. Stanley Pottinger (Halpern calls it "the one source of light in the Justice Department") brought a test case, charging that the Rosewood State Hospital in Maryland is depriving inmates of a variety of constitutional rights. This is the first such case to be brought in the name of the U.S. Government.

Pottinger also took the unusual step of asking the court to admit the Justice Department as *amicus* in the Willowbrook case, with permission to use the F. B. I. to gather and present testimony in behalf of the plaintiffs. Thus, in the trial to come this spring, the weight of the Federal Government will be on the side of the retarded.

The American Bar Association has set up a Commission on the Rights of the Mentally Disabled, adding new respectability to the cause, and the Mental Health Law Project, operating out of a pair of buildings on N Street, N.W., in Washington and an office in New York City, has been generating cases at a vigorous rate, as well as participating in or influencing or just being encouraged by other people's cases.

Project lawyers are able to point to a number of recent court decisions:

■ That indefinite confinement of a mentally retarded person who has been found incompetent to stand trial is

a violation of his right to due process.

■ That an involuntarily hospitalized patient who was not granted treatment could claim damages from the institution where he had been confined—and the damages could be assessed *personally* against hospital officials.

■ That an institutionalized patient's "consent" to experimental brain surgery is not legally valid because of the inherently coercive atmosphere of the institution.

■ That sterilization operations cannot be performed on inmates of a mental institution unless they are safeguarded by "the full panoply of constitutional protections."

■ That a mental patient cannot be forced to accept nonemergency medical treatment if he or she objects on religious grounds.

■ That patient-workers at institutions for the mentally handicapped are entitled to compensation under provisions of the minimum wage law.

■ That retarded children have a right to free public education just like other children.

So the fight is being pressed on several fronts, and the mental-health lawyers intend to keep up the pressure. "Up to now," Paul Friedman says, "we've been huddling together for warmth in a cold world." But as favorable court rulings have come down, the world has been turning less cold. Meetings on legal rights of the mentally handicapped, under auspices of the Project and the Practicing Law Institute, have recently been held around the country. The series reached a thousand lawyers, who, Friedman hopes, will raise the number of court actions from 30 to 300 in a year.

So far, the major cases

