

with the decree.

The burden would then be on the state to prove it is not in contempt because, Ennis says, it either had "no knowledge" what it was supposed to do (not a possibility) or because it "made all reasonable steps" to implement the decree (a debatable matter).

"In effect," says Ennis, the major architect of the decree, "the state would have to show it has been impossible to implement the decree."

In Ennis' view there are three reasons why the decree would have been impossible to implement:

¶ Willowbrook did not have enough money. Members of the Willowbrook class (5,342 1972 residents) receive twice as much money as do residents or other developmental centers. Money is not the problem, observers agree.

¶ The Department of Mental

Hygiene bureaucracy is "incompetent." Numerous observers will buy the bureaucratic-problem approach, citing changing personnel, lack of accountability, burdensome paperwork and red tape galore.

¶ Intentional blocking of the decree, including the apparent continuing ideological opposition in some quarters to hiring more staff, to community placement, to a definition of education and therapeutic programs. On some issues, the opposition is in nuances, but it is opposition stemming from differing interpretations about what is best for the retarded person.

Plaintiff Attorney Chris Hanson feels that "certain people want to rewrite the decree" and do not "realize the seriousness of the judgment." Is the state in contempt? "Depends what day you catch me

on," Hanson says.

If, as seems probable now, Willowbrook is not in "substantial compliance" with the decree, the court would be forced to offer additional remedies for the troubled center.

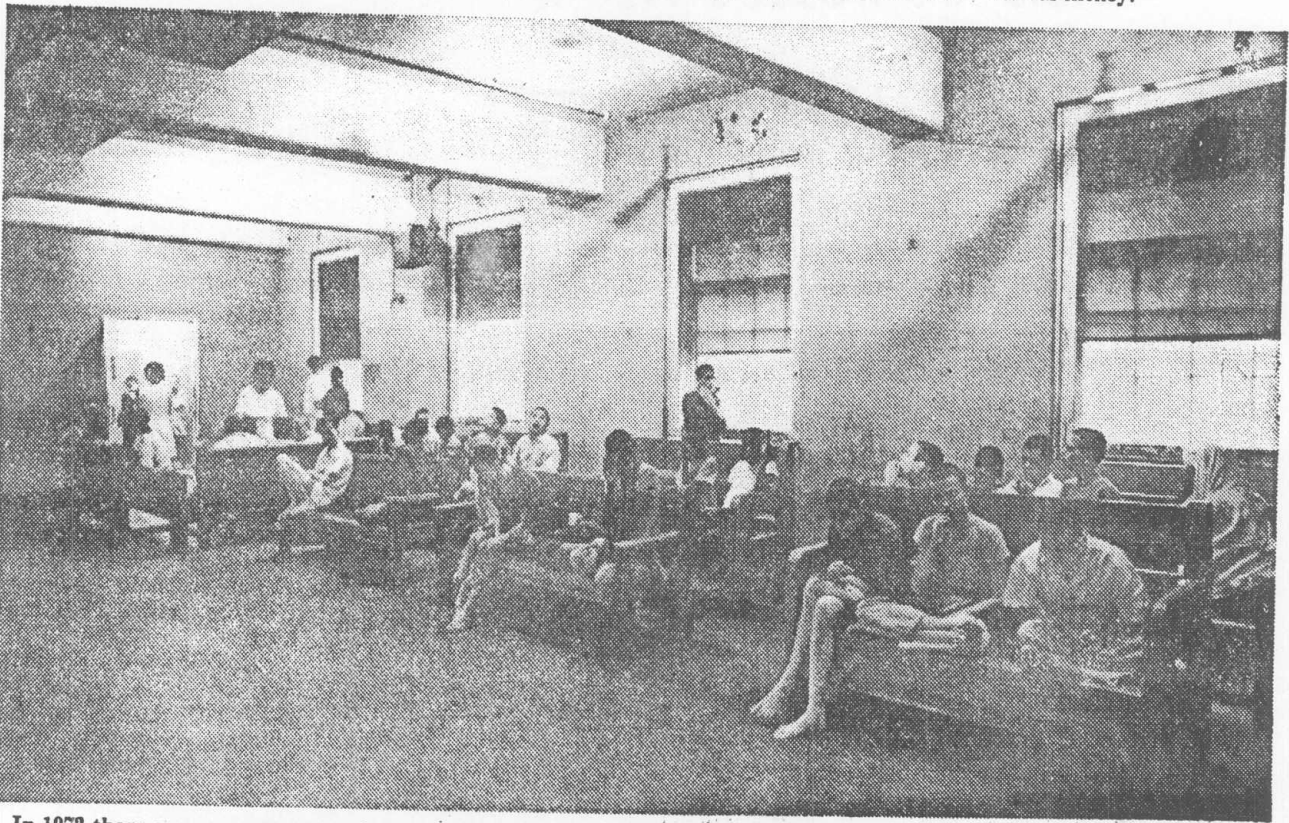
The possibilities open to Judge Judd include extending the time for state implementation (unlikely, observers say); intervention of a federal master to run the center and make the policy decisions (premature, but supported by some plaintiffs and already mentioned in court by Judge Judd); removing certain administrators from any connection with the Willowbrook class (under discussion) giving the Review Panel complete decision-making power (the department would fight that tooth and nail).

Ennis, the plaintiffs' top attorney, says no decision will

be made about what course to pursue until after May 7, probably not until after the expiration of the 13-month deadline. A discussion of options is "premature," he says.

Nevertheless, Wednesday will mark the one-year anniversary of the decree's signing. In some quarters it is called Decree (Cap D) and Judgment (Cap J). In other quarters it is called a document drawn up by people who aren't aware of the realities of the wards of Willowbrook.

"Any system," says Ornstein, about the system that perpetuates the inferior quality of life many see at Willowbrook, "that spends \$60 million and yet still produces ill-clothed, ill-fed people, something is wrong with that system. You have to start to question what we are getting for our money."



In 1972 there were no programs for these Willowbrook residents. The Willowbrook Review Panel is still questioning the adequacy of programs that have been developed and whether those programs meet court-mandated standards.