

# State court clashes with federal Willowbrook ruling

By SYDNEY FREEDBERG

An Albany Supreme Court judge issued a temporary restraining order yesterday that blocks the consummation of a plan calling for New York State to surrender control over part of Willowbrook.

Apparently challenging a federal court's claim to jurisdiction in the Willowbrook case, Justice Robert Sise agreed to hear a motion brought on behalf of state employees at the developmental center.

Attorneys for the Civil Service Employees Association, representing 4,200 Willowbrook workers, argued in court that the impending takeover of seven Willowbrook facilities by a private organization violates state law.

The state court's decision to hear the case has put a peculiar kink in the Willowbrook legal story, which until yesterday had been played out exclusively in U.S. District Court, Brooklyn.

It was more than two years ago that the federal court first took authority over Willowbrook and its mentally retarded population, in an attempt to force an improvement of unconscionable conditions there.

The Willowbrook Consent Judgment, the humanization decree signed by state officials in April 1975, ordered the institution to reduce the number of residents, now about 2,500, to 250 by 1981.

Just two months ago, a second decree was arranged in the same court before a different judge. This arrangement calls on the state to contract with United Cerebral Palsy, a non-profit group, for control of some Willowbrook facilities.

As state and UCP officials were reportedly nearing an accord on provisions of the July 15 takeover, CSEA, fearing massive layoffs and on "unwise" precedent, brought the matter before the Albany court.

Justice Sise banned the state and UCP from entering into any contract until he hears the arguments favoring and opposing such a move May 27.

Federal Judge John R. Bartels, who along with Mental Hygiene Department officials and advocates for the mentally retarded consented to the state-to-UCP transfer, was unavailable to comment on yesterday's upstate development, but attorneys for all sides agreed an "interesting" jurisdictional question may be unfolding.

James Roemer, counsel for the Willowbrook workers, said the union be-

lieves "it is unconstitutional under the Mental Health Law for the state to contract out governmental functions to private groups."

But he conceded CSEA's major concern is jobs, saying he fears the impact "private control of public facilities" would mean for civil service in the future.

Approximately 55,000 workers belong to CSEA, Roemer said, "and what would happen to all of them if the state gave over control to more private agencies."

UCP and mental health officials insist that some 700 professional and non-professional employees affected by the proposed takeover would not lose their jobs.

Rather, they would be transferred to other buildings at Willowbrook or, if they preferred, could apply for jobs in the UCP-run Willowbrook buildings, the officials contended.

At the same time, Robert Schonhorn, executive director of UCP, said yesterday he sees the eventual shutdown of Willowbrook. "That's clearly what the agreement implies," he said.

Although state officials have denied "categorically" the government is giving up on the retarded, surrendering their care to private organizations, the seven buildings chosen for UCP operation do nothing to bolster that claim.

Mental health officials revealed for the first time yesterday that the so-called "children's complex," five buildings now home for young people, Willowbrook's future, are among the seven that will be turned over to the private palsy group — if the union's court action fails.