

Section 241 of Title 18 of the United States Code prohibits conspiracies which threaten or intimidate persons in the exercise of rights guaranteed to them by the Constitution or laws of the United States. The courts have uniformly held that the right to operate a business is not in and of itself a right secured by the Constitution, and there are no federal statutory provisions securing the right to operate or maintain a business. Therefore section 241 would appear to be inapplicable to interferences with an individual's conduct of his business relations even though that interference were premised on or motivated by racial considerations.

Title I of the Civil Rights Act of 1968, 18 U.S.C. section 245(b) (3), which punishes threats or incidents of violence against businessmen "during or incident to a riot or civil disorders" also is inapplicable. That section is applicable only to acts which occur during or incident to a riot, and there is no indication that the acts that are the subject of the newspaper clippings can be so characterized.

Other provisions of Title I of the Civil Rights Act of 1968 provide penalties for intimidation on account of race or color of individuals in the exercise of certain enumerated rights such as attending school utilizing public accommodations and serving on juries. But this section would provide no penalty for intimidation of a businessman unless he were engaged in one of these enumerated activities and in addition it were clear that his participation in that particular activity was the reason for the harassment.

The matter that you have brought to our attention therefore does not appear to violate any laws administered by this Department. However I want to assure you that our policy with respect to enforcement of the civil rights laws is to investigate incidents we have cause to believe may involve violations of those laws regardless of whether such incidents involve harassment of whites by Negroes or Negroes by whites.

Sincerely,

STEPHEN J. POLLAK,
Assistant Attorney General, Civil Rights Division.

[News release from the Department of Justice, July 29, 1968]

The Department of Justice filed suit today charging Roper Hospital in Charleston, South Carolina with discriminating against Negroes in violation of two sections of the Civil Rights Act of 1964.

Attorney General Ramsey Clark said the civil suit, brought in United States District Court in Charleston, alleged violations of the public accommodations and employment sections of the 1964 Act.

The Department sought a court order barring the private hospital from discriminating racially in admitting patients, hiring staff members or permitting use of any facility.

Roper Hospital has discontinued various federal financial assistance since enactment of the 1964 Act, which includes a section forbidding discrimination in federally-assisted programs.

But the Department said the hospital is covered by the public accommodations section because it contains a cafeteria and a snack bar.

The section, which lists eating facilities as being covered, also covers any establishment that houses a covered facility and purports to serve its patrons.

The suit said the hospital does not admit Negroes and furnishes them limited out-patient service on a racially-segregated basis.

It was also asserted that the hospital, which employs 523 persons, hires few if any Negroes as professional or clerical workers and provides racially-segregated facilities for its employees.

Negroes are employed exclusively or almost exclusively as orderlies, practical nurses, nurses' aides, service workers and unskilled laborers, the suit said.

Mr. HINES. We appreciate it, and we thank Congressman Machen for asking us here. We went maybe a little far afield, Congressman Dowdy, but I think it is better to get things off your chest than to let them build up inside of you, and to let you people, who have the responsibility of enacting legislation, know how we feel.

Mr. MACHEN. I am very indebted to the Committee Chairman and the Chairman of this Subcommittee for making it possible for the