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Civil Rights -- Standing to Sue Under Title VIII of the Civil Rights Act of 1968

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In *Trafficante v. Metropolitan Life Insurance Co.*,[1] the first case to construe standing under the enforcement sections of Title VIII of the Civil Rights Act of 1968,[2] the Supreme Court continued its recent trend of liberalizing the standing-to-sue doctrine by extending to a wide range of civil plaintiffs the right to challenge violations of the fair housing law.[3] Paul Trafficante, a white man, and Dorothy Carr, a black woman, were both tenants in a large San Francisco apartment complex. Neither alleged that they were the primary victims of discriminatory practices; instead, they claimed that their landlords, by various means,[4] had restricted the number of black tenants in the complex to less than one percent of the total number of tenants[5] in violation of section 804 of the Civil Rights Act of 1968.[6] As a result, petitioners Trafficante and Carr claimed to have felt the secondary effects of discrimination in the form of lost social, business, and professional relationships accruing from an integrated community and in the social stigma and economic damage occasioned by being forced to live in a "white ghetto."[7]

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1. 93 S. Ct. 364 (1972).

2. Civil Rights Act of 1968, §§ 801-31, 42 U.S.C. §§ 3601-31 (1970).

3. A number of authors have examined this trend. *E.g.*, Davis, *The Liberalized Law of Standing*, 37 U. CHI. L. REV. 450 (1970); Tucker, *The Metamorphosis of the Standing to Sue Doctrine*, 17 N.Y.L.F. 911 (1972); Comment, *Standing of Private Parties to Vindicate the Public Interest*, 50 B.U.L. REV. 417 (1970); Comment, *The Congressional Intent to Protect Test: A Judicial Lowering of the Standing Barrier*, 41 U. COLO. L. REV. 96 (1969).

4. Petitioners alleged, *inter alia*, that their landlord was "making it known to them [the non-white rental applicants] that they would not be welcome at Parkmerced, manipulating the waiting list for apartments, delaying action on their applications, using discriminatory acceptance standards, and the like." 93 S. Ct. at 366.

5. *Id.* at n.5.

6. Civil Rights Act of 1968, § 804, 42 U.S.C. § 3604 (1970), which provides in relevant part:

> [I]t shall be unlawful—
>
> (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
>
> (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling . . . because of race, color, religion, or national origin.
>
> . . . .
>
> (d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling in fact is so available.

7. 93 S. Ct. at 366.

Pursuant to section 810 of the Civil Rights Act,[8] petitioners filed complaints with the Department of Housing and Urban Development (HUD) alleging discrimination. After failing to obtain satisfaction from their landlords through the efforts of HUD, petitioners then filed their complaints in the district court, which found that they were not "persons aggrieved" within the meaning of section 810(a) in that they were not the *direct* victims of the alleged discrimination.[9] The court of appeals affirmed.[10] The Supreme Court reversed, granted standing, and remanded the case to the district court for a hearing on the merits.[11] Mr. Justice Douglas, giving the opinion of the Court,[12] held that "[w]e can give vitality to § 810(a) only by a generous construction which gives standing to sue to all in the same housing unit who are injured by racial discrimination in the management of those facilities under the auspices of HUD."[13]

The Supreme Court has in the past considered problems of standing as being governed by a "rule of self-restraint," apart from the "case or controversy" limitation in Article III of the Constitution, because of the practical problems inherent in significantly increasing the number of persons eligible to bring controversies before the court.[14] The traditional test for standing required a showing of direct injury to a legal interest, "one of property, one arising out of contract, one pro-

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8. Civil Rights Act of 1968, § 810(a), 42 U.S.C. § 3610(a) (1970), which provides in relevant part:

> Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Secretary [of Housing and Urban Development].

The Civil Rights Act of 1968, § 812, 42 U.S.C. § 3612 (1970), also provides for original jurisdiction in the federal courts without regard to the amount in controversy, but does not require the complainant to file first with HUD.

9. Trafficante v. Metropolitan Life Ins. Co., 322 F. Supp. 352 (N.D. Cal. 1971). The court held further that any "enforcement of the public interest in fair housing" should be accomplished by the Attorney General under the Civil Rights Act of 1968, § 813, 42 U.S.C. § 3613 (1970). The petitioners also claimed that their rights under 42 U.S.C. § 1982 (1970) had been violated; this claim was rejected by the court as being without merit. *Id.* at 353.

10. Trafficante v. Metropolitan Life Ins. Co., 446 F.2d 1158 (9th Cir. 1971).

11. 93 S. Ct. at 368.

12. Mr. Justice White in a concurring opinion joined by two other Justices expressed his doubt that, absent the statute relied upon here, the petitioners could otherwise present a "case or controversy" within the meaning of Article III of the Constitution. *Id.*

13. *Id.* Because standing was granted under § 810 of the Civil Rights Act of 1968, the Court found it unnecessary to reach the question of standing under 42 U.S.C. § 1982 (1970). 93 S. Ct. at 367 n.8.

14. Barrows v. Jackson, 346 U.S. 249, 255 (1953).

tected against tortious invasion, or one founded on a statute which confers such a privilege."[15] However, in at least one area, standing to sue under a statute, this limited view of standing has gradually been expanded, both by the Congress in drafting legislation and by the judiciary in applying it.

Draftsmen have increasingly made use of "persons aggrieved" provisions, such as the one involved in *Trafficante*,[16] as a "statutory aid" in conferring standing.[17] The Supreme Court first construed such a statute[18] in *FCC v. Sanders Brothers Radio Station*,[19] in which a radio station challenged the grant of a license by the FCC to a competing station, even though "under the Communications Act economic injury to a competitor is not a ground for refusing a broadcasting license . . . ."[20] However, the Court held:

> Congress had some purpose in enacting § 402(b)(2). It may have been of [the] opinion that one likely to be financially injured by the issue of a license would be the only person having a sufficient interest to bring to the attention of the appellate court errors of law in the action of the Commission in granting the license. It is within the power of Congress to confer such standing to prosecute an appeal.[21]

Even when Congress does not specifically provide for standing in a statute, such standing may be inferred when the purpose of the statute is found to evidence an intent to prevent the type of injury sustained by the complainant. In *Hardin v. Kentucky Utilities Co.*[22] a public utility alleged economic injury caused by expansion of the Tennessee Valley Authority (TVA) into its service area in violation of the Tennessee Valley Authority Act of 1933.[23] Even though the statute contained no express standing provision,[24] the Court found that the

15. Tennessee Elec. Power Co. v. TVA, 306 U.S. 118, 137-38 (1939) (private power company alleged economic injury caused by TVA competition; standing denied).

16. Civil Rights Act of 1968, § 810(a), 42 U.S.C. § 3610(a) (1970), quoted note 8 *supra*. A similar provision was included in the Civil Rights Act of 1964, § 204, 42 U.S.C. § 2000a-3 (1970).

17. Comment, 50 B.U.L. REV., *supra* note 3, at 420.

18. Communications Act of 1934, § 402(b)(2), 47 U.S.C. § 402(b)(6) (1970).

19. 309 U.S. 470 (1940). The competitive interest was also protected in Scripps-Howard Radio, Inc. v. FCC, 316 U.S. 4 (1942); Philco Corp. v. FCC, 257 F.2d 656 (D.C. Cir. 1958), *cert. denied*, 358 U.S. 946 (1959); Clarksburg Publishing Co. v. FCC, 225 F.2d 511 (D.C. Cir. 1955).

20. 309 U.S. at 472.

21. *Id.* at 477.

22. 390 U.S. 1 (1968).

23. 16 U.S.C. § 831n-4 (1970).

24. 390 U.S. at 7.

Act was designed to protect private utilities from TVA competition, and held that "when the particular statutory provision invoked does reflect a legislative purpose to protect a competitive interest, the injured competitor has standing to require compliance with that provision."[25]

The *Hardin* test was later adopted and further refined in *Association of Data Processing Service Organizations, Inc. v. Camp*,[26] in which the statute construed did include a specific grant of standing. The petitioners, sellers of data processing services, protested an action by the Comptroller of the Currency granting to national banks the right to make such services available to other banks and their customers. They claimed standing under the Administrative Procedure Act, which grants standing to any person "aggrieved by agency action within the meaning of a relevant statute."[27] The Court held that a "person aggrieved" must meet two tests:[28] the first, derived from Article III of the Constitution, is "whether the plaintiff alleges that the challenged action has caused him injury in fact, economic or otherwise";[29] the second is "whether the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question."[30]

The "injury in fact" test was explained two years later in *Sierra Club v. Morton*,[31] which required "that the party seeking review be himself among the injured."[32] The Sierra Club alleged that the Department of the Interior had violated federal laws in allowing private use of land preserved as national forest and claimed to be a person aggrieved under the Administrative Procedure Act (APA).[33] Although

25. *Id.* at 6.
26. 397 U.S. 150, 155 (1970).
27. Administrative Procedure Act § 702, 5 U.S.C. § 702 (1970).
28. Although the *Data Processing* decision was nowhere cited in Trafficante v. Metropolitan Life Ins. Co., the two tests for standing that it established appear to be the basis for the reasoning in *Trafficante*. *See* text accompanying notes 44-46 *infra*. Its omission is curious in view of the Court's citation of two other cases involving standing under the Administrative Procedure Act, Sierra Club v. Morton, 405 U.S. 727 (1972), and Shannon v. HUD, 436 F.2d 809 (3d Cir. 1970).
29. 397 U.S. at 152.
30. *Id.* at 153. The "zone of interests" test was criticized in a concurring opinion by Mr. Justice Brennan in Barlow v. Collins, 397 U.S. 159 (1970), as a "wholly unnecessary and inappropriate second step upon the constitutional requirement for standing," which should affect reviewability rather than standing. *Id.* at 169; *see* Davis, *The Liberalized Law of Standing*, 37 U. CHI. L. REV. 450 (1970).
31. 405 U.S. 727 (1972) (4-3 decision).
32. *Id.* at 735. Dissenting opinions urged that an exception to this general rule be made in environmental cases. *Id.* at 741-60; *cf.* Sedler, *Standing to Assert Constitutional Jus Tertii in the Supreme Court*, 71 YALE L.J. 599 (1962).
33. Administrative Procedure Act § 702, 5 U.S.C. § 702 (1970).

the Supreme Court recognized that the Club "is a large and long-established organization, with an historic commitment to the cause of protecting our Nation's natural heritage from man's depredations,"[34] the Court denied standing because the Club had failed to allege any injury to itself or its members: "[A] mere 'interest in a problem,' no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization 'adversely affected' or 'aggrieved' within the meaning of the APA."[35]

However, the Court also indicated clearly that economic injuries of the type alleged in the competitor's suits were not the only type of injuries to be recognized: "Aesthetic and environmental well-being, like economic well-being, are important ingredients of the quality of our life in our society," and are no less "deserving of legal protection through the judicial process."[36] The lower federal courts have granted plaintiffs standing to assert a number of other noneconomic interests, including the quality of radio and television programming[37] and the treatment of persons displaced by urban renewal programs.[38] In *Shannon v. HUD*,[39] the Third Circuit acknowledged the right of residents in a neighborhood chosen by HUD to become the site of a low-income housing project to allege the adverse affect on "not only their investments in homes and businesses, but even the very quality of their daily lives."[40]

In *Trafficante*, petitioners alleged both economic and social injuries caused by being forced to live in a "white ghetto."[41] The Court refused to restrict the concept of "injury" to grant standing only to those who had themselves been refused housing. Instead, it reaffirmed the concept that the *nature* of the alleged injury is unimportant, so long as it is an injury that has in fact been sustained by the complainant[42] and that is sufficiently particular to meet the "case or controversy" test in Article III of the Constitution.[43]

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34. 405 U.S. at 739.
35. *Id.*
36. *Id.* at 734.
37. Office of Communications of the United Church of Christ v. FCC, 359 F.2d 994 (D.C. Cir. 1966).
38. Norwalk CORE v. Norwalk Redev. Agency, 395 F.2d 920 (2d Cir. 1968).
39. 436 F.2d 809 (3d Cir. 1970).
40. *Id.* at 818.
41. 93 S. Ct. at 366.
42. *Id.* at 367; *see* text accompanying notes 31-40 *supra*.
43. 93 S. Ct. at 368; *see* Flast v. Cohen, 392 U.S. 83, 106 (1968).

Data Processing was nowhere mentioned in *Trafficante*; however, the *Data Processing* "zone of interests" test[44] appears to be the occasion for a finding by the Court that the "language of the Act is broad and inclusive"[45] and that the legislative history, albeit meager, would support a grant of standing to "those who were not the direct objects of discrimination."[46] Respondents argued, however, that in granting to the Attorney General only the authority to seek an injunction to bar a "pattern or practice" of discrimination,[47] Congress intended that *only* the Attorney General should have such power, which the petitioners were allegedly attempting to usurp. This argument was rejected upon a finding that, as a practical matter, the Attorney General with "less than two dozen lawyers" in the Housing Section of the Civil Rights division, was incapable of any effective, wide-ranging enforcement.[48] Private suits are therefore necessary where "the complainants act not only on their own behalf, but also 'as private attorneys general in vindicating a policy that Congress considered to be of the highest priority.' "[49]

The "private attorney general" concept[50] has been utilized in situations where the government may be unwilling or, as in *Trafficante*, unable effectively to enforce a large number of violations of the law.[51] In *Allen v. State Board of Elections*[52] the Court dealt with a suit by a private citizen alleging violation of the Voting Rights Act of 1965.[53] As in *Trafficante*, the Attorney General was empowered to seek an injunction to halt violations,[54] but the Court recognized that because of

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44. *See* text accompanying note 30 *supra*.

45. 93 S. Ct. at 367. Precisely which language is relied upon is not known; however, the Court is apparently referring to the "person aggrieved" provision in § 810, quoted note 8 *supra*, and to the declaration of policy in § 801, which provides: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." 42 U.S.C. § 3601 (1970).

46. 93 S. Ct. at 367. The legislative history of the Act does not specifically discuss standing, but does lend some support to a finding that the Act was intended to remedy a broad range of ills resulting from discriminatory housing practices. *See Hearings on S. 1358, & S. 2280 Before the Subcomm. on Housing & Urban Affairs of the Senate Comm. on Banking & Currency*, 90th Cong., 1st Sess. (1967); 114 CONG. REC. 2706 (1968) (remarks of Senator Javits); 114 CONG. REC. 3472 (1968) (remarks of Senator Mondale); 114 CONG. REC. 9559 (1968) (remarks of Congressman Celler).

47. Civil Rights Act of 1968, § 813, 42 U.S.C. § 3613 (1970).

48. 93 S. Ct. at 367.

49. *Id.*

50. This phrase was first used in Associated Indus. v. Ickes, 134 F.2d 694, 704 (2d Cir. 1943), *vacated as moot*, 320 U.S. 707 (1943).

51. *See* Tucker, *supra* note 3, at 939-40.

52. 393 U.S. 544 (1969).

53. 42 U.S.C. §§ 1973 to 1973p (1970).

54. Voting Rights Act of 1965, § 12(d), 42 U.S.C. § 1973j(d) (1970).

the large number of potential violations, "[t]he achievement of the Act's laudable goal would be severely hampered . . . if each citizen were required to depend solely on litigation instituted at the discretion of the Attorney General."[55]

In *Newman v. Piggie Park Enterprises, Inc.*,[56] a private citizen had successfully obtained an injunction under Title II of the Civil Rights Act of 1964,[57] which, like the statute in *Trafficante*, permitted the Attorney General to initiate suits only to remedy "patterns or practices" of discrimination.[58] The Court allowed full attorney's fees to the petitioner, reasoning that to do otherwise would discourage suits by aggrieved parties.[59] The Court further observed:

> When the Civil Rights Act of 1964 was passed, it was evident that enforcement would prove difficult and that the Nation would have to rely in part upon private litigation as a means of securing broad compliance with the law. A Title II suit is thus private in form only. When a plaintiff brings an action under that Title, he cannot recover damages. If he obtains an injunction, he does so not for himself alone but also as a "private attorney general," vindicating a policy that Congress considered of the highest priority.[60]

Thus, the petitioners in *Trafficante*, once having met the dual *Data Processing* tests,[61] as refined by *Sierra Club v. Morton*,[62] were granted standing not only to seek a remedy for their own personal injuries, but also to protect the interests of the public.[63]

At the very least, then, *Trafficante* held that tenants in an apartment complex who claim to have suffered social and economic injuries caused by specific acts of discrimination to others, which are prohibited by section 804 of the Civil Rights Act, have standing under Section 810 to complain of such discriminatory acts. How much further the Supreme Court will travel in applying the *Trafficante* rationale remains to be seen. The existence of the "person aggrieved" provision, the inability of the Attorney General adequately to police viola-

55. 393 U.S. at 556; *see* J.I. Case Co. v. Borak, 377 U.S. 426, 432 (1964); *cf.* Perkins v. Mathews, 400 U.S. 379, 396 (1971).
56. 390 U.S. 400 (1968) (per curiam).
57. Civil Rights Act of 1964, §§ 201-07, 42 U.S.C. §§ 2000a to 2000a-6 (1970).
58. Civil Rights Act of 1964, § 206, 42 U.S.C. § 2000a-5 (1970).
59. 390 U.S. at 402.
60. *Id.* at 401-02.
61. *See* text accompanying notes 29-30 *supra.*
62. *See* text accompanying notes 31-40 *supra.*
63. *See* text accompanying notes 48-59 *supra.*

tions, and the existence of an opinion letter from the Assistant Regional Administrator of HUD, to which the Court attached "great weight,"[64] concluding that the petitioners were persons aggrieved under the Act, are all factors supporting the Court's holding. But one can only speculate whether any of these factors are vital as well as supportive since the opinion simply lists each without weighing them individually. Will the patron of any hotel, restaurant, or movie theater under Title II of the Civil Rights Act of 1964[65] now have standing to allege exclusion of others because of "race, color, religion or national origin,"[66] simply by alleging that he is socially stigmatized by this exclusion and by presenting a favorable agency opinion letter?[67] Although *Trafficante* might be distinguished in that tenants, once settled, cannot as a practical matter as easily relocate as can the hotel, restaurant, or theater patron, what if this is the only hotel or restaurant in town? The 1964 Act does not make such subjective distinctions, with the result that *Trafficante* would seem logically to support a grant of standing to a "stigmatized patron." Such questions have already been answered in the affirmative by the Equal Employment Opportunities Commission in construing Title VII of the Civil Rights Act of 1964.[68] The Commission interpreted the Act as granting standing to white employees to allege employer discrimination against minority job applicants, finding that "an employee's legitimate interest in the terms and conditions of his employment comprehends his right to work in an atmosphere free of unlawful employment practices and their consequences."[69] *Trafficante* would seem to bear out the Commission's interpretation.

64. 93 S. Ct. at 367; *see* Griggs v. Duke Power Co., 401 U.S. 424, 433-34 (1971); United States v. City of Chicago, 400 U.S. 8, 10 (1970) (per curiam); Udall v. Tallman, 380 U.S. 1, 16 (1965). The finding in *Trafficante* is an example of how loosely "administrative construction" can be defined. The only "construction" by HUD in this case was a bare conclusion in a letter prepared *after* the complaint had already been filed in district court.

65. Civil Rights Act of 1964, §§ 201-07, 42 U.S.C. §§ 2000a to 2000a-6 (1970). The Act contains a "person aggrieved" provision, 42 U.S.C. § 2000a-3 (1970), and is sufficiently broad to make adequate enforcement by the Attorney General impossible. *See* Newman v. Piggie Park Enterprises, Inc., 390 U.S. 400, 402 (1968) (per curiam).

66. 42 U.S.C. § 2000a(a) (1970).

67. This suggests another aspect of the *Trafficante* holding that is implied by the facts of the case rather than by the opinion itself: should the *Trafficante* rationale be limited to allegations of racial discrimination? The broader language of the Civil Rights Act of 1968, § 804, 42 U.S.C. § 3604 (1970), suggests not. *See also* Peters v. Kiff, 407 U.S. 493 (1972) (opinion of White, J.).

68. Civil Rights Act of 1964, §§ 701-16, 42 U.S.C. §§ 2000e to 2000e-15 (1970).

69. Case Nos. NO 68-8-257E, NO 68-9-329E, 2 F.E.P. Cas. 79, 80 (EEOC 1969).

CONCLUSION

While the *Data Processing* decision was not mentioned by the Court in *Trafficante*, the dual tests there enumerated appear to be the basis for the latter decision. The fact situation in *Trafficante* is yet another area in which the Supreme Court has loosened its increasingly flexible standing requirements by reaffirming that the nature of the injury alleged is unimportant so long as it constitutes "injury in fact" within the meaning of Article III of the Constitution. In cases like *Trafficante*, standing is conferred not only to remedy individual injuries, but perhaps more importantly, to protect the interests of society in obtaining fair and open housing.

The practical effects of *Trafficante*, however, are less certain. Although it expanded the class of persons entitled to allege denial of fair housing to include tenants, whether such an expansion will significantly increase the number of suits brought in this area is doubtful. Although a tenant may often be in a far better position to discover discrimination,[70] in the past nothing has prevented such a determined tenant from apprising potential minority applicants of this fact and encouraging action on their part. While the tenant's task was concededly greater before *Trafficante*, it was usually not an impossible one, as evidenced by the *Trafficante* case itself: soon after Trafficante was denied standing in the district court, five rejected minority applicants to the apartment complex filed suit.[71] Furthermore, in order to establish the necessary violations of section 804[72] at trial, the petitioners will probably have to call as witnesses the very persons whom the respondents claim are the only proper parties to bring the suit—the direct victims of the discriminatory acts. The prevention of possible harassment to civil defendants by unlimited access to the federal courts seems to be one concern implicit in recent Supreme Court considerations of the "case

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70. The petitioner argued:

> Unlike the individual minority applicant, who typically has only a limited awareness of or contact with his prospective landlord, residents have a continuity of association and contact which uniquely enables them to observe and discern both the racial character of their self-contained community and the way in which that character is maintained. This is of substantial significance, since a large apartment complex can easily conceal its discriminatory policies so that it is impossible for a minority applicant to determine with any certainty that he has been the victim of racial discrimination.

Brief for Petitioner at 38, Trafficante v. Metropolitan Life Ins. Co., 93 S. Ct. 364 (1972).

71. Burbridge v. Parkmerced Corp., No. C-71-378[AJZ] (N.D. Cal., filed Feb. 25, 1971) (filed fifteen days after the district court decision in Trafficante v. Metropolitan Life Ins. Co., 322 F. Supp. 352 (N.D. Cal. 1971)).

72. Relevant parts of § 804 are quoted note 6 *supra*.

or controversy" requirement in Article III of the Constitution.[73] Thus, rather than significantly increasing the volume of litigation, *Trafficante's* promise of merely allowing tenants to do directly what they had previously been required to do indirectly may be one of the more persuasive, if as yet unarticulated, factors encouraging the Court to extend the *Trafficante* rationale to analogous situations.

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Constitutional Law—The Eighth Amendment and Prison Reform

The conditions within many American prisons have made the penal system a national disgrace. From time to time crisis situations have erupted, and the public has been made aware of the desperate need for reform of the practices and conditions of confinement of prison inmates. In the past several years the courts, and especially the lower federal courts, have begun to take a more active role in ameliorating abject prison conditions. The primary constitutional theory underlying these suits has been the eighth amendment prohibition against the infliction of cruel and unusual punishment.[1] Two recent cases, *Baker v. Hamilton*[2] and *Inmates of Boys' Training School v. Affleck*,[3] have emphasized the importance of social rehabilitation in finding the conditions of juvenile confinement unlawful. These cases suggest that in the future the eighth amendment might serve as the constitutional foundation for the precept that lawful confinement of adults as well as juveniles requires rehabilitative services. Although this possibility seems unlikely at the present time, the trend in the eighth amendment cases does provide a potential avenue for courts to follow if the essential purpose of the criminal justice system were to be changed from punishment to reformation. This note will discuss the evolution of the eighth

73. *See, e.g.*, Sierra Club v. Morton, 405 U.S. 727, 739-40 (1972); Baker v. Carr, 369 U.S. 186, 204-08 (1962).

1. "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. CONST. amend. VIII.

2. 345 F. Supp. 345 (W.D. Ky. 1972).

3. 346 F. Supp. 1354 (D.R.I. 1972).