

POLITICAL OFFICE EXCLUDED FROM AMPARO

As in the United States, political office in Mexico is not considered a civil right. Removals from office are governed by election laws and code. A public official, as such, in the exercise of his official acts in contradistinction to his private acts, does not have the remedy of Amparo to interject between orders given to him by superior officials and normal obligations to execute them.

AMPARO AND THE JUDICIARY

Mexican Amparo processes are not limited to federal, state and local executive or administrative agencies but are also available, vis-a-vis the judiciary. In the United States, if an aggrieved party can present a *prima facie* case showing that the ordinary remedy usually involving prolonged appeal time is not speedy enough to protect him in his personal or property rights, our "extraordinary writs" have been developed to the extent that abuse of authority by lower courts (whether because of arbitrary action or excess jurisdiction) may ordinarily be treated with by higher courts. The extraordinary writs are available to enjoin lower courts or quasi-judicial bodies from continued unlawful procedures. They are not, however, available when the agency or court is proceeding in a lawful manner, although the cumulative effect of such action on an individual of specific group of individuals may be to deny individual rights or privileges guaranteed by the constitution. Amparo, however, is, to redress what Justice Douglas has called "outrageous acts" committed in a perfectly lawful manner.

CONCLUSION

This exposition of one method complement existing procedures for the redress of citizen grievances in California's urban areas, would have served no useful purpose unless the Amparo concept could be interwoven into our system of law and government. It has already applicability, transferability and adaptability at least to California.

It would be least useful as a remedy against grievances within the judicial branch of Government, but most useful in a myriad of other administrative circumstances. Even within the judiciary it would have one important attribute now lacking in our judicial system. It could afford a supplemental remedy to dispose of procedural violation of constitutional rights during a trial, without the need of first trying a long case and afterwards taking up that point on appeal. A Federal district court could order a lesser court trial suspended insofar as the basic case is concerned, order up a hearing on the constitutional point, have a rapid hearing and remand the matter to the lesser court on the constitutional violation if it is found to violate an individual's guarantees. The temporary suspension of the trial until the alleged violation of individual constitutional guarantees is adjudicated has *not* proved onerous, unduly burdensome or cumbersome in Mexico. The lower court trial judge is not supplanted, nor does he lose jurisdiction over the main issue. Under the Amparo process, only the grievance alleging a denial of individual rights is heard.³⁶

Under Mexican legal rules, failure to break out the alleged violation of individual privilege or right by asking for Amparo during a court trial is not held as a bar to later testing of the matter. The aggrieved party reserves his other constitutional rights to exception during the trial without asking for Amparo and if the decision be adverse, he may still appeal if he has specifically reserved his constitutional exception in the lower court (interponer apelacion o revision).

Additional federal judges might be needed to carry the extra load created by adoption of Amparo as a supplemental remedy for the redress of citizen grievances. (In Mexico, there are 21 Supreme Court Judges divided into departments relating to different specialties). "The requirements of equity point up the need to create an auxiliary judicial office."³⁷ Other countries have provided for the need by creating the Ombudsman, the Conseil d'Etat, the Procurator, the Inspector General and so on through numerous examples. Our own grand jury system finds some roots in this need. The examples are easy to find because the need has always arisen wherever administrative functions have become large and complicated.

³⁶ *Ibid.* Tomo XI, p. 326.

³⁷ Wheeler, *op. cit.*, p. 14.