

*

-

-

-

-

:

-1

-2

-3

:

-1

-2

-3

*

.2004/7/13

2003/9/4

1

5

(94)

()

6

7

:

-

-

2

3

- -

:

)

4

(

-

:

8

.1

-

9

10

11

-

-

31)

(94) " 1977/6/29

12

-

-

13

17

-

18

14

"

19

15

16

(94)

"

20_a

21

-3

24

26

25

27

22

(94)

(120 114 31)

23

-
34

-
29

()
30

35

...

"

31

36

()

32

"

12

/12

1992

)

33

2001

44

(
2001/8/28

40

37

- - - -
" 53/40 -

38 / (93)

39

(93)

41

" : (7/19) " ()
(1/94) 2001/348
(2/19)

."

-

-

)

(

:

94

42

()

1952

43

44

()

45
(1/94)

:

.()

94

"

.()

"

46

94

()

47

48

49

(94)

50

()

51

52

()

53

55

150

!!

56

()

54

.2

57

()

(

1992 12

-

-

1951 71

⁵⁸1952

(26)

⁵⁹1989

(11)

⁶²

()

"

"

)

60

(

:

"

"

1992 12

⁶³

()

.(7 6)

⁶⁴

:

-6

"

-7

⁶⁵ "

61

)

()

70

" ()

(94)

" " 67

81

71"

68

69

-

-

-

-

.3

" 53/40

:

(93)

72

76

" 56/105

77

()

78

()

73

()

79

- -

94

74

- -

)

(

75

()

80

()

83

(94)

84

85

()

81

22

()

1954/12/

82" ...

94

-1"

.86

:

(1)

(2)

(3)

.87

1997 27

()

.88

94

- -

7/19

0

-2

7/19

:97/226

89

:

()

-

-

-

-

-

-

)

90

(

()

-

-

-

97/226

(31)
(120) 94 (114) (1)

: (8) (2)

) (3)

.((3)

.51 (4)

.20 1994 (5)

.20 (6)

(7)

(9) ()

:				:					
	.152	1987			(114)			(31)	
		.112	(19)	:				(120)	
		72/31	(20)		.179			(94)	
1953					.176				(10)
.528		1987							(11)
	.112		(21)	24					(12)
:			(22)			.109	1997	1	
				184					(13)
		.236	(23)						
" :									
.55	"	" "	(24)						
.109			(25)						
"			(26)						
			(27)						
								.193	
								(25)	(14)
								(26)	
"			(28)						
								(27)	
()									
"									
()									
(41)								175	(15)
								.194	
					.175				(16)
					1977			77/30	(17)
								.11832	(18)
"									
"									
	.96								
			(29)						

			" (58)					
	(10)	(3)		(1) :				
	1951	(71)		(2) .				
	"					(3) .		
	53/321							
		.113		1997	27			
(94)	"	1963/6/3						
							
						97/226		
	()			.389	1998	
	"				"	"		(50)
		.707	1963				.24	
			(59)	Ignacio de Otto-	Derecho	Constitucioal.	Sistema de	(51)
		-				Fuentes.	1997. P.198.	
	"	"				.24		(52)
						.24		(53)
		.177	-174	CHAPUS Rene,	Droit administrative	g' en'eral,	Tome '	(54)
			(60)			1,	Montchrestion,	1999, P.1047
				"	420			(55)
	"	96/268	"					
	"	"	"					
			" .1167					
()			72/31	"			
					.528	"...	"	
	96/208	"...		"				(56)
	"	"			43	"	"	
		.194		"		"		
.119			(61)			545		
"				1972	"			
40-17	"	"						
"				"		.1993	"	
				-"		"		
				-				
		.1996						
.120			(62)	"		"		(57)
			(63)				.136	
						86	1978	
	"	53/40	"	Ignacio de Otto-Derecho	Constitucioal			
	79	"...					.P.195	

"...	" 53/40	(72)	.59	(64)
	.79		" 94/298	(65)
"...		(73)	.94	
	139		" 199-5-31	
		(74)		
.53	152	(75)	"	
			.122	
			.122	(66)
			"	
				:"
502	"	"		
.277/276	"	"		
	277			
		" (76)	"	
			.137	
				(67)
1973/12/13	"			
" :	.30	1973	Les actes de pure Administration	
		94	31-1- Grazietti "	
			-CE.13-6-1913 commune de sin-le-Noble-Rec. .1902	
			P660.	
			" 55	
			"	
"	" "		.211 1953	
	.136			(68)
	73/3	(77)		
		(78)	" 73/3	"...
	.134		.571	"...
	..."	(79)	-	"
			1992	"
" 73/3	"...			.145
-1972			.121	(70)
	"1986		" 72/31	(71)
	.129		"	
			528	
			"	
" 94/355	"...			18

	1986	1987
	1986-1972	
	1997	
	1997 1993	1953
	:	1993
Ignacio de Otto-Derecho Constitucioal. Sistema de Fuentes.		
1997.	(17)	
CHAPUS Rene, Droit administratif general, Tom 1,		2002 (8)
Montchrestion, 1999.		1999
Luis Villacorta Mancebo -Reserva de Ley y constitucion-		
Editurial Dykinson. 1994.		2002
Fernando Gerrida Falla-Tratado de Derecho Administrativo-		
Parte General. Tecnos. 1994.		1987

On the Supreme Court of Justice Control for the Necessity State Needed for Issuing of Temporary Laws

*Omar Abdurrahman Al-Borini**

ABSTRACT

Temporary laws as legislative competence are very essential for the executive authority. They usually raise many problems when there is a judicial control on them, especially when this issue is related to the control of the Supreme Court of Justice. This is due to the constitutional restrictions upon this competence, particularly with reference to necessity limitation, and the legal description of the nature of these laws. This paper addresses the following question: Is there any means to reach active supervision upon this right of the Supreme Court in order to achieve the right application of the principle of legality and the enforcement of the principle of supremacy of law, taking into consideration the balance between public welfare and the basic rights of citizens? The main focus, therefore, is on the ways that enable the courts, in general, and the administrative courts, in particular, to exercise control over these temporary laws through the proper description of their nature. Since these laws, judged by formal criteria are considered administrative acts that do not differ from administrative decisions in nature, we will deal with the subject under two headings: the nature of these laws and the extent of judicial control over them.

* Faculty of Law, Irbid Private University, Irbid, Jordan. Received on 4/9/2003 and Accepted for Publication on 13/7/2004.