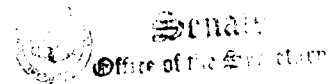


**NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)**



23 DEC 19 P 4 :43

**SENATE
P.S. RES. NO. 889**

RECEIVED BY: LSV

Introduced by SENATOR FRANCIS "TOL" N. TOLENTINO

**RESOLUTION
AMENDING SECTIONS 16 AND 18 OF RESOLUTION NUMBER 5 OTHERWISE
KNOWN AS THE RULES OF PROCEDURE GOVERNING INQUIRIES IN AID OF
LEGISLATION**

Whereas, Article VI, Section 21 of the 1987 Constitution provides that the Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure;

Whereas, inherent to the enforcement of the right to conduct inquiries in aid of legislation is the right of the Senate and its committees to exercise the power of contempt;

Whereas, the Supreme Court in the 2018 case of *Balag v. Senate of the Philippines*, ruled that the period of detention under the Senate's power of contempt would only last until the termination of the legislative inquiry under which the said power is invoked. A legislative inquiry is considered terminated or concluded upon adjournment of Congress or upon approval or disapproval of the Committee Report.¹

Whereas, while recognizing the Senate's power to conduct legislative inquiry and its accompanying power to cite in contempt, the Supreme Court in the more recent case of *Ong v. Senate of the Philippines*, ruled that before a contempt order is issued, opportunity to be heard must first be accorded to a person".² The Court recognized that the Senate's exercise of such power must be subject to three limitations: (1) the inquiry must be "in aid of legislation;" (2) the inquiry must be conducted in accordance

¹ Balag vs Senate, G.R. No. 234608. 3 July 2018

² Ong v. Senate of the Philippines, G.R. No. 257401, 28 March 2023.

with its duly published rules of procedure; and (3) "[t]he rights of persons appearing in or affected by such inquiries shall be respected."³ The Court particularly said:

"Here, the Court finds that while satisfying the first two limitations, the Committee failed to accord petitioners their rights relative to the conduct of its proceedings. xxx."

Whereas, the Court in the same case held "as succinctly pointed out by Chief Justice Alexander G. Gesmundo, witnesses who are charged by Congress with 'giving false or evasive testimony' must be accorded stricter due process requirements, such as the opportunity to explain one's side before being penalized, consistent with the due process safeguards used in criminal proceedings. Considering the broad definition of "giving false or evasive testimony," the witness must, at the very least, be given a chance to explain why his or her testimony is not false or evasive. In the case, the Committee's grave abuse of discretion lay in its precipitate act of citing petitioners Ong and Yang in contempt and ordering their arrests without giving them the opportunity to be heard."

Whereas, to be consistent with the relevant Supreme Court rulings on the matter and so as not to repeat what happened in the two cases where the exercise of contempt power of the Senate has been reviewed by the Supreme Court, it is high time for the Senate to amend relevant sections of Resolution No. 5.

Resolved, as it is hereby resolved, by the Senate of the Philippines, To amend Sections 16 and 18 of Resolution No. 5 otherwise known as the Senate Rules of Procedure Governing inquiries in aid of legislation, to read as follows:

Sec. 16. Statement of Witness. (1) Any witness desiring to make a prepared or written statement for the record shall file a copy of such statement with the Committee Secretary not less than twenty-four (24) hours in advance of the hearing at which the statement is to be presented; and (2) All such statements or portions thereof so received which are relevant and germane to the subject of investigation may, at the conclusion of the testimony of the witness, be inserted in the official transcript of the proceedings.

**ALL PERSONS UNDER INVESTIGATION / WITNESSES
APPEARING IN OR WHOSE RIGHTS ARE AFFECTED BY SUCH
INQUIRY MAY SUBMIT A LEGAL BRIEF / MEMORANDUM
SUMMARIZING HIS OR HER POSITION RELATIVE TO THE**

³ *Id.*

SUBJECT MATTER OF THE INQUIRY WITHIN A NON-EXTENDIBLE PERIOD OF FIFTEEN (15) CALENDAR DAYS FROM THE ADJOURNMENT OF SAID INQUIRY. UPON THE EXPIRATION OF THE SAID PERIOD, THE COMMITTEE SHALL COME UP WITH ITS REPORT NOTWITHSTANDING THE ABSENCE OF THE SAID MEMORANDUM.

Sec. 18. Contempt.* (a) The Chairman with the concurrence of at least one (1) member of the Committee, may punish or cite in contempt any witness before the Committee who disobeys any order of the Committee or refuses to be sworn or to testify or to answer a proper question by the Committee or any of its members, or testifying, testifies falsely or evasively, or who unduly refuses to appear or bring before the Committee certain documents and/or object evidence required by the Committee notwithstanding the issuance of the appropriate subpoena therefor. ~~A majority of all the members of the Committee may, however, reverse or modify the aforesaid order of contempt within seven (7) days.~~

NO WITNESS APPEARING BEFORE THE COMMITTEE SHALL BE CITED IN CONTEMPT FOR TESTIFYING FALSELY OR EVASIVELY WITHOUT BEING GIVEN THE OPPORTUNITY TO BE HEARD. THE CHAIRMAN WITH THE CONCURRENCE OF AT LEAST ONE MEMBER OF THE COMMITTEE, UPON PRELIMINARY ASSESSMENT BASED ON PIECES OF EVIDENCE PRESENTED AND SUBMITTED, BE IT DOCUMENTARY OR TESTIMONIAL, THAT THE WITNESS BEFORE IT IS GIVING FALSE OR EVASIVE TESTIMONY SHALL EITHER:

- 1. ISSUE AN ORAL ORDER ALLOWING AND GIVING THE WITNESS DURING THE HEARING THE IMMEDIATE OPPORTUNITY TO EXPLAIN FOR THE RECORD WHY HE/SHE SHOULD NOT BE CITED IN CONTEMPT; OR**
- 2. ISSUE A WRITTEN SHOW CAUSE ORDER ANSWERABLE WITHIN THREE (3) DAYS FROM ITS ISSUANCE WHY HE/SHE SHOULD NOT BE CITED IN CONTEMPT.**

THE PERSON CITED IN CONTEMPT MAY FILE A MOTION FOR RECONSIDERATION WITHIN FIVE (5) DAYS FROM THE DAY THE CONTEMPT WAS ORDERED. THE MOTION FOR RECONSIDERATION SHALL NOT EXCEED FIFTEEN (15) PAGES

AND MUST CLEARLY AND SUCCINCTLY CONTAIN THE GROUNDS UPON WHICH IT IS BASED.

A MAJORITY OF ALL THE MEMBERS OF THE COMMITTEE SHALL BE NECESSARY TO REVERSE OR MODIFY THE AFORESAID ORDER OF CONTEMPT.

A contempt of the Committee shall be deemed a contempt of the Senate. Such witness may be ordered by the Committee to be **ARRESTED AND** detained in such place as it may designate under the custody of the Sergeant-at-Arms until he/she agrees to produce the required documents, or to be sworn or to testify, or otherwise purge himself/herself of that contempt[.]; **PROVIDED, HOWEVER, THAT THE PERIOD OF DETENTION SHALL ONLY LAST UNTIL THE TERMINATION OF THE LEGISLATIVE INQUIRY UNDER WHICH SAID POWER IS INVOKED. THE LEGISLATIVE INQUIRY OF THE SENATE TERMINATES IN TWO INSTANCES:**

- 1. UPON APPROVAL OR DISAPPROVAL OF THE COMMITTEE REPORT; OR**
- 2. EXPIRATION OF ONE (1) CONGRESS.**

b) A report of the **ARREST AND** detention of any person for contempt shall be submitted by the Sergeant-at-Arms to the Committee and the Senate.

Adopted.



FRANCIS "TOL" N. TOLENTINO
Senator