

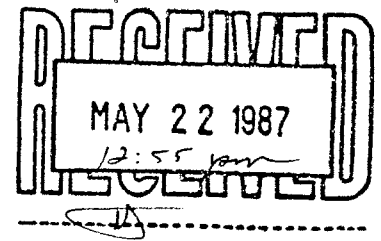


Territory of Guam

OFFICE OF THE GOVERNOR

AGANA, GUAM 96910

U.S.A.



MAY 21 1987

The Hon. Franklin J.A. Quitugua
Speaker
Nineteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Included herewith is Bill No. 199, which I have signed into law as of this date.

The primary purpose of this Bill was to allow for flexibility in sentencing as it pertains to concurrent vs. consecutive sentences. This is a very important and timely measure, as it will allow a greater range of sentencing options to our judges and allow for stiffer penalties being handed out to criminals convicted of multiple offenses. I have also been advised that the prospect of being able to provide consecutive and harsher sentences for multiple offenders will discourage the use of plea bargaining in some instances. This is all in line with our commitment to law enforcement and fighting crime.

Although this much needed anti-crime measure was the primary objective of Bill 199, the crux of the subject matter revolved around the establishment of controls on the proliferation of electronic poker machines in the Territory, and this matter was foremost in my mind during the course of my deliberations on this bill.

I believe we are unanimous in our desire to see controls established upon, or even the elimination of, this industry. It is for this reason that I have taken this action today. Public Law 19-4 prohibits the further importation of such gambling devices into the Territory. Had I vetoed this measure, we would have seen the numbers of machines on island increase significantly in the immediate months ahead. Indeed, I have been made aware of machines currently on order for delivery to Guam. On my instruction, the Dept. of Revenue and Taxation has studied the numbers scheduled to arrive in the immediate future, as best as they are able to tell. According to DRT, at least 53 machines have arrived on Guam in the past week, and more than 150 are scheduled to arrive shortly. Beyond this, inquiries are being

001192

HON. FRANKLIN J.A. QUITUGUA
Page Two

placed from California concerning the possibility of exporting machines into the Territory, including the introduction of electronic Mah-Jongg devices. This measure prevents their arrival.

Public Law 19-4 stipulates strict enforcement of controls on operating hours and the segregation of gambling devices from areas frequented by minors. The law establishes hours of legal operation for poker machines from 10:00 a.m. to 2:00 a.m., as opposed to the 24 hour operations allowed previously. The law also provides for the segregation of poker machines in areas where they will not be accessed by minors. This is essential as we must do everything possible to shield our youth from the corrupting influences associated with gambling. Had I vetoed this bill, these controls would not exist. This would be unacceptable.

Public Law 19-4 provides for meters to be placed on all gambling devices in the Territory, capable of determining with precision the amount of money taken in by each machine. Further, it provides for the Department of Revenue and Taxation to have exclusive access to these meters and provides for strict registration of all devices. The sum of these provisions will clamp down on the potential for misrepresentation of receipts and ensure that operators pay all taxes due our Government. Had I vetoed this measure, these safeguards would not exist.

The entire issue of gambling is fraught with high emotional content. Although I empathize with those feelings, as Governor, I must act logically, responsibly and in the best interests of the people of Guam -- all the people of Guam. There is no guarantee that any other piece of legislation will come before me in the near future that will abolish, or even limit, electronic poker devices in our Territory. I am faced with the real possibility that a veto of this measure would merely have ensured the perpetuation of the status quo, merely ensured a constant increase in the number of poker machines in our Territory, merely ensured the absence of limits on an industry that must be controlled. A veto of this measure would only have further exposed our youth, and our unfortunate citizens addicted to gambling to more machines in more locations.

The only responsible decision to be made was to sign this bill into law.

HON. FRANKLIN J.A. QUITUGUA
Page Three

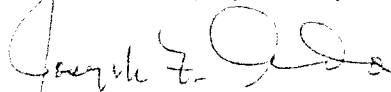
Nonetheless, I am in agreement with those who say that the time has come for a public re-examination of this industry and its desirability in our Territory. I encourage that a public hearing be scheduled on Bill No. 433, or on any similar piece of legislation. For my part, I will be glad to sign into law any measure which passes the legislature in this regard.

As far as Public Law 19-4 is concerned, it is a gambling control measure and it does establish much needed controls and regulations on the industry, as well as outline the eventual demise of these devices. It is a step in the right direction and I have signed it into law as a first step in the process of controlling, and eventually eliminating poker machines in this Territory. I do not understand the logic that says it is not an anti-gambling measure...it most obviously is.

I am also forwarding comments from the Department of Agriculture in regard to section 24 of Bill No. 199. Several points are raised in objection to this section, including the possibility that this section violates federal regulations as they pertain to endangered species. I would recommend the reconsideration and perhaps the repeal of this section at your earliest convenience.

Furthermore, there is an apparent error in addition in section 10 of this bill. While the error only creates a \$1.00 discrepancy between the total appropriation and the itemized breakdown, it should be addressed.

Sincerely yours,



JOSEPH F. ADA
Governor

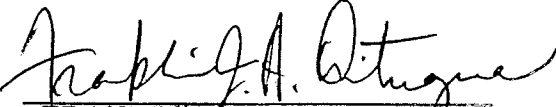
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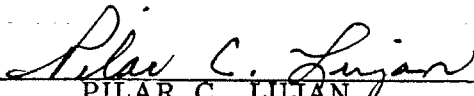
NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

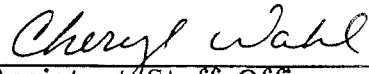
This is to certify that Substitute Bill No. 199 (LS), "AN ACT TO AMEND SUBSECTION (b) OF 9 GCA §80.10 RELATIVE TO SENTENCES IMPOSED FOR CONVICTION OF MORE THAN ONE CRIME, AND FOR OTHER PURPOSES," was on the 8th day of May, 1987, duly and regularly passed.


FRANKLIN J. A. QUITUGUA
Speaker

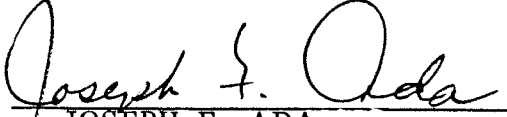
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 13th day of May, 1987, at 6:15 o'clock P.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: May 21, 1987

Public Law No. 19-4

NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

Bill No. 199 (LS)
Substitute
Committee on Rules

Introduced by:

F. R. Santos
T. S. Nelson

AN ACT TO AMEND SUBSECTION (b) OF 9
GCA §80.10 RELATIVE TO SENTENCES
IMPOSED FOR CONVICTION OF MORE THAN
ONE CRIME, AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Subsection (b) of 9 GCA §80.10 is amended to read:

3 "(b) Where the judgement of conviction included more than one
4 crime, the sentences imposed may run concurrently or consecutively
5 except that if such sentences run consecutively, the provisions of
6 §§80.38, 80.40 and 80.42 shall not be applicable."

7 Section 2. Section 19200.5 of the Government Code (Declaration of
8 exemption for Certain Devices from the provisions of 15 U.S.C. 1172) is
9 repealed.

10 Section 3. 9 GCA §64.20 is repealed and reenacted to read:

11 "\$64.20. Importation of Gambling Devices to Guam Illegal:
12 Defined and Punished.

13 (a) A person commits a felony when he imports or attempts to
14 import, or causes to import a gambling device, whether operable or
15 not, into the territorial jurisdiction of Guam, or manufacturers a
16 gambling device within the territory of Guam.

17 (b) As used in this Section, 'gambling device' means any coin
18 operated device which, when operated, may return winnings (other
19 than free games not redeemable for cash) of value to the user based
20 partially or completely upon chance, by the operation of which a
21 person may become entitled to receive winnings of value. It does not
22 include pinball and other amusement machines or devices which are
23 predominantly games of skill whether affording the opportunity of

1 additional chances or free plays or not. It does include any slot
2 machines, video poker machines, and other machines or devices which
3 afford the opportunity of winnings, payouts, malfunction refunds to
4 the player or giving the player or user anything of value under any
5 guise or form based partially or completely upon chance.

6 (c) Any gambling device in violation of this Section shall be
7 subject to seizure and forfeiture. Any slot machine shall be subject to
8 seizure and forfeiture.

9 (1) Any property subject to forfeiture under this Section
10 shall be seized by a peace officer including Guam Customs Officer
11 upon process issued by the Superior court except that seizure
12 without such process may be made when the seizure is incident to
13 an arrest or a search under a search warrant or an inspection
14 under an administrative inspection warrant; the property subject
15 to seizure has been the subject of a prior judgement in a criminal
16 injunction or forfeiture proceeding based upon this Section; the
17 peace officer has probable cause to believe that the property has
18 been used or intended to be used in violation of this Section. In
19 the event of a seizure pursuant to this Subsection, proceeding
20 under Subsection (d) shall be instituted promptly.

21 (d) Property taken or detained under this Section shall not be
22 repleviable; but shall be deemed to be in the custody of the
23 government subject only to the orders and decrees of the Court.
24 Whenever property is seized under the provisions of this Section, the
25 government shall destroy all gambling devices seized and forfeited
26 upon order of the court.

27 (e) Any person found guilty of the importation, attempted
28 importation or causing the importation of gambling devices to Guam or
29 who is found guilty of manufacturing a gambling device in Guam shall
30 be guilty of a felony and be subject to imprisonment for not more than
31 five years, a fine not to exceed \$25,000.00 per gambling device or
32 both, such fine and imprisonment.

1 (f) All gambling devices which have been imported and which
2 have paid taxes on the effective date of this Section shall not be
3 subject to the seizure or forfeiture provisions of this Section
4 concerning importation. All slot machines shall be seized and
5 forfeited.

6 (g) Within ninety days of the effective date of this Section, all
7 gambling devices shall be registered by the owner with the Director of
8 Revenue and Taxation ('Director') who shall issue a certificate of
9 registration and number to each such device except for slot machines,
10 which shall be subject to the seizure and forfeiture provisions of this
11 Act. The Director is hereby authorized to issue, in accordance with
12 the Administrative Adjudication Law, such rules and regulations and to
13 charge such registration fees as are necessary to cover the costs of
14 registration, but shall not exceed seventy-five dollars (\$75.00) per
15 machine or device. Such fees shall be deposited in a separate fund
16 and may be used by the Director for purpose of this Section without
17 further appropriation.

18 It is the intent of this Section that every gambling device on Guam on
19 the effective date of this Section shall be registered with the Director for a
20 period of up to six years from the effective date of this Act. At the end
21 of this six year period of time all the devices shall be disposed of or
22 shipped off island by the owner at the owner's expense, in a manner
23 prescribed by the Director. The registration certificate and the number
24 assigned to the device shall remain with the device until disposed of or
25 shipped off island, as regulated by the Director.

26 The Director shall not issue a license to operate any gambling machine
27 or device which had not been registered in accordance with this Section.

28 Any gambling device found without a valid registration certificate or
29 number affixed, or both, shall be immediately impounded and seized by the
30 Director, subject to the provisions governing seizure found in Subsection
31 (d) of this Section.

1 Any owner or manager or agent found guilty of knowingly and
2 intentionally causing the operation or use of an unregistered machine or
3 device or a slot machine shall be guilty of a misdemeanor and be subject to
4 imprisonment for not more than one year, a fine not to exceed \$1,000.00
5 per machine or device, or both such fine and imprisonment. A second
6 conviction shall be a felony of the third degree, with a maximum fine of
7 \$50,000."

8 Section 4. A new 9 GCA §64.22 is added to read:

9 "§64.22. Gambling Devices: Hours of Operation.

10 (a) No gambling device, as defined in 9 GCA §64.20, may be
11 operated between the hours of 2:00 a.m. and 10:00 a.m. of the same
12 day.

13 (b) Any business establishment or place where such devices are
14 being operated in violation of this Section shall have its privilege to
15 operate or do business suspended for a period not to exceed thirty
16 days upon the order of the Director after a hearing conducted
17 pursuant to Guam's Administrative Adjudication Law.

18 (c) The owner of an establishment or manager or other person
19 having authority to open or close such establishment who knowingly
20 and intentionally operates such establishment between the hours of
21 2:00 a.m. and 10:00 a.m. of the same day, in violation of this Section,
22 shall be guilty of misdemeanor and be subject to imprisonment for not
23 more than one year, a fine not to exceed \$1,000.00 or both such fine
24 and imprisonment." A third conviction shall be a felony of the third
25 degree, with a maximum fine not to exceed \$50,000.00.

26 Section 5. No section of this Act shall be construed to allow the
27 operation of slot machines in the territory of Guam.

28 Section 6. A new 9 GCA §64.23 is added to read:

29 "§64.23. (a) No minor shall enter a business establishment or
30 place where there are gambling devices, as defined in 9 GCA §64.20,
31 which may be operated. However, minors may enter business
32 establishments or places where gambling devices are segregated by
33 physical partitions from other amusement devices and service areas as

1 long as the minors do not enter the areas where the gambling devices
2 are operated.

3 (b) Any business establishment or place which permits minors to
4 enter in violation of Subsection (a) of this Section may have their
5 business license suspended for a period not to exceed thirty days
6 upon order of the Director of the Department of Revenue and Taxation
7 after a hearing held in accordance with the Administrative Adjudication
8 Act.

9 (c) The manager or other person having authority over such
10 business establishment or place who operates in violation of this
11 Section shall be guilty of a petty misdemeanor."

12 Section 7. Section 19200.1 is added to the Government Code to read:

13 "Section 19200.1. Each poker machine licensed pursuant to
14 Subsection (e) of Section 19200 of the Government Code shall have a
15 meter as a component part or installed thereon. The meter shall show
16 total cash paid into the machine. Only the Director of Revenue and
17 Taxation or his agent shall have access to the meter for the purpose
18 of resetting and reading it. The meter readings shall be used to
19 assist in the enforcement of the gross receipts tax. The Director of
20 Revenue and Taxation shall promulgate rules in accordance with the
21 Administrative Adjudication Act setting requirements for the meters,
22 access to them and use of the readings."

23 Section 8. Section 7 of this Act shall take effect ninety days following
24 enactment.

25 Section 9. Section 9 of P. L. 19-3 is hereby amended to read:

26 "Section 9. The Director of Education is authorized to expend
27 the sum of Eight Thousand One Hundred Ninety-Eight Dollars and
28 Fifty-Six Cents (\$8,198.56) from the Contractual Services (office space
29 rental) category of the Department's FY'87 Budget to make final
30 payments to those employees who had been overlooked in the

1 suspension settlement of the 1981 strike:

2	Henry F. Bachman	\$ 1,611.20
3	Leta L. Chapman	1,762.56
4	Gloria M. Matthew	1,240.96
5	Leon E. Matthew, Jr.	1,240.96
6	Daniel S.A. Torres	781.28
7	Darrell W. McCain	1,561.60"

8 Section 10. Section 12 of P. L. 19-3 is hereby amended to read:

9 "Section 12. The sum of Two Million Nine Hundred Seventy-Four
10 Thousand Dollars (\$2,974,000.00) is appropriated from the General
11 Fund to the Department of Education as an advance appropriation from
12 the FY '88 budget to procure textbooks, workbooks and library books
13 from off-island vendors for school year 1987-1988. The FY '88 budget
14 approved by the Board of Education and transmitted to the Legislature
15 shall include, broken down by school and by subject matter, the
16 amount of the appropriation in this Section within the ceiling set for
17 the Department of Education. The amount appropriated pursuant to
18 this shall be allocated for book purchases and book transportation
19 costs not to exceed the following:

20 ELEMENTARY

21	a. Textbooks	\$1,428,325.00
22	b. Library Books	199,500.00

23 SECONDARY

24	a. Textbooks	\$900,000.00
25	b. Library Books	186,174.00

26 SPECIAL EDUCATION

50,000.00

27 PRIVATE SCHOOL

210,000.00

28 Receipt documents on procurements shall be submitted to the Committee
29 on Ways and Means and to the Committee on Education by the Director of
30 Education within twenty (20) days or receiving the books authorized in this
31 Section. No funds appropriated by this Section shall be utilized for any
32 purpose not specified herein unless authorized by the Legislature."

1 Section 11. The sum of Two Thousand Six Hundred Twelve Dollars
2 \$2,612.00) is appropriated from the General Fund for the purpose of
3 installing streetlights along Pigua Road in the Municipality of Merizo.

4 Section 12. Section 6950.7 of the Government Code is repealed and
5 reenacted to read:

6 "Section 6950.7. Policy in Favor of Local Procurement. All
7 procurement of supplies and services shall be made from among
8 businesses licensed to do business on Guam and that maintain an office
9 or other facility on Guam, whenever a business that is willing to be a
10 contractor is:

11 (a) a licensed bonafide manufacturing business that adds at least
12 twenty-five percent of the value of an item, not to include
13 administrative overhead, using workers who are U. S. Citizens or
14 lawfully admitted permanent residents or nationals of the United
15 States, or persons who are lawfully admitted to the United State to
16 work, based on their former citizenship in the Trust Territory of the
17 Pacific Islands; or

18 (b) a business that regularly carries an inventory for regular
19 immediate sale of at least fifty percent (50%) of the items of supplies to
20 be procured; or

21 (c) a business that has a bonafide retail or wholesale business
22 location that regularly carries an inventory on Guam of a value of at
23 least one half of the value of the bid or One Hundred Fifty Thousand
24 Dollars (\$150,000) whichever is less, of supplies and items of a similar
25 nature to those being sought; or

26 (d) A service business actually in business, doing a substantial
27 portion of its business on Guam, and hiring at least 95% U. S. Citizens,
28 lawfully admitted permanent residents or nationals of the United
29 States, or persons who are lawfully admitted to the United State to
30 work, based on their, citizenship in the any of the nations previously
31 comprising the Trust Territory of the Pacific Islands.

1 Procurement of supplies and services from off Guam may be made if no
2 business for such supplies or services may be found on Guam or if the total
3 cost F.O.B. job site, unloaded, of procurement from off island is no
4 greater than eighty-five percent (85%) of the total cost F.O.B. job site,
5 unloaded, of the same supplies or services when procured from a business
6 licensed to do business on Guam that maintains an office or other facility on
7 Guam and that is one of the above-designated businesses entitled to
8 preference."

9 This section shall apply to all pending bids not yet awarded.

10 Section 13. The Recreational Facility being erected at Pago Bay shall
11 be named the Francisco F. Perez (Gonga) Picnic Facility and shall so be
12 named during an appropriate occasion arranged by the Director of Parks
13 and Recreation in cooperation with the Ordot-Chalan Pago Commissioner and
14 the Municipal Council.

15 A plaque bearing the name of the honoree and other appropriate
16 citations shall be displayed at a conspicuous place in the main pavilion.

17 Section 14. Section 3 of Public law 16-113 is hereby amended to read:

18 "Section 3. The sum of One Hundred Thousand Dollars
19 (\$100,000) is hereby appropriated from the Tourist Attraction Fund to
20 the Department of Public Works for the purpose of constructing a boat
21 launching ramp, swimming area, and required dredging at Pago Pay
22 and Old Agat. Prior to awarding the projects for construction, the
23 Department shall obtain the approval of the Guam Fishing and Boating
24 Association of the plans for the ramp."

25 Section 15. A new §5116 is hereby added to 16 GCA to read:

26 "§5116. Carrier Safety and Hazardous Material Regulations.

27 (a) The Director of Revenue and Taxation is authorized to
28 promulgate as territorial regulations either (1) the Federal Motor
29 Carrier Safety Regulations (49 CFR Parts 390 through 399), except
30 such portions as may be determined by the Director to be inapplicable,
31 and highway-related portions of the Federal Hazardous Materials
32 Regulations (49 CFR Parts 107, 171-173, 177, and 178) or (2) such
33 territorial regulations applicable to motor carrier safety, including

1 highway transportation of hazardous materials, as are compatible with
2 the federal regulations. The regulations promulgated by the Director
3 of Revenue and Taxation shall be effective as interim regulations from
4 the date of promulgation until such date as they may be amended
5 pursuant to Chapter III of Title XXV of the Government Code.

6 (b) The Director of Revenue and Taxation is authorized to
7 promulgate regulations providing for the right of entry and inspection
8 by territorial personnel sufficient to enforce the regulations adopted
9 pursuant to Subsection (a) of this Section and to perform the activities
10 set forth in Guam's Enforcement Plan for implementation of the
11 regulations. Such regulations shall be effective as interim regulations
12 from the date of promulgation until such date as they may be amended
13 pursuant to Chapter III, Title XXV of the Government Code."

14 Section 16. Subsection (d) of 10 GCA §80106 is amended to read:

15 "(d) The Guam Memorial Hospital Authority shall be liable for the
16 negligent act of any hospital employees or officer if the Board knew or
17 had notice that said employee or officer was inefficient and incompetent
18 to perform the services for which he was hired, or said Board retained
19 such inefficient or incompetent person after knowledge or notice of
20 such inefficiency or incompetency."

21 Section 17. A new Subsection (f) is added to 10 GCA §80106 to read:

22 "(f) The Board shall be liable as fiduciaries in the execution of
23 their duties."

24 Section 18. A new Subsection (d) is added to 10 GCA Section 60101 to
25 read:

26 "(d) Those firearms that can not fire fixed ammunition but are
27 loaded through the muzzle or cylinder with a combination of ball and
28 black powder."

29 Section 19. Subsection (b) of 4 GCA §4401 is amended to read:

30 "(b) No member shall be an employee of the Government, a
31 member of any board or commission, nor a member of the immediate
32 family of an employee of the Government. As used in this Section,
33 'immediate family' means a collective body of persons living together in
34 one house under one head."

1 Section 20. Subsection (c) of 4 GCA §4401 is amended to read:

2 "(c) The appointment of any person to the Commission shall
3 become void if at any time during his term of office, he shall become
4 an employee of the Government, except appointment of any other board
5 or commission."

6 Section 21. The sum of Six Thousand Dollars (\$6,000) is appropriated
7 from the Summer School Fund established pursuant to §6118 of 17 GCA for
8 the purpose of funding the 1987 Summer Elementary School.

9 Section 22. The sum of One Hundred thirty eight Thousand Two
10 hundred eighty nine Dollars (\$138,289.00) is appropriated from the Summer
11 School Fund established pursuant to §6118 of 17 GCA for the purpose of
12 funding the 1987 Summer High School.

13 Section 23. Subsection (h) of 8 GCA §5.55 is amended to read:

14 "(h) Compliance Officers and Criminal Investigation Supervisors
15 and Criminal tax investigators of the Department of Revenue and
16 Taxation; and".

17 Section 24. (a) Notwithstanding any law, rule or regulation,
18 residents of Guam are authorized to raise fruit bats and the Guam deer as
19 pets and strictly for that purpose. Such pets may not be offered for sale,
20 dead or alive.

21 (b) The Department of Agriculture shall establish and prescribe the
22 necessary rules and regulations to insure that said species are raised
23 strictly as pets and for no other purpose.

24 (c) The Department shall issue a Five Thousand Dollar (\$5,000) fine
25 to those persons found violating this Act.

26 (d) The Department shall further provide for the issuance of tags,
27 registration papers to those persons who register for the right to raise said
28 species. The tags issued by the Department shall be renewed annually.

29 Section 25. Section 24 shall take effect upon the promulgation of the
30 rules and regulations as prescribed for in Section 24 of this Act.

31 Section 26. The Compiler of Laws is authorized to reflect the changes
32 in the Guam Codes to reflect the amendment made by Section 24 of this Act.

NINETEENTH GUAM LEGISLATURE

ROLL CALL SHEET

(21 19-4)
Sub Bill No. 199

DATE: 5/8/87

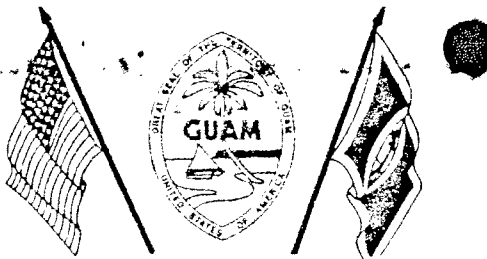
Res. No. _____

QUESTION: _____

SENATOR	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
<u>E. P. Arriola</u>				✓
<u>J. G. Bamba</u> +	✓			
<u>H. D. Dierking</u>	✓			
<u>E. R. Duenas</u>				✓
<u>E. M. Espaldon</u>				✓
<u>F. J. Gutierrez</u>	✓			
<u>M. K. Hartsock</u>	✓			
<u>A. C. Lamorena III</u>				✓
<u>P. C. Lujan</u>			✓	
<u>M. D. A. Manibusan</u> +		✓		
<u>J. G. Miles</u>	✓			
<u>T. S. Nelson</u>	✓			
<u>D. Parkinson</u>	✓			
<u>J. F. Quan</u>	✓			
<u>F. J. Quitugua</u>	✓			
<u>J. M. Rivera</u> +	✓			
<u>M. C. Ruth</u>	✓			
<u>J. T. San Agustin</u>	✓			
<u>P. C. Sanchez</u>	✓			
<u>F. R. Santos</u>		✓		
<u>A. J. Shelton II</u> +			✓	

13. 2 2 4

A. J. SONNY SHELTON
SENATOR
CHAIRMAN, COMMITTEE ON RULES



19TH GUAM LEGISLATURE

Vice-Chairman
COMMITTEE ON ENERGY UTILITIES
AND CONSUMER PROTECTION
Member
COMMITTEE ON EDUCATION
COMMITTEE ON TOURISM,
TRANSPORTATION AND COMMUNICATION
COMMITTEE ON ECONOMIC
DEVELOPMENT AND BANKING
COMMITTEE ON FEDERAL, FOREIGN
AND LEGAL AFFAIRS

P.O. BOX CB-1 AGANA, GUAM 96910 TELEPHONE:(671)472-3408,472-3409

May 7, 1987

The Honorable Franklin J.A. Quitugua
Speaker
Nineteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910


Dear Mr. Speaker:

The Committee on Rules at its Rules Meeting on Wednesday, May 5, 1987, approved the placement of Bill No. 199, first item on the Second Reading File; and hereby transmits to the full Legislature Bill No. 199, as Pass by the Committee on Justice, Judiciary & Criminal Justice and Substituted by the Committee on Rules.

The Committee voting record for passage of Substitute Bill No. 199 is as follows:


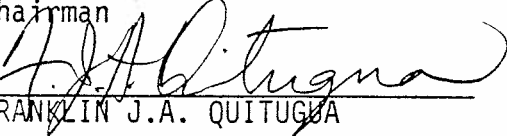



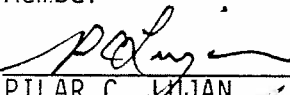
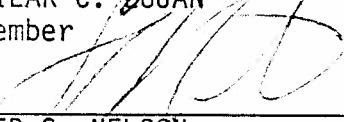
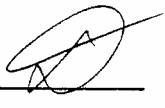
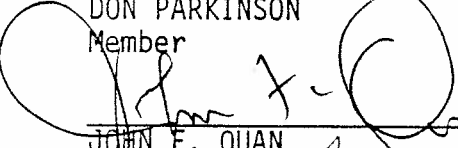
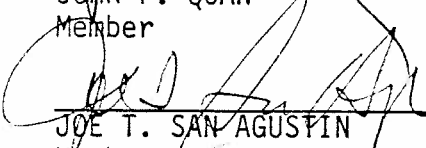
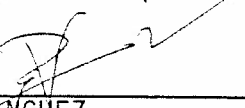

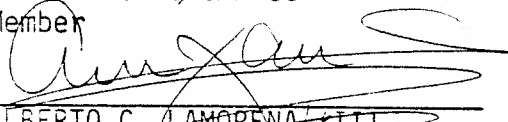
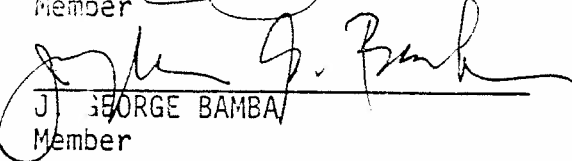
TO DO PASS	<u>12</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT ONLY	<u>3</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
ABSENT	<u>1</u>

A copy of the report and all other pertinent documents are attached for your information.


A. J. SONNY SHELTON
Chairman

Attachments

VOTING SHEET on Bill No. 199, as Pass by the Committee on Justice, Judiciary & Criminal Justice and Substituted by the Committee on Rules

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
 A. J. SONNY SHELTON Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 FRANKLIN J.A. QUITUGUA Speaker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OFF ISLAND				
ELIZABETH P. ARRIOLA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 HERMINIA D. DIERKING Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 FRANKLIN J. GUTIERREZ Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 MARCIA K. HARTSOCK Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 PILAR C. LOJAN Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 TED S. NELSON Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 DON PARKINSON Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 JOHN F. QUAN Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 JOE T. SAN AGUSTIN Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 PEDRO C. SANCHEZ Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 FRANCISCO R. SANTOS Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ALBERTO C. LAMORENA, III Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 J. GEORGE BAMBA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JERRY M. RIVERA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Committee Report
Committee on Rules
On Substitute Bill 199

The Committee on Rules met at 2:00 p.m., Wednesday, May 6, 1987 and took up Bill 199, previously reported out by report of the Committee on Justice, Judiciary and Criminal Justice on April 9, 1987, for discussion.

During the discussion, numerous other sections were adopted and added to the bill as follows:

1. A new Section 2 was added to the bill repealing Section 19200.5 of the Government Code relative to exempting certain devices from the provisions of 15 USC 1172.
2. A new Section 3 was added repealing and reenacting 9 GCA 64.20 relative to defining and punishing the importation of illegal gambling devices to Guam. This section limits the number of gambling devices on Guam.
3. A new Section 4 was added to the bill which adds a new Section 64.22 to Title 9 GCA. This new section restricts the operation of gambling devices so that they may not be operated between 2:00 a.m. and 10:00 a.m. of the same day.
4. a new Section 5 was added to the bill amending Section 9 of Public Law 19-3 to raise the amount of the previous authorization to expend funds from the contractual services (office space rental) category to pay employees whose suspension settlement of the 1981 strike was overlooked.
5. A new Section 6 was added to the bill amending Section 12 of P.L. 19-3 to change the fiscal year mentioned in that section from FY'87 to FY'88. This had been a typographical error in the previous public law.
6. A new Section 7 was added to the bill appropriating the sum of Two Thousand Six Hundred and Twelve Dollars from the General Fund for the purpose of streetlights along Pigua Road in Merizo.

7. A new Section 8 was added to the bill repealing and reenacting Section 6950.7 of the Government Code to give specific requirements for a policy in favor of local procurement. The new section lists certain local manufacturers or businesses which will have a preference in obtaining contracts from the government of Guam in order to promote local businesses rather than patronizing off-island businesses. Additionally, supplies and services may be obtained off-island if the cost is no greater than eighty-five percent (85%) of the cost on island. This section applies to all pending bids not yet awarded.

8. A new Section 9 was added to the bill naming the recreational facility being built in Pago Bay to be the Francisco F. Perez (Gonga) Picnic Facility.

9. A new Section 10 was added to the bill amending Section 3 of P.L. 16-113 to include the words "swimming area" in the authorized purposes for the use of the appropriation contained in that section.

10. A new Section 11 was added to the bill adding a new Section 5116 to 16 GCA. This new section authorizes the Director of Revenue and Taxation to promulgate regulations regarding carrier safety and hazardous materials on Guam's highways.

After adoption of the above new sections which were to be added to Bill No. 199 as reported out by the Committee on Justice, Judiciary and Criminal Justice, the Committee adopted Bill No. 199, containing the additional sections, for placement at the top of the Second Reading File for discussion at the legislative Session scheduled for 3:00 p.m., Thursday, May 7, 1987.

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5/8/87

NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

Bill No. 199
Substitute
Committee on Rules

Introduced by: F. R. Santos
T. S. Nelson

AN ACT TO AMEND SUBSECTION (b) OF 9
GCA §80.10 RELATIVE TO SENTENCES
IMPOSED FOR CONVICTION OF MORE THAN
ONE CRIME, AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Subsection (b) of 9 GCA §80.10 is amended to read:

3 "(b) Where the judgement of conviction included more than one
4 crime, the sentences imposed [shall run concurrently except as
5 provided in §§80.38, 80.40 and 80.42.] may run concurrently or
6 consecutively except that if such sentences run consecutively, the
7 provisions of §§80.38, 80.40 and 80.42 shall not be applicable."

8 Section 2. Section 19200.5 of the Government Code (Declaration of
9 exemption for Certain Devices from the provisions of 15 U.S.C. 1172) is
10 repealed.

11 Section 3. 9 GCA 64.20 is repealed and reenacted to read:

12 "Section 64.20. Importation of Gambling Devices to Guam Illegal:
13 Defined and Punished.

14 (a) A person commits a felony when he imports or attempts to
15 import, or causes to import a gambling device, whether operable or
16 not, in whole or in part, into the territorial jurisdiction of Guam.

17 (b) As used in this Section, 'gambling device' means any device
18 which, when operated, may return something of value to the user; or
19 by the operation of which a person may become entitled to receive
20 something of value. It does not include pinball and other amusement
21 machines or devices which are predominantly games of skill whether
22 affording the opportunity of additional chances or free plays or not.

1 It does include any slot machines, video poker machines, and other
2 machines or devices which afford the opportunity of winnings,
3 payouts, malfunction refunds to the player or giving the player or
4 user anything of value under any guise or form.

5 (c) Any gambling device or component or part which shall be
6 used for gambling devices in violation of this Section shall be subject
7 to forfeiture.

8 (1) Any property subject to forfeiture under this Section
9 shall be seized by a peace officer including Guam Customs Officer
10 upon process issued by the Superior court except that seizure
11 without such process may be made when the seizure is incident to
12 an arrest or a search under a search warrant or an inspection
13 under an administrative inspection warrant; the property subject
14 to seizure has been the subject of a prior judgement in a criminal
15 injunction or forfeiture proceeding based upon this Section; the
16 peace officer has probable cause to believe that the property has
17 been used or intended to be used in violation of this Section. In
18 the event of a seizure pursuant to this Subsection, proceeding
19 under Subsection (d) shall be instituted promptly.

20 (d) Property taken or detained under this Section shall not be
21 repleviable; but shall be deemed to be in the custody of the
22 government subject only to the orders and decrees of the Court.
23 Whenever property is seized under the provisions of this Section, the
24 government may:

25 (1) Retain the property;

26 (2) Sell any forfeited property which is not required to be
27 destroyed by law. The proceeds shall be used for payment of all
28 property expenses of the proceedings for forfeiture and sale
29 including expenses of seizure, maintenance of custody,
30 advertising, and court costs; and

31 (3) Require the property to be taken into custody and
32 removed for disposition in accordance with law.

33 (e) Any person found guilty of the importation, attempted
34 importation or causing the importation of gambling devices to Guam

1 shall be guilty of a felony and be subject to imprisonment for not more
2 than five years, a fine not to exceed \$25,000.00 per gambling device
3 or both, such fine and imprisonment.

4 (f) All gambling devices which have been imported and which
5 have paid taxes on the effective date of this Section shall not be
6 subject to the seizure or forfeiture provisions of this Section
7 concerning importation.

8 (g) Within ninety days of the effective date of this Section, all
9 gambling devices shall be registered by the owner with the Director of
10 Revenue and Taxation ('Director') who shall issue a certificate of
11 registration and number to each such device. The Director is hereby
12 authorized to issue, in accordance with the Administrative Adjudication
13 Law, such rules and regulations and to charge such registration fees
14 as are necessary to cover the costs of registration, but shall not
15 exceed seventy-five dollars (\$75.00) per machine or device. Such fees
16 shall be deposited in a separate fund and may be used by the Director
17 for purpose of this Section without further appropriation.

18 It is the intent of this Section that every gambling device on Guam on
19 the effective date of this Section shall be registered with the Director and
20 remain registered for the life of the device, such registration certificate
21 and number assigned to it to remain with and the number affixed to the
22 device until disposed of in a manner prescribed by the Director.

23 The Director shall not issue a license to operate any gambling machine
24 or device which had not been registered in accordance with this Section.

25 Any gambling device found without a valid registration certificate or
26 number affixed, or both, shall be immediately impounded and seized by the
27 Director, subject to the provisions governing seizure found in Subsection
28 (d) of this Section.

29 Any person found guilty of operating or causing the operation or use
30 of an unregistered machine or device shall be guilty of a felony and be
31 subject to imprisonment for not more than five years, a fine not to exceed
32 \$25,000.00 per machine or device, or both such fine and imprisonment."

33 Section 4. A new Section 64.22 is added to Title 9 Guam Code
34 Annotated to read:

1 "Section 64.22. Gambling Devices: Hours of Operation.

2 (a) No gambling device, as defined in 9 GCA Section 64.20, may
3 be operated between the hours of 2:00 a.m. and 10:00 a.m. of the
4 same day.

5 (b) Any business establishment or place where such devices are
6 being operated in violation of this Section shall have its privilege to
7 operate or do business suspended for a period not to exceed thirty
8 days upon the order of the Director after a hearing conducted
9 pursuant to Guam's Administrative Adjudication Law.

10 (c) The owner of an establishment or manager or other person
11 having authority to open or close such establishment who operates
12 such establishment in violation of this Section shall be guilty of felony
13 and be subject to imprisonment for not more than three years, a fine
14 not to exceed \$50,000.00 or both such fine and imprisonment."

15 Section 5. Section 9 of P. L. 19-3 is hereby amended to read:

16 "Section 9. The Director of Education is authorized to expend
17 the sum of [Seven Thousand Six Hundred Dollars (\$7,600.00)] Eight
18 Thousand One Hundred Ninety-Eight Dollars and Fifty-Six Cents
19 (\$8,198.56) from the Contractual Services (office space rental)
20 category of the Department's FY'87 Budget to make final payments to
21 those employees who had been overlooked in the suspension settlement
22 of the 1981 strike:

23	Henry F. Bachman	\$ 1,611.20
24	Leta L. Chapman	1,762.56
25	Gloria M. Matthew	1,240.96
26	Leon E. Matthew, Jr.	1,240.96
27	Daniel S.A. Torres	781.28
28	Darrell W. McCain	1,561.60"

29 Section 6. Section 12 of P. L. 19-3 is hereby amended to read:

30 "Section 12. The sum of Two Million Nine Hundred Seventy-Four
31 Thousand Dollars (\$2,974,000.00) is appropriated from the General
32 Fund to the Department of Education as an advance appropriation from
33 the FY '88 budget to procure textbooks, workbooks and library books
34 from off-island vendors for school year 1987-1988. The [FY '87] FY

1 '88 budget approved by the Board of Education and transmitted to the
2 Legislature shall include, broken down by school and by subject
3 matter, the amount of the appropriation in this Section within the
4 ceiling set for the Department of Education. The amount appropriated
5 pursuant to this shall be allocated for book purchases and book
6 transportation costs not to exceed the following:

7 ELEMENTARY

8 a. Textbooks \$1,428,325.00

9 b. Library Books 199,500.00

10 SECONDARY

11 a. Textbooks \$900,000.00

12 b. Library Books 186,174.00

13 SPECIAL EDUCATION 50,000.00

14 PRIVATE SCHOGL 210,000.00

15 Receipt documents on procurements shall be submitted to the Committee
16 on Ways and Means and to the Committee on Education by the Director of
17 Education within twenty (20) days or receiving the books authorized in this
18 Section. No funds appropriated by this Section shall be utilized for any
19 purpose not specified herein unless authorized by the Legislature."

20 Section ~~7~~. The sum of Two Thousand Six Hundred Twelve Dollars
21 (\$2,612.00) is appropriated from the General Fund for the purpose of
22 installing streetlights along Pigua Road in the Municipality of Merizo.

23 Section ~~8~~¹². Section 6950.7 of the Government Code is repealed and
24 reenacted to read:

25 "Section 6950.7. Policy in Favor of Local Procurement. All
26 procurement of supplies and services shall be made from among
27 businesses licensed to so business on Guam and that maintain an office
28 or other facility on Guam, whenever a business that is willing to be a
29 contractor is:

30 (a) a licensed bonafide manufacturing business that adds at least
31 twenty-five percent of the value of an item, not to include
32 administrative overhead, using workers who are U. S. Citizens or
33 lawfully admitted permanent residents or nationals of the United
34 States, or persons who are lawfully admitted to the United State

1 to work, based on their former citizenship in the Trust Territory
2 of the Pacific Islands; or

3 (b) a business that regularly carries an inventory for regular
4 immediate sale of at least fifty percent (50%) of the items of
5 supplies to be procured; or

6 (c) a business that has a bonafide retail or wholesale business
7 location that regularly carries an inventory on Guam of a value of
8 at least one half of the value of the bid or One Hundred Fifty
9 Thousand Dollars (\$150,000) whichever is less, of supplies and
10 items of a similar nature to those being sought; or

11 (d) A service business actually in business, doing a substantial
12 portion of its business on Guam, and hiring at least 95% U. S.
13 Citizens, lawfully admitted permanent residents or nationals of the
14 United States, or persons who are lawfully admitted to the United
15 State to work, based on their, citizenship in the any of the
16 nations previously comprising the Trust Territory of the Pacific
17 Islands.

18 Procurement of supplies and services from off Guam may be made if no
19 business for such supplies or services may be found on Guam or if the total
20 cost F.O.B. job site, unloaded, of procurement from off island is no
21 greater than eighty-five percent (85%) of the total cost F.O.B. job site,
22 unloaded, of the same supplies or services when procured from a business
23 licensed to do business on Guam that maintains an office or other facility on
24 Guam and that is one of the above-designated businesses entitled to
25 preference."

26 This section shall apply to all pending bids not yet awarded.

27 Section ¹³~~8~~. The Recreational Facility being erected at Pago Bay shall
28 be named the Francisco F. Perez (Gonga) Picnic Facility and shall so be
29 named during an appropriate occasion arranged by the Director of Parks
30 and Recreation in cooperation with the Ordot-Chalan Pago Commissioner and
31 the Municipal Council.

32 A plaque bearing the name of the honoree and other appropriate
33 citations shall be displayed at a conspicuous place in the main pavilion.

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Section ~~40~~. Section 3 of Public law 16-113 is hereby amended to read:

"Section 3. The sum of One Hundred Thousand Dollars (\$100,000) is hereby appropriated from the Tourist Attraction Fund to the Department of Public Works for the purpose of constructing a boat launching ramp, swimming area, and required dredging at Pago Pay and Old Agat. Prior to awarding the projects for construction, the Department shall obtain the approval of the Guam Fishing and Boating Association of the plans for the ramp."

Section ~~41~~. A new §5116 is hereby added to 16 GCA to read:

"§5116. Carrier Safety and Hazardous Material Regulations.

(a) The Director fo Revenue and Taxation is authorized to promulgate as territorial regulations either (1) the Federal Motor Carrier Safety Regulations (49 CFR Parts 390 through 399), except such portions as may be determined by the Director to be inapplicable, and highway-related portions of the Federal Hazardous Materials Regulations (49 CFR Parts 107, 171-173, 177, and 178) or (2) such territorial regulations applicable to motor carrier safety, including highway transportation of hazardous materials, as are compatible with the federal regulations. The regulations promulgated by the Director of Revenue and Taxation shall be effective as interim regulations from the date of promulgation until such date as they may be amended pursuant to Chapter III of Title XXV of the Government Code.

(b) The Director of Revenue and Taxation is authorized to promulgate regulations providing for the right of entry and inspection by territorial personnel sufficient to enforce the regulations adopted pursuant to Subsection (a) of this Section and to perform the activities set forth in Guam's Enforcement Plan for implementation of the regulations. Such regulations shall be effective as interim regulations from the date of promulgation until such date as they may be amended pursuant to Chapter III, Title XXV of the Government Code."

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Jarkinson/SB199/3

Proposed Substitute version
for Sections 3 and 4 only of Bill 199:

Section 3. 9 GCA 64.20 is repealed and reenacted to read:

"Section 64.20. Importation of Gambling Devices to Guam Illegal:
Defined and Punished.

(a) A person commits a felony when he imports or attempts to import, or causes to import a gambling device, whether operable or not, [in whole or in part,] into the territorial jurisdiction of Guam , or manufacturers a gambling device within the territory of Guam.

(b) As used in this Section, 'gambling device' means any coin operated device which, when operated, may return [something] winnings (other than free games not redeemable for cash) of value to the user based partially or completely upon chance, [or] by the operation of which a person may become entitled to receive [something] winnings of value. It does not include pinball and other amusement machines or devices which are predominantly games of skill whether affording the opportunity of additional chances or free plays or not. It does include any slot machines, video poker machines, and other machines or devices which afford the opportunity of winnings, payouts, malfunction refunds to the player or giving the player or user anything of value under any guise or form based partially or completely upon chance.

(c) Any gambling device [or component or part which shall be used for gambling devices] in violation of this Section shall be subject to seizure and forfeiture. Any slot machine shall be subject to seizure and forfeiture.

(1) Any property subject to forfeiture under this Section shall be seized by a peace officer including Guam Customs Officer upon process issued by the Superior court except that seizure without such process may be made when the seizure is incident to an arrest or a search under a search warrant or an inspection

1 under an administrative inspection warrant; the property subject
2 to seizure has been the subject of a prior judgement in a criminal
3 injunction or forfeiture proceeding based upon this Section; the
4 peace officer has probable cause to believe that the property has
5 been used or intended to be used in violation of this Section. In
6 the event of a seizure pursuant to this Subsection, proceeding
7 under Subsection (d) shall be instituted promptly.

8 (d) Property taken or detained under this Section shall not be
9 repleviable; but shall be deemed to be in the custody of the
10 government subject only to the orders and decrees of the Court.
11 Whenever property is seized under the provisions of this Section, the
12 government [may:] shall destroy all gambling devices seized and
13 forfeited upon order of the court.

14 [(1) Retain the property;

15 (2) Sell any forfeited property which is not required to be
16 destroyed by law. The proceeds shall be used for payment of all
17 property expenses of the proceedings for forfeiture and sale
18 including expenses of seizure, maintenance of custody,
19 advertising, and court costs; and

20 (3) Require the property to be taken into custody and removed
21 for disposition in accordance with law.]

22 (e) Any person found guilty of the importation, attempted
23 importation or causing the importation of gambling devices to Guam or
24 who is found guilty of manufacturing a gambling device in Guam shall
25 be guilty of a felony and be subject to imprisonment for not more than
26 five years, a fine not to exceed \$25,000.00 per gambling device or
27 both, such fine and imprisonment.

28 (f) All gambling devices which have been imported and which
29 have paid taxes on the effective date of this Section shall not be
30 subject to the seizure or forfeiture provisions of this Section
31 concerning importation. All slot machines shall be seized and
32 forfeited.

33 (g) Within ninety days of the effective date of this Section, all
34 gambling devices shall be registered by the owner with the Director of

1 Revenue and Taxation ('Director') who shall issue a certificate of
2 registration and number to each such device except for slot machines,
3 which shall be subject to the seizure and forfeiture provisions of this
4 Act. The Director is hereby authorized to issue, in accordance with
5 the Administrative Adjudication Law, such rules and regulations and to
6 charge such registration fees as are necessary to cover the costs of
7 registration, but shall not exceed seventy-five dollars (\$75.00) per
8 machine or device. Such fees shall be deposited in a separate fund
9 and may be used by the Director for purpose of this Section without
10 further appropriation.

11 It is the intent of this Section that every gambling device on Guam on
12 the effective date of this Section shall be registered with the Director (and
13 remain registered for the life of the device, such registration certificate
14 and number assigned to it to remain with and the number affixed to the
15 device until disposed of in a manner prescribed by the Director.

16 The Director shall not issue a license to operate any gambling machine
17 or device which had not been registered in accordance with this Section.

18 Any gambling device found without a valid registration certificate or
19 number affixed, or both, shall be immediately impounded and seized by the
20 Director, subject to the provisions governing seizure found in Subsection
21 (d) of this Section.

22 Any [person] owner or manager or agent found guilty of [operating
23 or] knowingly and intentionally causing the operation or use of an
24 unregistered machine or device or a slot machine shall be guilty of a
25 [felony] misdemeanor and be subject to imprisonment for not more than
26 [five] one year[s], a fine not to exceed [\$25,000.00] \$1,000.00 per machine
27 or device, or both such fine and imprisonment. A second conviction shall
28 be a felony of the third degree, with a maximum fine of \$50,000."

29 Section 4. A new Section 64.22 is added to Title 9 Guam Code
30 Annotated to read:

31 "Section 64.22. Gambling Devices: Hours of Operation.

32 (a) No gambling device, as defined in 9 GCA Section 64.20, may
33 be operated between the hours of 2:00 a.m. and 10:00 a.m. of the
34 same day.

FLOOR AMENDMENT

by Senator Martha Cruz Ruth

BIM

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5/8/87
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1 Add a new Section 6 to read:

2 "Section 6. 9 GCA §64.23 is added to read:

3 'Section 64.23. (a) No minor shall enter a business establishment

4 or place where there are more than three gambling devices, as defined in

5 9 GCA §64.20 which may be operated. However, minors may enter business

6 establishments or places where gambling devices are segregated from other

7 amusement devices and service areas as long as the minors do not enter

8 the areas where the gambling devices are operated.

9 (b) Any business establishment or place which permits minors to

10 enter in violation of Subsection (a) of this Section may have their

11 business license suspended for a period not to exceed thirty days upon

12 order of the Director of the Department of Revenue and Taxation after a

13 hearing held in accordance with the Administrative Adjudication Act.

14 (c) The manager or other person having authority over such business

15 establishment or place who operates in violation of this Section shall

16 be guilty of a petty misdemeanor."

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(b) Any business establishment or place where such devices are being operated in violation of this Section shall have its privilege to operate or do business suspended for a period not to exceed thirty days upon the order of the Director after a hearing conducted pursuant to Guam's Administrative Adjudication Law.

(c) The owner of an establishment or manager or other person having authority to open or close such establishment who knowingly and intentionally operates such establishment ^{in violation of this} Section shall be guilty of [felony] misdemeanor and be subject to imprisonment for not more than [three] one year[s], a fine not to exceed [\$50,000.00] \$1,000.00 or both such fine and imprisonment." A third conviction shall be a felony of the third degree, with a maximum fine not to exceed \$50,000.00.

Section 5. No section of this Act shall be construed to allow the operation of slot machines in the territory of Guam.

Handwritten notes:
p. 6 - minor
p. 7 - met
p. 8 - effective date of 2017

(P)

FLOOR AMENDMENT

By Senator James Miles

From the effective date of this act,

1 On page 3 of the amendment strike all of lines 11 through 15 and insert
2 in lieu thereof:

3 "It is the intent of this Section that every gambling device on
4 Guam on the effective date of this Section shall be registered
5 with the Director for a period of ⁶ two years at which time all the
6 devices shall be disposed of in a manner prescribed by the
7 Director. The registration certificate and the number assigned
8 to the device shall remain with the device until disposed of
9 as required by the Director."

or shipped off island by the owner at the owner's expense
At the end of this six year period of
Island,

of up to

D Parkinson 's
Copy

James Miles

FLOOR AMENDMENT

By Senator James Miles

*MLW
copy*

1 On page 3 of the amendment strike all of lines 11 through 15 and insert
2 in lieu thereof:

3 "It is the intent of this Section that every gambling device on
4 Guam on the effective date of this Section shall be registered
5 with the Director for a period of ~~two~~ ^{one} ~~years~~ ^{year}, at which time all the
6 devices shall be disposed of in a manner prescribed by the
7 Director. The registration certificate and the number assigned
8 to the device shall remain with the device until disposed of,
9 as ^{regulated} ~~required~~ by the Director."

*FSE 02
DP*

or shipped off island

*or shipped
off island
at the owner's
expense*

*from the effective
date of this
Act*

up to six years

FLOOR AMENDMENT

By Senator James Miles

1 On page 3 of the amendment strike all of lines 11 through 15 and insert
2 in lieu thereof:

3 "It is the intent of this Section that every gambling device on
4 Guam on the effective date of this Section shall be registered
5 with the Director for a period of ^{ten to 16 years} ~~two~~ years at which time all the
6 devices shall be disposed of in a manner prescribed by the
7 Director. The registration certificate and the number assigned
8 to the device shall remain with the device until disposed of
9 as required by the Director."

DP
P

ten to 16 years
11/6/01

FSG - "10" → "6"

*(By the way, I'm not sure if
it's a good idea to change)*

FLOOR AMENDMENT

by Senator Martha Cruz Ruth

1 Add the following Sectionsto read:

2 "Section 7. Section 19200.1 is added to the Government Code
3 to read:

4 "Section 19200.1. Each poker machine licensed pursuant to
5 Subsection (e) of Section 19200 of the Government Code shall have a
6 meter as a component part or installed ^{thereon.} The meter shall show total
7 ^{DISA} cash paid into the machine, ~~and total cash paid out of the machine.~~ Only
8 the Director of Revenue and Taxation or his agent shall have access to
9 the meter for the purpose of resetting and reading it. The meter readings
10 shall be used to assist in ^{Leaf Collection} [the enforcement of the gross receipts tax.] ^{FOG-CP}
11 The Director of the Department of Revenue and Taxation shall promulgate
12 rules in accordance with the Administrative Adjudication Act setting
13 requirements for the meters, access to them and use of the readings."

14 Section 8. Section 7 of this Act shall take effect ninety days
15 following enactment.

B-199



FLOOR AMENDMENT

by Senator J. M. Rivera

Add the following new Section to read:

Section 19. Subsection (h) of 8 GCA §5.55 is amended to read:

"(h) Compliance Officers and criminal investigation supervisors
and criminal tax investigators of the Department of Revenue and Taxation; and".

MKH

B. 199

w/ drawn

Section 23. The Board of Directors of the Guam Power Authority and staff thereof are authorized to meet in executive session with members of the Guam Legislature negotiating team who are designated as participants in the Navy Power Pool talks, in order to discuss strategy in dealing with the U.S. Navy and the termination of the Power Pool agreement now in existencce between the Guam Power Authority and the United States Navy, provided that all such meetings are recorded verbatim, with such transcripts beecoming public upon the termination of negotiations.

FLOOR AMENDMENT

OFFERED BY

SENATOR TED S. NELSON

C199

1 Section ⁽²⁰⁾ 20. (a) Notwithstanding any law, rule or regulation, residents
2 of Guam are authorized to raise the ~~Guam deer~~ ^{fruit bats} as pets and strictly for that purpose.

AJS

Such bats may not be offered for sale, dead or alive

3 (b) The Department of Agriculture shall establish and prescribe the
4 necessary rules and regulations to insure that said species are raised strictly as
5 pets and for no other purpose.

6 ^{acc} [(c) The Department shall issue a Five Thousand Dollar (\$5,000) fine to
7 those persons found violating this Act.]

8 (d) The Department shall further provide for the issuance of tags,
9 registration papers to those persons who register for the right to raise said species.
10 The tags issued by the Department shall be renewed annually.

11 Section ⁽²⁵⁾ 25. This Act shall take effect upon the promulgation of the rules
12 and regulations as prescribed for in Section of this Act.

13 Section ⁽²⁶⁾ 22. The Compiler of Laws is authorized to reflect the changes
14 in the Guam Codes to reflect the amendment made by this Act.

FLOOR AMENDMENT
OFFERED BY
SENATOR ~~IED S. NELSON~~

KDDZ

- 1 ⁽²²⁾ Section 18. The sum of One Hundred thirty eight thousand, Two hundred eight
2 nine dollars (\$138,289.00) is appropriated from the Summer School Fund established
3 pursuant to §6118 of 17 GCA for the purpose of funding the 1987 Summer School.

High (A.)

~~To HB~~

L 199

[Handwritten mark]

FLOOR AMENDMENT
OFFERED BY
SENATOR TED S. NELSON

- Drinking

*San Antonio
Apples - School*

1 *(2)* Section 17. The sum of Six thousand dollars (\$6,000) is appropriated from the
2 Summer School Fund established pursuant to §6118 of 17 GCA for the purpose of funding
3 the 1987 Summer Elementary School.

FLOOR AMENDMENT

by Senator ~~J.G. Miles~~

J
DP

Add a new Section _____ to read:

(18) "Section ~~14~~. A new Subsection (d) is added to 10 GCA Section 60101 to read:

"(d) Those firearms that can not fire fixed ammunition but are loaded through the muzzle or cylinder with a combination of ball and black powder."

FLOOR AMENDMENT

JTSA/80106/FA

02

JTSA

C199

①⑥ Section 12. Subsection (d) of 10 GCA §80106 is amended to read:

"(d) The [Board] Guam Memorial Hospital Authority shall be liable for the negligent act of any hospital employees or officer if the Board knew or had notice that said employee or officer was inefficient and incompetent to perform the services for which he was hired, or said Board retained such inefficient or incompetent person after knowledge or notice of such inefficiency or incompetency."

①⑦ Section 13. A new Subsection (f) is added to 10 GCA §80106 to read:

"(f) The Board shall be liable as fiduciaries in the execution of their duties."

FLOOR AMENDMENT
SENATOR JOE T. SAN AGUSTIN

Section _____. Subsection 80106 (d) 10 GCA is hereby repealed and reenacted
to read:

" (d) The Board shall be liable as fiduciaries in the execution of the
duties imposed by law."

10 GCA Chapter 80 - Administration

§ 80106

(4) members present shall constitute official action of the Board. The Board may adopt rules and regulations governing the conduct of its affairs.

(c) Each Director shall receive the sum of Fifty Dollars (\$50.00) for his attendance at any meeting of the Board, but such compensation shall not apply to more than four (4) meetings or exceed Two Hundred Dollars (\$200) in any one calendar month. No Director shall receive any other compensation, but shall be reimbursed for actual travel, subsistence and out-of-pocket expenses incurred in the discharge of his responsibilities, including authorized attendance at meetings held away from Guam.

→ (d) The Board shall be liable for the negligent act of any hospital employees or officer if the Board knew or had notice that said employee or officer was inefficient and incompetent to perform the services for which he was hired, or said Board retained such inefficient or incompetent person after knowledge or notice of such inefficiency or incompetency.

(e) No Director shall be liable for any decision made in the good faith non-malicious fulfillment of his duties.

SOURCE: §49004 GC; Subsections (a) amended by P.L. 15-41; (b) amended by P.L. 15-55.

§80107. Administrator.

(a) The Board shall appoint an Administrator, who shall be its chief executive officer. The Administrator shall serve at the pleasure of the Board, which shall fix his compensation. The Administrator shall have full charge and control of the operation and maintenance of the hospital.

(b) The powers of the Administrator shall include:

(1) To see that all rules and regulations of the hospital are enforced.

(2) To attend, unless excused by the Board, all meetings of the Board and to submit reports on the affairs of the hospital as required by the Board.

(3) To keep the Board advised on the needs of the hospital and to approve demands for payment of obligations within the purposes and amounts authorized by the Board.

(4) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the hospital.

(5) To devote his entire time to the business of the hospital, to select and appoint the employees of the hospital, except as otherwise provided in this Chapter,

BAUMANN & HULL

ATTORNEYS AT LAW

SUITE 903

PACIFIC NEWS BUILDING

238 O'HARA STREET

AGANA, GUAM 96910

LADD A. BAUMANN
GARY D. HULL

CLIFFORD S. LAU
OF COUNSEL

TELEPHONES
477-9084 • 477-9085 • 477-9089

May 7, 1987

Joe T. San Agustin, Senator
18th Guam Legislature
Agana, Guam 96910
HAND DELIVER

Re: GMHA Hospital Board Liability

Dear Senator San Agustin:

I have written you earlier concerning 10 GCA 80106(d). A Copy of my earlier letter is attached. I am writing to summarize the Board's concerns.

1. The law makes the Board liable for actions of employees over whom they have no control. The Board directly controls the Hospital Administrator, the Associate Administrator and the Comptroller. The remaining staff are health care providers, health care administrators (which will soon be defined by the Civil Service Commission) and classified employees. Under the law and the personnel rules of GMHA, each of these categories is outside the Board's direct control. Therefore, under 10 GCA 80106(d) the Board is liable for example, for the negligence of classified employees. This category is hired by a merit procedure, supervised by the Administrator, can be fired by the Administrator only through set procedures and his action is reviewable by the Civil Service Commission. It is not fair that the Board should be held liable for the negligent acts of employees it does not control.

2. The Administrator is already liable for the negligent acts of employees. 4 GCA 3106 provides as follows:

§3106 Personal Liability for Negligence of Others.

No officer of a local governing body whose sole compensation by virtue of his office is a fixed salary established by the Legislature or local governing body shall be personally liable for the negligent act or omission of any deputy or employee serving under him and performing the duties of his office, where the appointment or qualification of such deputy or employee is required to be and has been approved by the local governing body, unless the officer failed to exercise due care in the selection, appointment or supervision of such deputy or employee, or negligently failed to suspend or secure the discharge of such deputy or employee after knowledge or notice of his inefficiency or incompetency.

Nothing in this Section shall be interpreted as placing any liability upon the principal officer for the act of a deputy or employee unless such liability is otherwise imposed upon the principal office by law.

This is as it should be because it is the Administrator who is paid a salary and works full time. The Board is not paid a salary and does not work full time.

3. The way the law is written, it is impossible to obtain insurance coverage. It is not fair to expect that Board members will serve without compensation and put their personal assets and their families' future at risk.

4. The statute makes the Board liable for inefficiency. Inefficiency is much too vague a word and as a result the possibility of a successful lawsuit is greatly increased. The same can be said for the word "incompetence".

In summary the law as written is unfair. There are several alternatives available. They are:

1. Repeal 10 GCA 80106(d).
2. Rewrite 10 GCA 80106(d). I personally think this would be difficult to do.

BAUMANN & HULL, ATTORNEYS AT LAW

TO Sen. Joe San Agustin

DATE May 7, 1987

PAGE 3

3. Repeal 10 GCA 80106(d) and replace it with the following:

(d) The Board shall be liable as fiduciaries in the execution of the duties imposed by law."

Yours truly,
BAUMANN & HULL


Ladd A. Baumann

LAB/pms
1633
#19Th
Enclosure

B199

FLOOR AMENDMENT
by Senator Jim Miles

8'

On page 3 on line 20 insert: "or five years whichever is ^{shorter} longer." after the word "device".

8'

On page 3 between lines 24 and 25 insert the following sentence: "^{three}Five years after this Section takes effect all gambling devices shall be destroyed or removed from the Territory of Guam."

DAG KNIFE
1/13/87


B-199

NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

Bill No. 90

Introduced by:

F.J. GUTIERREZ 

 AN ACT TO AMEND SUBSECTION (b) AND
SUBSECTION (c) OF SECTION 4401 GCA
RELATIVE TO THE CIVIL SERVICE COMMISSION.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 ⁽¹⁹⁾ SECTION 1. Subsection (b) of Section 4401 GCA is amended to read:

2 "(b) No member shall be an employee of the Government, a member of any
3 board or commission, [a recipient of any annuity from the Government,] nor a
4 member of the immediate family of an employee of the Government.

5 As used in this Section, 'immediate family' means a collective body of persons
6 living together in one house under one head."

7 ¹⁶ ⁽¹⁹⁾ SECTION 2. Subsection (c) of Section 4401 GCA is amended to read:

8 "(c) The appointment of any person to the Commission shall become void if
9 at any time during his term of office, he shall become an employee of the
10 Government, accept appointment of any other board or commission. [or accept an
11 annuity from the Government.]



NINETEENTH GUAM LEGISLATURE

P. O. BOX CB-1
AGANA, GUAM 96910

Committee on Justice, Judiciary and Criminal Justice

April 9, 1987

The Honorable Franklin J.A. Quitugua
Speaker, Nineteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Justice, Judiciary and Criminal Justice, to which was referred **Bill No. 199**, wishes to report its findings and unanimous decision **TO PASS Bill 199** as introduced.

A copy of the Committee Report and all pertinent documents are attached for your information.


PILAR C. LUJAN
Committee Chairman

Attachment

COMMITTEE ON JUSTICE, JUDICIARY AND CRIMINAL JUSTICE

COMMITTEE REPORT
ON

**BILL NO. 199 - AN ACT TO AMEND SUBSECTION (b) OF 9 GCA §80.10
RELATIVE TO SENTENCES IMPOSED FOR CONVICTION OF MORE
THAN ONE CRIME.**

PREFACE

The Public Hearing on **Bill 199** was heard by the Committee on Justice, Judiciary and Criminal Justice and convened on **Friday, March 6, 1987**, in the **Legislative Session Hall**.

The hearing was called to order by Chairman, Senator **Pilar C. Lujan**. Also present were Vice Chairman, Senator **Francisco R. Santos**, and Committee Members: Senators **Ted S. Nelson**, **Joe T. San Agustín**, **Edward R. Duenas**, and **Jerry M. Rivera**. Also joining the committee during this hearing was non-member, Senator **George M. Bamba**.

Written testimony was submitted by Attorney **Charles Troutman**, Acting Attorney General. No oral testimony was presented.

PURPOSE

The Intent of **Bill 199** is to provide consecutive sentences for convictions of more than one crime.

WRITTEN TESTIMONY

The written testimony submitted by Attorney **Charles Troutman** supported the intent of the Bill (See Attachment). No other testimonies were submitted.

ATTACHMENTS

- (1) Conclusions and Recommendations by Committee;
- (2) **Bill 199** as introduced;
- (3) Written Testimony by Attorney **Charles Troutman**; and the
- (4) Committee Voting Record.

CONCLUSIONS AND RECOMMENDATIONS

In the survey and assessment of Bill 199, the Committee on Justice, Judiciary and Criminal Justice concludes the following:

- (1) RESPECTFUL of the power of the Judicial Branch to impose sentences on convicts; and, further,
- (2) AWARE of the fact that current law does not provide flexibility in imposing sentences on those convicted of more than one crime regardless of the number of actual criminal charges which were generated by those acts; and, further,
- (3) RECOGNIZING that this law has been problematic because prosecutors often join more than one criminal episode in one indictment, yet concurrent sentences are required even if the criminal episodes are separate; and, further;
- (4) KNOWING that current law provides means by which sentences may be enhanced after conviction and a number of appeals have materialized due to such provisions; hereby renders its decision.

THE COMMITTEE, BASED ON THE AFOREMENTIONED FINDINGS AND CONCLUSIONS, RECOMMENDS THAT:

- (1) Bill 199 become Public Law to allow the courts to have needed flexibility in imposing more severe sentences when the law calls for it.
- (2) Bill 199 become Public Law to enable prosecutors to seek consecutive sentences for convicts charged with more than one crime.

NINETEENTH GUAM LEGISLATURE
1987 (First) Regular Session

799

Bill No.

Introduced by:

F. R. Santos

[Handwritten signature]
T. S. Nelson

AN ACT TO AMEND SUBSECTION (b) OF 9 GCA §80.10
RELATIVE TO SENTENCES IMPOSED FOR CONVICTION
OF MORE THAN ONE CRIME.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Subsection (b) of 9 GCA §80.10 is amended to read:

3 "(b). Where the judgement of conviction included more than
4 one crime, the sentences imposed [shall run concurrently except as
5 provided in §§80.38, 80.40 and 80.42.] may run concurrently or
6 consecutively except that if such sentences run consecutively, the
7 provisions of §§80.38, 80.40 and 80.42 shall not be applicable."



OFFICE OF THE ATTORNEY GENERAL

238 Archbishop F.C. Flores St.
Suite 701, Pacific News Bldg.
Agana, Guam 96910
Phone: (671) 472-6841
Fax: (671) 472-2493
Telex: 650-697-5352

March 6, 1987

The Honorable Pilar C. Lujan
Chairperson, Committee on Justice,
Judiciary and Criminal Justice
Nineteenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

RLES H. TROUTMAN
Acting Attorney General

Dear Senator Lujan:

I am appearing today to testify regarding all of the bills scheduled for public hearing. My testimony is on behalf of the administration.

Bill No. 21 - An Elected Attorney General

I am enclosing a copy of the first three pages of my testimony on the Eighteenth Legislature's Bill 1021, which provided for the separation of Attorney General and the Public Prosecutor. The importance for this now is not Bill 1021, but the analysis of the new Organic Act amendments provided in that testimony.

The case of **People v. Perez** specifically held that the Legislature could not limit the Governor in his ability to remove the Attorney General. Further, the amendments to the Organic Act specifically mention "Public Prosecutor", despite strenuous testimony and objections by myself and former Attorney General Richard Opper. We urged that Congress, if it were to provide an office more independent of the Governor than existing law provided, include both prosecution and Attorney General functions in one office. Congress chose not to do so. Therefore, I conclude that the Office of the Attorney General was specifically not a part of the 1986 Organic Act amendments and, therefore, that the Legislature cannot remove the Governor's control over the Office of the Attorney General.

Therefore, regardless of the conceptual merits of an elected Attorney General, I conclude that this bill is inorganic and cannot be made organic save by another amendment of the Organic Act.

In addition to the Organic Act problems with Bill No. 21, the qualifications of the position are inappropriate. If a position were to be elected, most of the qualifications should be left to the voters to decide. Further, the qualifications are so strict that no Attorney General appointed since 1970 would qualify, at the time of appointment, if the qualifications of this bill were in place then.

Bill No. 24 - Legal Opinions to the Legislature

In 1986, we received over 1600 requests for some form of civil action by the office. A small number of these were civil litigation, the remainder being requests for opinions, for assistance, contract review and for other matters. Much of the paper which we send out in the form of "memoranda" is designated as "informational" simply because it is not an opinion, but is either advice to the agency as their lawyers or is routine correspondence such as requesting more information, or returning a contract for various defects.

OFFICE OF THE ATTORNEY GENERAL
ACKNOWLEDGMENT RECEIVED
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Date *3/6/87*
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To make such memoranda immediately public to the Legislature would be to destroy the attorney-client relationship we have with those whom we represent. The Governor would be reluctant to receive such memoranda from the Attorney General, because by doing so, he would publicly expose policy discussions before decisions had been made. Likewise, when we advise agencies on personnel actions, we do not wish to make public these memoranda.

Indeed, during the discussion of Public Law 17-6, all of these arguments were pointed out and the Legislature deleted reference to "memoranda" simply because the memoranda are not public documents and should not be released.

Upon receiving this bill, I checked to see if we were delivering opinions to the Legislative Secretary as provided in existing law. I found out that former Attorney General Oppen commenced this practice, as required by Public Law 17-6, but later stopped it because the cost of duplicating all of the opinions was too great. No Senator has informed me that opinions were not being delivered, so I was unaware of this past order of former Attorney General Oppen. I have directed our staff to send all opinions, back to January 1987, to the Legislative Secretary as they are issued.

A more practical, and less costly, way of informing the Legislature of our opinions would be to provide the Legislative Secretary with our **Opinion Digest** as we produce it, which is about monthly. This gives all of our opinions arranged by subject. If anyone wants to see a particular opinion, then all he or she need do is call to obtain that particular copy. The Legislative Secretary already has a copy of our first digest.

Indeed, it has been my hope, that we could publish the Attorney General's Opinions. In this way, our opinions would be readily accessible to those who need them for research and information. However, we have not been given the money nor the staff support to enable this to happen. If the Legislature were to give us the appropriate support and money for publication, then it would receive our opinions as they were published but not memoranda for the reasons stated above. Therefore, I urge that this bill not pass in this or any other form. Present law is satisfactory.

Another reason for opposing this bill is that it violates the concept of separation of powers. The Legislature is not the direct appointing officer, nor does it directly supervise the Attorney General as if he or she were the branch of the Legislature. To require that all output of the Attorney General's Office be transmitted to the Legislature transforms the Attorney General into a Legislative Officer. A law office within the American concept of three branches of government simply cannot exist in this fashion. This bill is inorganic.

Bill No. 48 - Prostitution

The Administration has no objection to the passage of Bill No. 48. Its effect would be to make solicitation of prostitution a crime wherever it occurs, not just in public places. The reason for existing wording arose in debates within the Law Revision Commission in the years 1975-1976. Only public sexual activities are regulated. Private sexual activities, even "deviant" ones, are not prohibited if the parties consent. Hence this section prohibits only public solicitation of prostitution.

Since that time, and even then, there were some on the Commission who believed that prostitution and solicitation of it should be prohibited no matter where it took place. The section as written, for instance, prohibits prostitutes on the street, but arguably does not prohibit it in massage parlors and certainly does not prohibit it in the form of call girls who solicit, or who can be found, through hotel switchboards.

Bill No. 61 - Punishment for Criminal Sexual Conduct

The Administration will look into possible abuses of current law on work-release, but this law is too severe and too limited. This section would provide that, for offenders convicted of criminal sexual conduct, their prison terms may not be suspended, nor may they be released in any manner prior to the end of the term. Since it is certain that these offenders will be released, as none of the sentences for criminal sexual conduct are for life imprisonment without parole, it is folly to keep these persons locked up until the day of their release. Perhaps more serious terms of parole or work release could be imposed. However, to deny all forms of probation, parole, or work release, not only does not help the prisoners, but it harms families who depend upon the prisoners for support. We have prosecuted such cases where the offender works, but cannot contact the victims. Also, denial of probation is not warranted in every case.

Therefore the Administration opposes this bill, and suggests that the Legislature work with us to create positive programs for offenders in these cases, with the aim that they be assisted in ceasing their behavior. Prison has not proven effective.

Bill No. 199 - Consecutive Sentences

This bill corrects a flaw in existing law. The sentencing philosophy behind Chapter 80, as originally passed, was to give maximum flexibility to the courts and the prison system in determining the total time a person is in prison. That philosophy has been changed since then, as the Legislature has seen fit to modify the philosophy by prescribing definite sentences. One law that has not been amended is this Section 80.10(b), whose philosophy it is that the person be sentenced for one term of imprisonment for a given series of criminal acts regardless of the number of actual criminal charges which were generated by those acts. In other words, if an episode of robbery were to generate five or six separate crimes charged, this section as now written would provide for concurrent sentences for all of the criminal charges surrounding this one criminal episode. In practice, there have been problems in that prosecutors often join more than one criminal episode in one indictment. Under this section, concurrent sentences are required even if the criminal episodes are separate. If the prosecutor wishes to urge consecutive sentences, he may file separate indictments. However, this involves additional work by the courts, prosecutors, and grand juries to achieve an end that could better be served by amendment as provided in Bill 199.

Sections 80.30, 80.40, and 80.42 deal with means by which sentences may be enhanced after conviction. Essentially what Bill 199 is saying is that sentences may be consecutive or concurrent, but if consecutive, then the sentences may not be enhanced under the provisions of law just mentioned.

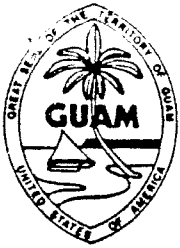
Because this section, as now law, is unduly burdensome for the government, has caused a number of appeals (even though the government has won), the Administration endorses this bill because it would give the courts needed flexibility towards more severe sentences when the case calls for it.

Charles H. Troutman

CHARLES H. TROUTMAN
Attorney General (Acting)

CHT:slc

Enclosures



NINETEENTH GUAM LEGISLATURE

P. O. BOX CB-1
AGANA, GUAM 96910
Committee on Justice, Judiciary and Criminal Justice

VOTING SHEET

On the Passage of Bill No. 199

AN ACT TO AMEND SUBSECTION (b) OF 9 GCA §80.10
RELATIVE TO SENTENCES IMPOSED FOR CONVICTION OF
MORE THAN ONE CRIME.

<u>SENATOR AND COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
<u>Pilar C. Lujan</u> Pilar C. Lujan Chairman	✓			
<u>Francisco R. Santos</u> Francisco R. Santos Vice Chairman	✓			
<u>Elizabeth P. Arriola</u> Elizabeth P. Arriola	✓			
<u>Hermione D. Dierking</u> Hermione D. Dierking	✓			
<u>Ted S. Nelson</u> Ted S. Nelson	✓			
<u>Franklin J. A. Quitugua</u> Franklin J. A. Quitugua Speaker and Ex-Officio	✓			
<u>Joe T. San Agustin</u> Joe T. San Agustin	✓			
<u>Pedro C. Sanchez</u> Pedro C. Sanchez	✓			
<u>Edward R. Duenas</u> Edward R. Duenas	✓			
<u>James G. Miles</u> James G. Miles	✓			
<u>Jerry M. Rivera</u> Jerry M. Rivera	✓			

JAN 15 '87

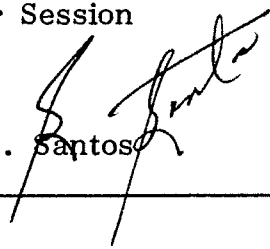
NINETEENTH GUAM LEGISLATURE
1987 (First) Regular Session

799

Bill No.

Introduced by:

F. R. Santos



AN ACT TO AMEND SUBSECTION (b) OF 9 GCA §80.10
RELATIVE TO SENTENCES IMPOSED FOR CONVICTION
OF MORE THAN ONE CRIME.

1
2
3
4
5
6
7

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Subsection (b) of 9 GCA §80.10 is amended to read:

"(b). Where the judgement of conviction included more than one crime, the sentences imposed [shall run concurrently except as provided in §§80.38, 80.40 and 80.42.] may run concurrently or consecutively except that if such sentences run consecutively, the provisions of §§80.38, 80.40 and 80.42 shall not be applicable."