

the area affected. Thus, henceforth, swimmers can be confident that they are not unwittingly placing themselves in danger from overanxious spearfishermen. The spearfishermen, on the other hand, can be assured of staying within the law by avoiding those highly trafficked areas enumerated in new §370.172 (3), and otherwise by watching for those posted notices required by new §370.172 (6).

Section 370.172 (2), *supra*, should not be misconstrued to mean that spearfishermen may take all species of fish found outside the sanctuaries set out by §370.172 (3) and (6). Rather, all this section does is make uniform those areas *where* spearfishing is permitted.

Section 370.172 (4) and (5) of the new act should be noted,

(4) The taking of fish by spearfishing shall be limited to present and future bag limits as set forth by the Department of Natural Resources, *which limits shall be identical to those applicable to other sports fishermen in this state.* (Emphasis supplied.)

(5) The sale of fish taken by spearfishing shall be subject to the same regulations and limitations applicable to other sports fishermen in this state.

These subsections will put spearfishermen on an equal plane with conventional fishermen insofar as the regulations of the Department of Natural Resources relating to bag limits and the sale of fish are concerned. They do not purport to have any effect upon general laws which restrict *how, when, or how many* of a particular species may be taken. And it is a well-settled rule of statutory construction that statutes *in pari materia* should be construed, if possible, so as to give full force and effect to the provisions of each of them. *State v. Gadsden County*, 58 So. 232 (Fla. 1912); *State v. Collier County*, 171 So. 2d 890 (Fla. 1965). Accordingly, the practice of taking snook by spear or gig will continue to be prohibited, notwithstanding Ch. 73-141, *supra*. A similar analysis would apply to the other provisions of Ch. 370, F. S.

In summary, the new spearfishing law will supersede all former local and special laws, administrative regulations, and ordinances which heretofore restricted the areas in which spearfishing could be conducted. Those areas of our salt waters where spearfishing is forbidden are enumerated in new §370.172 (3), *supra*. Any future additions or qualifications to this enumeration can be made only by general law or in accordance with §370.172(6), *supra*. Those regulations of the Department of Natural Resources which formerly discriminated against spearfishermen as to the bag limits and sale of a particular fish species are no longer in effect. Those general laws which purport to regulate *what species or how, or how many of*, a particular species may be taken by spearfishermen are still in effect.

073-339—September 13, 1973

#### CIRCUIT COURT CLERKS

#### AUTHORITY TO FIX OFFICE HOURS

To: James C. Watkins, Clerk, Circuit Court, Tavares

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

#### QUESTION:

Does the clerk of the circuit court have the authority to set the hours of recording in his office to open at 8:30 a.m. and to close at 4:30 p.m. each working day?

#### SUMMARY:

Under §43.27 F. S., authorizing the clerks of the circuit courts to fix

the hours during which the office shall be open to the public, the clerk may fix the hour of 4:30 p.m. as the deadline for the presenting of instruments for recordation.

Your question is answered in the affirmative.

Section 43.27, F. S., (adopted by Ch. 72-238, Laws of Florida), provides that:

The clerks of the courts of the several counties may establish the hours during which the office of clerk may be open to the public. The hours should conform as nearly as possible to the customary weekday hours of business prevailing in the county. The clerk may prescribe that his office be open such additional hours as public needs require.

I understand that the employees of your recording department need at least one-half hour at the end of each day to close out the cash register, complete the official notations in the record books, and balance the day's receipts. It is your thought that, by requiring instruments to be presented for record by 4:30 p.m. each day, these duties could be performed during the regular work day rather than on overtime. I understand that, in case of an emergency, an instrument will be recorded after 4:30 p.m., as it now is after 5:00 p.m., upon request.

It seems to me that the authority to fix the hour beyond which the office is not open for the purpose of the recordation of instruments is within the fair intendment of §43.27, *supra*. The real estate brokers and others who regularly present instruments for recordation could adjust to a 4:30 p.m. deadline as well as to a 5:00 p.m. one; and, as noted above, in a special case the instrument could be recorded after the 4:30 p.m. deadline.

073-340—September 13, 1973

#### ADULT RIGHTS LAW

##### ABILITY TO BECOME NOTARY PUBLIC

To: *Dwight L. Geiger, Martin County Court Judge, Stuart*

Prepared by: *Jan Dunn, Assistant Attorney General*

#### QUESTION:

May a person eighteen years of age or older become a notary public?

#### SUMMARY:

Under the provisions of Ch. 73-21, Laws of Florida, a person eighteen years of age or older may become a notary public.

Your question is answered in the affirmative.

Section 117.01 (1), F. S., provides that:

(1) The governor may appoint as many notaries public as to him shall deem necessary, each of whom shall be at least twenty-one years of age, a citizen of the United States, and a permanent resident of the state for one year.

Section 2 of Ch. 73-21, Laws of Florida [§743.07 (1), F. S.], provides that:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act.