under the supervision of the Parole and Probation Commission, in any case pending in that court, whether it involves traffic offenses such as driving while intoxicated or reckless driving, or any other misdemeanor, and if such should be done, it would be the duty of the commission to supervise such probationer.

Driving while intoxicated and reckless driving are misdemeanors (§§316.028, 316.029, and 775.08, F. S.), as are most of the other traffic offenses proscribed by Ch. 316, F. S., which relates to traffic control.

Revised Art. V, §20(c)(4), State Const., provides in pertinent part that:

> (4) County courts shall have original jurisdiction in all criminal misdemeanor cases not cognizable by the circuit courts . . . .

There is no constitutional or statutory provision conferring upon circuit courts jurisdiction to try misdemeanor cases and therefore the county courts have that jurisdiction.

A misdemeanor is a crime (§775.08, F. S.) and a prosecution therefor is a "criminal action" and "criminal case" within the contemplation of §948.01(1), F. S., reading as follows:

> (1) Any court of the state having original jurisdiction of *criminal actions, where the defendant in a criminal case* has been found guilty by the verdict of a jury or has entered a plea of guilty or a plea of nolo contendere or has been found guilty by the court trying the case without a jury, except for an offense punishable by death, may at a time to be determined by the court, either with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of such defendant. (Emphasis supplied.)

Consequently, a county court is authorized to place on probation a defendant charged with driving while intoxicated, reckless driving, or any other misdemeanor, after such defendant pleads guilty or nolo contendere or is found guilty by a jury or by the court trying the case without a jury.

And if such a defendant is placed on probation, he must be placed under the supervision of the Parole and Probation Commission (§948.01(5), F. S.), with the result that the commission would be required to supervise him.

073-24—February 15, 1973

MUNICIPALITIES

ABOLITION OF MUNICIPAL COURT

To: C. Fred Jones, Representative, 59th District, Auburndale

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

May a municipality, by ordinance, abolish its municipal court without first amending its charter to delete the provision creating such court?

SUMMARY:

A municipality may abolish its municipal court by ordinance, as authorized by §168.031, F. S., without first amending its charter act to delete the provision creating such court.

Your question is answered in the affirmative.

In abolishing its municipal court by ordinance, the municipality will be acting under constitutional authority, §20(d)(4) of revised Art. V, State Const., as implemented by general law, §168.031, F. S. (1972 Supp.). Section 168.031(1) provides that:

> (1) Any municipal court existing on April 26, 1972, may be abolished by ordinance of the governing body of that municipality in the manner prescribed in this section, whether such municipal court was established by special law, *municipal charter,* ordinance, or otherwise by law. . . . (Emphasis supplied.)

Ordinarily, of course, a city's special charter act will prevail over a general law. An established exception to this general rule is that a general law will take precedence over a conflicting provision of a special charter act when an intent to do so is clearly apparent from the language of the general law. *See* Bryan v. City of Miami, 190 So. 772 (Fla. 1939); Town of Hallandale v. Broward County Kennel Club, 10 So.2d 810 (Fla. 1942). Here, acting under constitutional authority, the legislature has declared, in effect, that municipal courts may be abolished by municipal ordinance even though such courts were established by municipal charters. It necessarily follows that no change in a municipal charter is required in order to do so.

073-25—February 15, 1973

PROFESSIONAL AND OCCUPATIONAL REGULATION

DISTINCTION BETWEEN PROFESSIONS AND OCCUPATIONS

To: Charles H. Weber, Senator, 37th District, Fort Lauderdale

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

> **What is the distinction between a profession and an occupation for the purposes of §20.30(9) and (10), F. S.?**

SUMMARY:

> **A "profession" implies specialized intellectual training and knowledge of some department of learning, science, or art as distinguished from mere skill in employment habitually engaged in for livelihood or gain; however, in a particular statute, the legislature may disregard the distinction, depending upon its purpose and intent.**

Section 20.30 was enacted as a part of the Governmental Reorganization Act, Ch. 69-106, Laws of Florida. It establishes three divisions—the Division of Professions, the Division of Occupations and the Division of General Services—under the Department of Professional and Occupational Regulation. Subsections (9) and (10) list the several examining and licensing boards of this state under the Division of Professions or the Division of Occupations, respectively; however, subsection (3) of the section provides that the divisions are not to have separate directors but are to be administered directly by the secretary of the department.

The designation of the *department* as the department of "professional and occupational regulation" is consistent with the legislative purpose to transfer all licensing and examining boards into a single state department in accordance with the purpose and intent of Art. IV, §6, State Const., requiring governmental reorganization, and providing that "[b]oards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate