

**OPINION NO. 66-088****Syllabus:**

1. A board of township trustees has the authority to discharge constables appointed by the board.
2. It is not necessary that such discharge be for cause.
3. In discharging appointed township constables there is no requirement to use a formal procedure of complaint and hearing.

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**To: David F. McLain, Trumbull County Pros. Atty., Warren, Ohio**  
**By: William B. Saxbe, Attorney General, May 10, 1966**

I have before me your request for my opinion on the following questions:

"1. Do the Trustees of Brookfield Township have the power to discharge police constables appointed by the board?

"2. Is it necessary that such discharge be for cause?

"3. In discharging appointed township constables, is it necessary that any formal procedure of complaint and hearing be used?"

Section 509.01, Revised Code, provides the authority for the appointment of police constables within a township. Section 509.01, supra, became effective November 6, 1959, and replaced Sections 509.01 to 509.16, Revised Code. The repealed Section 509.01, supra, provided for the election

of constables. Former Section 509.16, supra, is basically included in the new Section 509.01, supra.

Therefore, the Revised Code now provides only one method for selecting constables within a township and that is by appointment by the board of township trustees under Section 509.01, supra.

There is no provision in Chapter 509, Revised Code, providing for the discharge of a constable. Therefore, we must look elsewhere to determine the authority of a board of township trustees to dismiss a township constable.

Section 143.08 (a) (10), Revised Code, which is part of the civil service laws states that constables are in the unclassified civil service and therefore are not subject to the provisions of the state civil service laws. Since constables are not in the classified civil service, they are not entitled to a notice and hearing when they are discharged from the township's employment.

In Opinion No. 281, Opinions of the Attorney General for 1959, page 138, my predecessor in office, in dealing with a question involving an interpretation of the repealed Section 509.01, supra, stated at page 139:

"It is to be noted that the office of constable is not created by the General Assembly within each township of the state. Rather the board of township trustees is given the authority to determine the number, if any, of constables to be elected in the township. Based on the foregoing I deem the rule of major continet in se minus to be applicable, i.e., where a grant of a certain quantum of authority is made such grant also includes all powers of lesser degree. Since the board may, in its discretion, determine the number of constables necessary for the preservation of law and order in the township, it follows logically that they may determine that no constables are needed.

" \* \* \* \* \* " \* \* \* \* \* " \* \* \*"

It is my opinion that the rule of major continet in se minus is also applicable in the present situation and therefore since the General Assembly has made a grant of a certain quantum of authority, without restricting such grant, the grant of power also includes all powers of a lesser degree. That is, the board of township trustees has the authority to appoint constables and therefore they should have the power to dismiss them, with or without cause, and without notice and hearing.

Therefore, in conclusion, it is my opinion and you are hereby advised:

1. A board of township trustees has the authority to discharge constables appointed by the board.

2. It is not necessary that such discharge be for cause.

3. In discharging appointed township constables there is no requirement to use a formal procedure of complaint and hearing.