

Local Police Board

D.B.C. JUN 15 1968

Gets OK from Court

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Gannett News Service

ALBANY — The Rochester Police Advisory Board (PAB) is constitutional.

The Court of Appeals, the state's highest court, so ruled yesterday, 6-1, overriding an appeal brought by the Locust Club, Rochester police organization.

The majority of the court sided with the majority in the Appellate Division, Fourth Department, which had upset a Supreme Court justice's ruling that the board violated the constitution and the city charter.

Associate Judge John Scileppi, of Queens, strongly dissented, holding that the presence of the board was in violation of the charter. He said the PAB could become the "adversary" rather than the advisor to the public safety commissioner.

The majority wrote no opinion.

The crux of the case was whether the city had the right to delegate power to the advisory board to hear charges of brutality against a policeman brought by a citizen. The Locust Club argued that this was the sole duty and responsibility of the Chief of Police and the public safety commissioner.

The city insisted that the board had no authority to impose sanctions, and could only hear evidence in private and make recommendations. But,

countered the Locust Club, this was the same as a public hearing because, if the commissioner failed to act, the PAB, under the city ordinance, could make public recommendations.

This could constitute an accusation against a policeman, violating his constitutional rights and not giving him a chance to rebut, the Locust Club contended.

The city argued that the right to discipline always remains in the hands of the Public Safety Commissioner. It said that the ability to publish findings would alleviate tensions in the city.

The PAB was set up five years ago, but has functioned only briefly, due to court actions. The way now is clear for it to assume full responsibilities.

Judge Scileppi said, in his dis-

sent, that he did not reach the question of constitutionality since "The ordinance in question is in direct conflict with . . . the Charter of the City of Rochester" . . . and "therefore, invalid."

His dissent also said, in part: "An analysis of the authority and functions of the Police Advisory Board . . . demonstrates

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