

Legislators end session without override vote

By Lee Strong
Staff writer

Unless the state legislature is called back to Albany for a special session this fall, the death penalty is effectively dead in New York this year.

Supporters of the death penalty, knowing that they lacked the number of legislative votes needed to override Governor Mario Cuomo's March 20 veto of a death penalty bill, opted not to call for a vote before the legislative session ended July 1. The vetoed bill had been passed in February.

And even if a special session is called, an override vote appears unlikely, as such sessions are seldom attended by all members. Without the full legislative body present, it would be difficult for proponents of the death penalty to muster a sufficient number of votes, noted Jim Murphy, director of the New York State Coalition for Criminal Justice. "I think this essentially kills it this year," he said.

Nevertheless, opponents of the death penalty say they will not let up in their efforts to prevent the return of capital punishment to New York.

"At the moment, I look at things as still stalled rather than thinking (the death penalty) failed," explained Melissa Marquez, coordinator of Respect Life programs for the Diocese of Rochester. "There is still a possibility of having a vote in the fall, so our view is there is always the need for education."

"Until we are assured there will never be a death penalty, we'll just keep plugging away," vowed Clare Regan, a member of Rochester's Judicial Process Commission.

At one point, opponents of the death penalty feared that despite their efforts, Governor Cuomo's veto might be overridden this year. The senate appeared poised to vote for an override for the 13th consecutive year, and, for the first time, the proponents in the assembly appeared to have the 100 votes needed to do so.

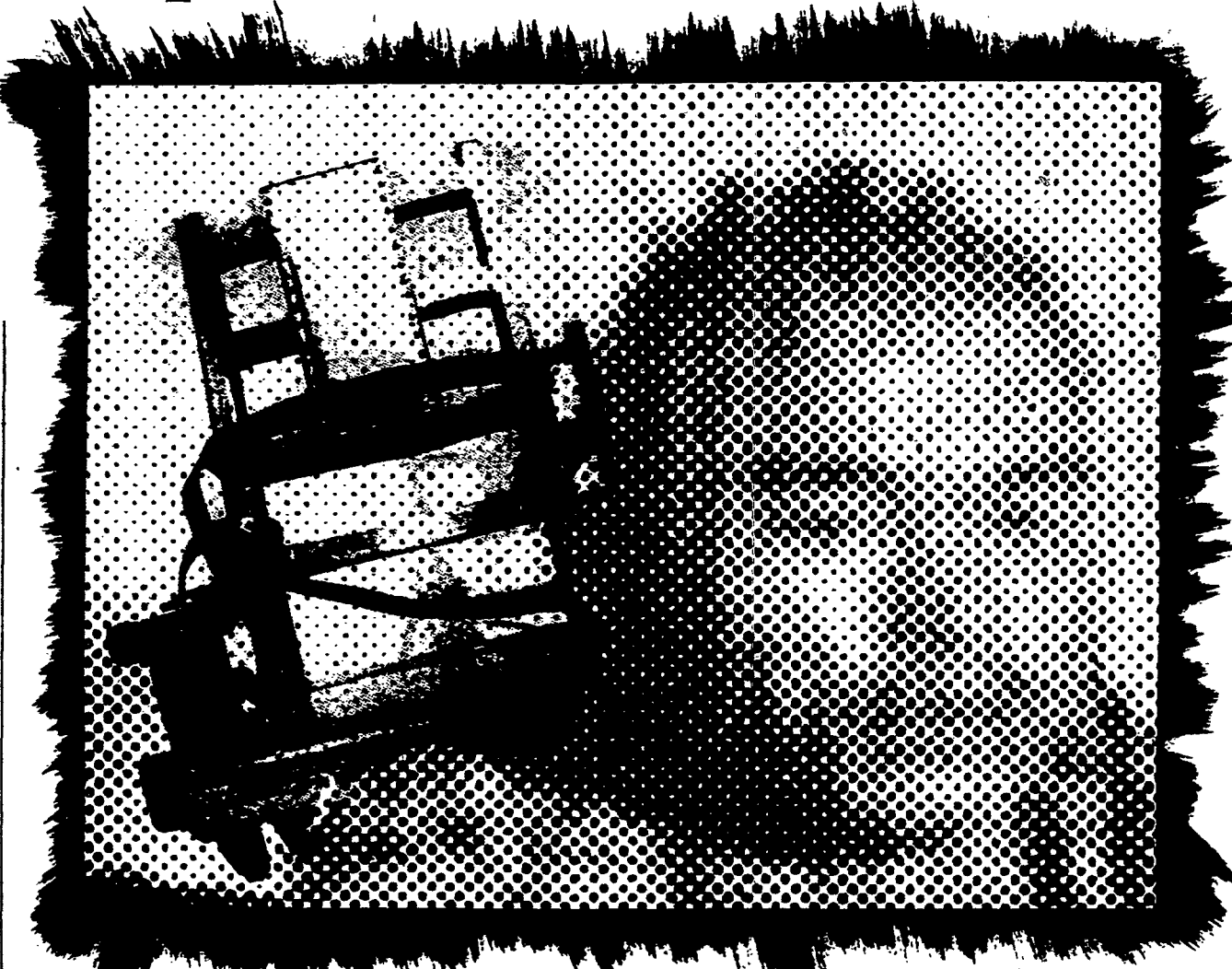
In February, however, one senate vote for an override was lost when Bronx Democrat Israel Ruiz, was convicted of a felony and forced to leave office.

Then Utica-area Republican Senator James Donovan, a longtime proponent of the death penalty, underwent surgery for cancer of the colon. During his subsequent treatment for the disease, he began to reconsider his position on the death penalty, suggesting that he might no longer support it.

Anticipating that Donovan would nevertheless vote with them, capital punishment advocates in the senate delayed the vote until Donovan could return. He did return briefly to the senate floor, but had to leave for additional treatment before a vote could be taken. Without his vote, death penalty supporters in the senate realized they lacked enough votes to override.

Supporters of the death penalty are now looking ahead to next year, when they will continue their efforts, according to Ted Hallman, a spokesman for Republican Senator Dale Volker. Volker, who represents parts of Livingston and Ontario Counties, was a sponsor of the senate's death penalty bill.

"Next year is an election year," said Hallman, who directs Sen. Volker's codes committee. He suggested that legislators would feel added pressure to support the death penalty because of the election, adding, "I don't see anything else that will happen between this year and next that will reduce the ground swell of support (for the death pen-



Wayne A. Holt/Catholic Courier

alty). If anything, I think it will grow."

On the other hand, Kathleen Gallagher, legislative associate for the New York State Catholic Conference, predicted that death-penalty supporters will have a harder time coming up with the votes for an override next year.

"This year there seemed to be a groundswell," Gallagher acknowledged. "Our feeling is that next year they won't have the impetus."

Gov. Cuomo, in fact, may have helped undermine that groundswell, Murphy noted. "I think that Gov. Cuomo has done some brilliant political maneuvering with that issue," he said, citing specifically the governor's push for passage of a life-without-parole sentence. Such a sentence would enable juries to put convicted killers in jail for life without chance for parole, as an alternative to execution.

Adding weight to the governor's efforts was a Gannett News Service poll on the death penalty released in June. According to the poll results, while 67.1 percent of the New York voters surveyed favored the death penalty, if given a choice between life without parole and the death penalty for convicted killers, 51.8 percent would opt for life without parole. Of those polled, 41.5 percent said they would choose the death penalty.

Murphy said senate proponents of the death penalty had opposed the introduction of a life-without-parole bill, but were forced to respond to growing public support for such legislation. Their response came in the form of a last-minute proposal by Volker and Senate Majority Leader Ralph Marino linking the death penalty to a life-without-parole sentence. The proposal would have allowed juries to choose which sentence to impose.

The proposal failed to draw enough support to come to a vote. Even if the bill had been passed, Governor Cuomo indicated he would veto it because of its inclusion of the death penalty.

Explaining Volker's support for the proposal, Hallman said, "I think a linkage between the two is a natural." He nevertheless emphasized that the senator remains unwavering in his support of the death penalty.

"The people who vote for the death penalty do so out of

a sense of moral conviction — just as Governor Cuomo opposes it out of a moral conviction — so I don't think public-opinion polls will affect that," Hallman said. "I think this is something that (Sen. Volker) feels is morally right. If it doesn't happen this year, he'll just try again next year."

Such perseverance will help sustain diocesan attempts to counter the death penalty, Marquez acknowledged. The key to the diocesan effort has been and will continue to be education, she said.

During the spring, those education efforts included requests that homilists throughout the diocese preach about the death penalty the weekend of April 15/16, information packets about the death penalty sent to parish social ministry committees, and a parish-level petition campaign that resulted in hundreds of signatures being sent to state legislators.

In addition, Bishop Matthew H. Clark issued a Good Friday statement opposing the reinstatement of the death penalty, and joined other religious leaders from the Rochester community in releasing an April 24 statement condemning capital punishment.

Marquez said that in preparation for October — Respect Life month — the diocese would send parishes material addressing both the death penalty and abortion. The goal of these educational efforts, she said, was to make people aware of the Roman Catholic perspective on the death penalty, including the U.S. Catholic bishops' consistent opposition to capital punishment and to present a more complete picture of the issue.

Murphy noted that the stance of the Catholic church, and particularly of the bishops of New York — many of whom, like Bishop Clark, have issued statements opposing reinstatement of the death penalty — has helped in the battle.

"I think that the leadership of the bishops in this has been extremely important," Murphy said. When lay people speak out against the death penalty, "people can just use slogans to attack us and our opinions. It's another thing when the bishops of the state speak," he said.

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