

State Supreme Court justice resigns

By David McKay Wilson
Staff Writer

New York state Supreme Court Justice Albert Emanuelli averted a political crisis in Westchester County yesterday when he resigned from the bench, thus preserving a cross-endorsement deal forged last year.

But his last-minute resignation, part of the agreement that will give him an unopposed race for Surrogate Court in November, will leave the already short-handed Supreme Court even more strapped until a replacement is elected this fall.

"This is a very crowded calendar," said Emanuelli, a Republican. "I don't know what they are going to do for the next five months."

Administrative Judge David Ritter said he will step in to take on Emanuelli's cases over the short haul. He will also ask other justices for help. But the district's civil side, which usually has 11 justices, is now down to only eight. Justice John Marbach resigned this spring and has not been replaced. Justice Alvin Ruskin will not be back on the bench for a few more months since he is recovering from surgery, Ritter said.

"It will be a kind of makeshift operation between now and the end of the year," Ritter said.

Emanuelli's resignation came Aug. 6, the state deadline for candidates seeking to run for the Surrogate judgeship in November. Judges are elected in New York state, but local leaders

ventured into the mine field of cross-endorsement last year, to spare judicial candidates the problems associated with having to raise up to \$100,000 for a districtwide race.

Under that deal, Emanuelli would resign from the Supreme Court and receive backing for the Surrogate job while Westchester County Court Judge Francis Nicolai, a Democrat, would be cross-endorsed to fill Emanuelli's Supreme Court post.



Albert Emanuelli

land justice retired.

Emanuelli had argued that the new post created the vacancy that Nicolai could fill, thus sparing him the sacrifice of losing his salary, medical insurance, and pension benefits during the nearly five-month hiatus. Stepping down will cost Emanuelli an estimated \$40,000 of his annual \$95,000 salary.

In addition, Emanuelli said that staying on the bench would allow him to continue to deal with the heavy caseload in the court's matrimonial section as one of two justices who

address those issues.

If Emanuelli had stayed on, Gov. Mario Cuomo would have appointed his successor, and the seat would come up for election in 1991.

During the summer, Democratic and Republican leaders tried to strike a deal that would keep Emanuelli on the bench. But the rough-and-tumble game of political horse-trading came head-to-head with the ambitions of other judges and yesterday's deadline for Emanuelli's resignation.

While Westchester leaders tried to pin down a new cross-endorsement deal, Rockland Republican and Democrats cross-endorsed Howard Miller, a Republican, for one seat. Then Family Court Judge Joan Lefkowitz, a Democrat, announced her bid for the second opening.

Those actions forced Emanuelli's hand.

Westchester County Republican Chairman Anthony Colavita, who struck the deal last year with the Democrats, was feeling the pressure Sunday evening when he visited an undecided Emanuelli at his home.

Emanuelli relented, saving Colavita the embarrassment of having one of the party's most well-respected jurists become the subject of political controversy.

"I truly believe there was a genuine misunderstanding on his (Emanuelli's) part," Colavita said. "Out of deference to me, and a recollection of the agreement with the Democrats, he acceded to my wishes."