

10/18/98 N9V

THE TACTICS

In a 'Virtual' Race, Politics Without Kissing Babies

By TERRY PRISTIN

Judged by its blizzard of shrill press releases, the campaign for attorney general in New York is an intense, hard-fought contest, much like the one four years ago.

The Republican incumbent, Dennis C. Vacco, denigrates his Democratic opponent, Eliot L. Spitzer, as a soft-on-crime liberal and accuses Mr. Spitzer's wealthy father, a developer, of violating real estate and campaign financing laws. Mr. Spitzer, a former assistant district attorney in Manhattan, accuses Mr. Vacco of turning his office into a patronage mill, replacing competent lawyers with political hacks.

"Spitzer Breaks Law He Seeks to Enforce," cries one headline on a recent news release from the Vacco campaign. "Rochester Judge Throws the Book at Dennis Vacco," screams another, from Mr. Spitzer.

But for all this campaign's rhetorical resemblance to a street brawl, it has an eerie unreality to it, and in that way has become a striking example of what is happening in American politics. With Election Day little more than two weeks away, the candidates have devoted little time to the mainstays of traditional electioneering, whether speaking on the stump, wading into crowds, shaking hands or kissing babies. Instead, the campaign has amounted to a duel of faxed news releases and television commercials — and private fund-raisers to pay for the costly air time.

Increasingly, campaigns for all but the most local offices are waged on television, and the race for attorney general in New York is a classic of that genre. The phenomenon has been around awhile, but grows more prevalent every year.

Four years ago, Mr. Vacco and his Democratic opponent, Karen S. Burstein, spent more time campaigning the old-fashioned way. Ms. Burstein rose early to greet commuters at subway stations. Mr. Vacco, running for the first time, delivered a stump speech before small audiences, rich with details about his Italian immigrant parents. That year, the two candidates faced each other one month before the elections in the first of two debates.

But this year's race amounts to a "virtual campaign," said Steven Goldstein, Mr. Spitzer's spokesman, because the candidates have had so little interaction with voters — or with each other. "The campaign has not been a war of spoken words, but a war of faxed words," he said. In recent days, most of the faxes have come from his office.

A spokesman for Mr. Vacco's campaign, Michael Zabel, disputed Mr. Goldstein's characterization of the race, saying the Attorney General had been campaigning steadily around the state, though not necessarily every week. But he acknowledged that Mr. Vacco was running a different campaign this time because of the demands of his job.

Apart from a few appearances at Columbus Day parades, "meet-and-greet" events with Italian-American police officers and the announcement of a criminal case, most of Mr. Vacco's schedule last week consisted of television interviews, meetings with editorial boards of newspapers and private fund-raisers.

A schedule prepared by the Spitzer campaign listed a few appearances last week before political groups interspersed with meetings with edito-

SPITZER '98
 811 BROADWAY • SUITE 202 • NEW YORK, NEW YORK 10013
 For immediate release: Wednesday, October 7, 1998
 For further information: Marvin Gansman (212) 852-1000
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As the Vacco campaign allegedly attacks Spitzer's family in daily news releases, it directs press away from Vacco's misdeeds, which it denied, explain...

VACCO CAUGHT IN MASSIVE LIE IN 2 PRESS RELEASES

In Tuesday, October 6, 1998 and Wednesday, October 7, 1998 news releases, Dennis Vacco and Michael Zabel, Vacco's father, have been asking questions without a valid reason for two years.

Dennis C. Vacco, the State Attorney General, and his Democratic challenger, Eliot L. Spitzer, have relied on shrill faxes to shape the debate.

Vacco '98
 ATTORNEY GENERAL

FOR IMMEDIATE RELEASE
 Friday, October 16, 1998
 CONTACT: Michael Zabel
 212-370-4513

SPITZER DIVULGES MORE ILLEGAL LOANS!

Documents Reveal New \$4.75 Million Bank Loan; Falls Far Short of Legal Disclosure Requirements

Eliot Borrowed \$4.3 Million Loan in 1994 That He Illegally Failed To Disclose; Now Says He Took Another \$4.75 Million Loan — Just 8 Days Ago!

rial boards, radio and television interviews and a series of news conferences in New York and upstate.

Some analysts say the race is so distant from voters that it reminds them of political campaigns in California, where candidates for statewide office long ago gave up trying to press the flesh. "This is a California campaign," said Mitchell L. Moss, director of the Urban Research Center at New York University. "In California, the TV markets have always been more important than grass-roots campaigning."

After being pressed by Mr. Spitzer for several weeks, Mr. Vacco agreed earlier this week to two debates, to be held on Friday at the Cablevision offices in Woodbury on Long Island and two day later, next Sunday, on WABC-TV in Manhattan.

The race is close. A recent New York Times/CBS News poll found that Mr. Vacco was favored by 38 percent of registered voters, and Mr. Spitzer by 37 percent, with 23 percent undecided. Among voters considered likely to vote, Mr. Vacco was ahead 43 percent to 41 percent. (The margin of sampling error was plus or minus 3 points.)

Political analysts say the virtual campaign has become a favored political strategy because television reaches so many more people than street campaigning does. Another factor is voter apathy. Mr. Goldstein also noted that in a year when the elections for governor and senator cannot

compete for news coverage with the Yankees and the impeachment debate, it is almost impossible to stir up interest in races like the campaign for attorney general.

John Zogby, an independent pollster in Utica, said that candidates understandably want to avoid public appearances when interest among the public is so low. If a well-known figure like United States Representative Charles E. Schumer, the Democratic candidate for Senator, draws only small crowds, what can Mr. Spitzer expect?

"I certainly wouldn't want a reporter following me around while I'm meeting with six people," Mr. Zogby said. "That could be deadly. What's the headline there: 'Spitzer Makes a Statement on World Peace' or 'Six People Showed Up?'"

There is no question that a candidate can reach more voters on television than in person, said Bill Lynch, the vice chairman of the national Democratic Party. But among some voters, people are much more likely to go to the polls if they have seen the candidate up close, he said. "Particularly in the African-American community, they like that kind of contact," Mr. Lynch said. "The Latino community also likes to touch their candidates."

Normally, the analysts say, a challenger who had never run in a general election before might eagerly court media attention using the traditional strategy of meeting with voters and organizations. "If they had no money," said Jay Severin, a Republican political strategist, referring to the Spitzer campaign, "they'd be walking on their knees through cut glass to your office, asking you to spend a month with them."

But Mr. Spitzer has enough personal and family wealth to get his message across through an extensive advertising campaign without filtering it through a journalist's lens, Mr. Severin said.

For both candidates, that message seems to be primarily about fighting street crime, which has traditionally been considered more of a job for the state's district attorneys than for the attorney general.

Less emphasis has been put on the office's traditional role in defending the state when it is sued, and enforcing its environmental, consumer protection, civil rights, securities and other laws.

Mr. Vacco said he has redefined that role. "Quite frankly, I think that the people now see the attorney general's office as an office that's much more relevant to their day-to-day lives," he said, "whether it's our involvement in expanding the criminal justice role of this office, from prosecuting cop killers to busting drug gangs, but also being more aggressive in using our criminal justice authority to go after scam artists in the marketplace."

In Mr. Spitzer's view, however, the public has not been well informed about what the Attorney General does.

"These dueling press releases with their screaming headlines do not lead to the sort of debate that the public deserves," he said. "Let's discuss environmental policy and let's discuss civil rights, antitrust, securities and ethics prosecutions."

EX "A1"

NY 10/19/98

Political Memo

Party Boss Has Firm Grip On Judgeships

By DAVID M. HALBFINGER

The uninitiated might imagine that judges in New York City ascend to the bench by destiny, the only sound the swishing of their black robes. But the selection of judges may be one of the few areas of local politics where back-room deals are still the rule, and where the county political leaders exercise the greatest control.

Nowhere is this more evident than in the Bronx, where Assemblyman Roberto Ramirez, the Democratic county chairman, has wielded his power to steadily diversify a judiciary that was largely white and male when he took over four years ago but where nearly half the residents are Hispanic. Of the 21 State Supreme Court justices and Civil Court judges elected during Mr. Ramirez's tenure, 13 are women, 7 are Hispanic and 6 are black.

But Mr. Ramirez has frequently been accused of using the tactics of the old bosses. And few maneuvers have so upset his critics as a pair of recent judicial nominations, the recipients of which both happen to be white.

In August, a Civil Court judge, Peggy Bernheim, unexpectedly retired, allowing Mr. Ramirez to quietly award her seat to Paul A. Victor, a longtime lawyer for the party. A month later, Ms. Bernheim just as suddenly came out of retirement to accept a nomination to the State Supreme Court.

Mr. Ramirez insisted that the two nominations were unrelated. Judge Bernheim had an honest change of heart, he said. And the party leader, rather than a cynical manipulator, was merely an unwitting beneficiary.

Hearing this, veteran observers of city politics howled. "I'd like to sell you a bridge that you can see from City Hall," said Jerome A. Koenig, retired chief of staff of the State Assembly election law committee.



Roberto Ramirez, the Bronx Democratic chairman.

In the Bronx, the Democratic nomination for most offices is tantamount to victory. And the power to name Supreme Court justices essentially belongs to the party leader. Instead of being nominated in a primary election, candidates are nominated in little-noticed judicial conventions held shortly after the primaries. The convention delegates are party regulars, usually chosen at the local clubhouse level. A contested race for a judicial delegate is a rare thing, so voters are rarely aware of whom they have nominally elected to choose judges on their behalf.

Civil Court judges are nominated in primaries, however, making the process somewhat more open to outsiders, at least in theory. Not surprisingly, party leaders historically have gone to great lengths to avoid primary battles for Civil Court seats, political plums that come with a staff, a \$103,800 salary and a 10-year term. And the safest route around a contested primary for Civil Court often also involves someone else's promotion to Supreme Court.

After redistricting in 1991, City Councilman Gennaro Crispino resigned rather than face Michael DeMarco, a fellow incumbent. Mr. Crispino then received the party's backing for an empty Civil Court seat. Ten days after he won the primary, at the annual Bronx judicial convention, he was nominated for the Supreme Court — and because there was now so little time before the November election, the party leader at the time, George Friedman, was able to place a new candidate for the Civil Court seat directly on the ballot.

In 1994, Mr. Friedman stepped aside as county leader, making way for Mr. Ramirez. Mr. Friedman, who had just won a primary for re-election to his Assembly seat, was then nominated to the Supreme Court. And because there was now so little time before the November election, Mr. Ramirez was able to place a new candidate for the Assembly seat directly on the ballot.

Last year, Mr. DeMarco, who had just won another primary for re-election to his Council seat, was nominated for a Supreme Court judgeship. And because there was now so little time before the November election, Mr. Ramirez was able to place a new candidate for the Council seat directly on the ballot.

By comparison, Mr. Koenig and other critics say the circumstances surrounding the Bernheim and Victor nominations make the arrangement, if there indeed was one, especially odious. If Judge Bernheim had faced re-election this year, for example, other candidates at least would have had the chance to run against her in a primary.

This much can be said of Ms. Bernheim's Aug. 1 retirement: The timing was ideal. If she had left office four days later, the election to replace her on the Civil Court would have had to wait until November 1999 — during which time the Mayor could have appointed an interim judge to fill her seat. If she had stepped down three weeks earlier, anyone wanting the job could have filed to

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EX "A-2"

Party Boss Has Firm Grip On Judgeships in the Bronx

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run in the Democratic primary. But instead, the election to succeed Ms. Bernheim will still be held in November, but without a primary. To fill the new vacancy, Mr. Ramirez said, he turned to Mr. Victor — a lawyer who has been a confidant to every Bronx Democratic leader since Patrick B. Cunningham in the 1970's — and rewarded him for his decades of work "in the trenches" of party politics.

Mr. Ramirez noted that Ms. Bernheim's nomination to the Supreme Court was only one of three this year. The other nominees are Civil Court Judges Yvonne Gonzalez, 43, and Donna M. Mills, 45, who is black.

Judge Bernheim did not respond to numerous telephone messages left with her answering service. A man who answered the door at the Bronx home she lists as her legal residence said that she actually lives in Pelham Manor, in Westchester County — despite a rule requiring Civil Court judges to live in the city. A woman who answered the phone at the Pelham Manor address first denied knowing Ms. Bernheim, then agreed to pass a message to her, but there was no response.

One former Bronx Democratic official, who spoke on the condition of anonymity, said that Mr. Victor might have been vulnerable in a primary battle because of his past associations with Mr. Cunningham and Stanley Friedman, each of whom served prison time in successive Bronx corruption scandals, and because his criminal-defense clients had once included some of the biggest drug dealers in the borough. Mr. Victor, who was not implicated in the political scandals, did not respond to messages left at his Bronx home and Manhattan office.

Mr. Ramirez said only that Mr.

Victor might have been unable to defeat a qualified Hispanic candidate if one had emerged in a primary.

Which is precisely the point, said John Klotz, a longtime Democratic insurgent in the Bronx. "This is a total outrage," he said. "The manipulation of judicial vacancies is inexcusable. It's a throwback to the worst excesses of the Bronx machine, which we thought we had beaten in the 1970's."

Mr. Klotz — who said he had often faced off against Mr. Victor in battles before the Board of Elections — recalled that in 1975, a City Councilman, Anthony Mercorella, had resigned his seat at a similarly well-chosen time, allowing Mr. Cunningham, then the county leader, to name his successor. Mr. Mercorella was then nominated and elected to a vacant Civil Court seat.

Both Mr. Cunningham and Mr. Mercorella were indicted by a special state prosecutor, Maurice H. Nadjari, on charges of an illegal quid pro quo. The indictments were eventually dismissed by a judge who nonetheless called the evident horse-trading a "shabby and cynical maneuver" that had effectively robbed voters of the right to choose their own representative.

The elevation of Ms. Bernheim to the Supreme Court, meanwhile, carries with it an added, but by no means accidental, benefit for Mr. Ramirez. In February, Judge Bernheim will turn 70, the mandatory retirement age. Her seat will come up for election again next fall, though under state judicial guidelines, she can remain a justice in a kind of emeritus status for up to six more years.

In effect, then, her resignation in August has created a third judicial vacancy for Mr. Ramirez to fill.

"Am I supposed to complain about that?" Mr. Ramirez said.