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The state of New York

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"It couldn't have happened anywhere but in little old New York."
— O. HENRY

The State of New York is not good, as is evidenced by a review of recent events.

For starters, we will lose an extraordinary woman from our upper ranks when New York Court of Appeals Chief Judge Judith S. Kaye retires at the end of the month.

Her replacement has yet to be determined, but the list of seven candidates submitted to Gov. David A. Paterson caused him to become "outraged" due to its lack of gender diversity.

Some have defended the list by asserting that only two women attorneys have acknowledged applying for the position: New York Court of Appeals Judge Carmen Beauchamp Ciparick and Chief Administrative Judge of the New York City Civil Courts Fran A. Fischer.

As described in a letter written by the chairman of the State of New York Commission on Judicial Nomination to the governor, however, "the voluminous applications provided by each applicant ... included extensive information concerning professional qualifications, writings, and background."

In other words, the application process is arduous, requires a substantial amount of work on behalf of the applicant and only those who believe they have a remote chance of making the short list actually would be inclined to apply.

That only two women applied to fill the vacancy speaks volumes regarding the level of openness and acceptance of those in positions of power and influence within the legal field. That neither of the two highly qualified women judges made the list is all the more illuminating.

Also illuminating, on a completely different level, was this year's salacious downfall of our former governor, Eliot Spitzer. That sordid chapter in our state's history finally drew to a close just as Wall Street, another seemingly indestructible New York giant, collapsed.

As Paterson recently conceded, our state now faces the worst fiscal crisis since the Great Depression. A fifth of our state's tax revenues

came from Wall Street's financial sector; as a result of its collapse, and the recession that followed, New York now faces a \$15.4 billion budget deficit, the largest in its history.

In an effort to reduce the deficit, Paterson last week proposed a spending plan that will affect the vast majority of New Yorkers in one way or another.

The plan would eliminate STAR property tax rebates and increase tuition for the State University of New York and the City University of New York systems.

You also may have heard the collective groan of computer geeks — myself included — when we learned of the proposed tax on "digitally delivered entertainment services," including music downloads from the increasingly popular and addictive iTunes.

Oenophiles, on the other hand, likely are torn between cursing newly-proposed taxes on wine and cheering a plan that would allow the sale of wine in grocery stores, a convenience available in many other states that New Yorkers have long coveted.

The public policy considerations behind the plan are perplexing, and are difficult to discern.

The governor's spending plan paradoxically encourages gambling by reducing restrictions on gaming, while ending a sales tax exemption on movie theater tickets, discouraging New Yorkers from seeking out a more innocuous form of entertainment. It taxes sugary drinks, while exempting caffeine-laden drinks such as coffee and tea.

I suppose the lesson to be learned is that nothing is perfect.

The proposal is contradictory and confusing, not unlike the recession that required such drastic measures. Career prosecutors like Eliot Spitzer, who devote their lives to upholding the law, are only human, just like the rest of us.

And, finally, the alleged goals of diversity and equality are great in letterform, but until they are applied in actual practice, are worth no more than the paper on which they're written.

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