Chief Justice Phil S. Gibson

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When Phil S. Gibson retired from the California Supreme Court and his position as Chief Justice on August 31, 1964, he brought to a close a judicial career that has been unequaled not only in this state but in the entire Union. Although he authored more than his share of distinguished opinions, it was his dedication to the improvement of the administration of justice that won him lasting acclaim. During his quarter of a century of tenure he accomplished major court reforms, including:

(1) He restructured the courts, eliminating about one-fourth of the total number and welding the remainder into a system of two levels of appellate courts and two levels of trial courts, the superior and the municipal courts, and retaining the justice courts in only the most rural of areas in lieu of the municipal courts. All of the city courts, magistrate’s courts, police judge courts, and many of the justice of the peace courts with their complicated and overlapping jurisdictions were eliminated. Although this was accomplished mainly by constitutional amendment in November 1950 and took effect January 1, 1952, it was because the Chief Justice put the prestige of his office behind the movement that the measure carried.

(2) He elevated the Judicial Council of the state from an ineffective body which had been created in 1926, to the major rulemaking organization for the administration of the courts. Rulemaking was a prerogative jealously guarded by the legislature, and it took considerable salesmanship to place it in the hands of the Judicial Council; first for the Rules of Appeal in 1941, which were adopted by the Judicial Council in 1943, then for the Superior Court Rules in 1949, and finally the Municipal Court Rules in 1953. In 1962 he established the Admin-

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istrative Office of the Courts to assist the Chief Justice in the vast number of administrative chores that had been lodged in his office.

(3) He supported the establishment of an independent judicial retirement system in 1953, and used it as a means to sweep a number of superannuated judges from the bench, and to assist in encouraging outstanding members of the legal profession to accept otherwise financially unattractive positions on the courts.

(4) With a firm hand, he sold the judges, then the lawyers and the public, the idea that there should be more accessible and effective means to eliminate from the bench judges who were either alcoholics or otherwise incompetent, without having to resort to the largely ineffective means of recall or impeachment, both of which involved widespread notoriety and scandal. He supported the creation of a judicial disciplinary body originally termed the Qualifications Commission, later called the Commission on Judicial Performance. Under this system anyone could file a complaint against a judge. The complaint would be investigated and if it had merit, proceedings were “off the record” during their initial phase, with the result that a number of alcoholic or incompetent judges were induced to leave the bench without fanfare or scandal. If a judge saw fit to resist the charges against him, then the record of the proceedings was made public but before any final action could be taken, the record had to be certified to and heard by the supreme court which acted in an appellate review capacity.

When this system was first suggested, a number of judges viewed it as a threat to the independence of the judiciary and resisted it vociferously. The Chief Justice, however, insisted that the proceedings not be abused, that all rights be protected, and that it was to the interest of the entire judiciary to eliminate at as early a stage as possible the few bad apples in the barrel. He finally won the confidence of the judges, they supported the plan, and it rapidly became a model that has been adopted in one form or another in practically every state in the Union. I was privileged to serve on that first commission which was composed of judges from every court level, lawyers designated by the State Bar, and representatives of the public appointed by the Governor. It proved to be a most effective device.

(5) As chairman of the Judicial Council, he supported a study leading to the enactment of the Administrative Procedure Act,¹ which requires uniform rules of practice and procedure for all of the statutory agencies in the state in issuing, suspending, and revoking professional licenses and privileges. This act has likewise been the model for similar acts in many other states.

¹ Cal. Gov't Code § 11370 (Deering 1982).
My ten years on the supreme court began at the close of Chief Justice Gibson's tenure, so I was not privileged to serve with him on the court. I was designated, however, to serve under him on the Judicial Council beginning in 1963 and I also had a close relationship with him during the four years that I was Presiding Judge of the Los Angeles Superior Court.

He was an awesome man to serve under. His rather stern exterior belied a warm personality; a person who liked a good story, possessed a hearty laugh, and loved to relax with his friends. Under his leadership the court first attained its national prominence. Among the men surrounding him on the bench were many legal giants, and each of them treated him with great admiration and respect.