MEMORIAL

E.M. "AL" GUNDERSON

Al Gunderson served on the Nevada Supreme Court from 1971 to 1989, including 6 years as chief justice. An energetic justice, he became known for his scholarship, championing the rights of minorities and the underprivileged, as well as for his efforts to improve the judicial process.

He was born Elmer Millard Gunderson in 1929 in Minneapolis, Minnesota. His father, a retired Army master sergeant, was disabled and lived in a veterans hospital located 60 miles from the family home. As a result, Justice Gunderson and his sister were raised by their mother, a domestic worker and teacher. Overwhelmed by the challenges of raising two young children as a single parent, his mother sent him to live with an uncle and aunt in Omaha, Nebraska. Much of his childhood was turbulent and involved shuttling between the two families. His Minneapolis neighborhood was troubled; the Omaha neighborhood was near a university campus and was much more genteel.

Justice Gunderson was a restless youth and an uninterested student, so at 16, he quit high school to join the Army. He served as a paratrooper during the U.S. military operations in Korea after World War II until his tour of duty ended in 1947. He had grown up never being afraid to stand up for himself, but in the Army he learned to stand up for the things he believed in, regardless of the potential personal cost.

After the service he returned to Minneapolis, where he earned a GED certificate. He then enrolled at the University of Minnesota, living in the school's dormitories and working at various part-time jobs to pay for his education. He eventually lost interest in college and, driven by the appeal of the open ocean, set out for adventure on the West Coast.

En route west for a new life, the bus he was riding on broke down in Las Vegas. He soon gambled away his savings, compelling him to seek immediate employment. Undeterred, he found work as a dealer in a downtown casino, dealing blackjack, roulette, and craps. He quickly became well settled in the Las Vegas gam-

ing community, finding the lifestyle better suited to him than that in the more traditional Midwest.

Eventually Justice Gunderson realized that he needed to complete his education if he was to achieve his potential and to be able to care for his mother. He moved back to Nebraska and enrolled in the University of Omaha with the goal of earning his undergraduate degree and thereafter, hopefully, attending medical school. Financial constraints made him reevaluate his goals and change his career path, and he was admitted to Creighton University School of Law based on his grades and test scores, despite not having completed his baccalaureate degree.

He proved to be an outstanding student in law school and spent his second year summer clerking for a large Chicago law firm. After graduation, in 1956, he turned down the firm's offer for permanent employment and instead went to work for the Chicago office of the Federal Trade Commission because he believed it offered an opportunity for more responsible work earlier in his career.

During his time in Chicago he became an active participant in the Chicago Chess and Checkers Club, which gave him the chance to compete against some of America's most outstanding chess masters. He later explained, in a 2002 interview with the Nevada Legal Oral History Project, his ongoing interest in chess and compared it to the practice of law: "the parallels between certain cross-examination techniques and certain attacking motifs in chess, [suggest that] chess really is a game that does have parallels to warfare and to legal practice—the tactics, the strategy." He believed that his experience with the game of chess, from the standpoint of both strategic planning and as a rule-based version of one-on-one competition, was valuable throughout his practice as a lawyer.

Justice Gunderson's affection for Nevada soon brought him back to Las Vegas where he began working with prominent Las Vegas attorneys Leo and John McNamee and later with Sam Lionel. He developed an active practice in commercial litigation and became known as an expert in the area of civil procedure where he put to work his longtime competitive nature and the strategic skills learned in chess. He took pride in outstrategizing and outworking his opposing counsel and earned a reputation as an outstanding litigator.

He joined the Las Vegas Jaycees, a service organization, and led a singing group known as Gunderson's Wondersons. On weekends, he frequently took his boat to Lake Mead and participated in what

he called the Nebraska National Navy. Due to his booming voice and forceful manner, he eventually became known as Thunder Gunderson to many of his friends.

Frustrated by what he perceived as deficiencies in the judicial system, he successfully ran for the Nevada Supreme Court, taking office in 1971. Believing that the court's role was to upgrade the rule of law and its application throughout the judiciary, he worked tirelessly to craft scholarly opinions that fully analyzed the reasons and authorities on which he based his decisions. Beyond deciding cases, he took leadership in upgrading the state's judiciary, particularly the courts of limited jurisdiction, recognizing that most citizens' interaction with the judicial system took place in the municipal and justice courts.

He co-authored the "Nevada Judicial Orientation Manual," which was published by the National Judicial College for the benefit of the lay judiciary serving in the lower courts throughout the state. He organized numerous training programs for the mostly nonlawyer judges who served on these courts and supported the creation of what was then known as the Nevada Judges Association to help the judges develop an organization devoted to improve the limited jurisdiction courts.

Throughout his legal career, Justice Gunderson was a perfectionist, and he expected no less from those with whom he came in contact. While he served on the high court, he was praised by some and reviled by others. Former Gunderson law clerk and Las Vegas attorney, Bill Curran, described Justice Gunderson as an "unrestrained workaholic." Curran remained a close friend with Justice Gunderson and recalls: "There were powerful people who hated Al, but there were a legion of people, including both the powerful and the absolutely powerless, who loved Al." Although known for his determination, persistence, and forceful personality, he also had an irrepressible sense of humor.

Justice Gunderson was known for his commitment to bringing diversity into the legal system and his civil rights advocacy. He encouraged and assisted countless women and minority group members to get into law school and continued to encourage them as they developed their careers. He was the mentor to a new generation of lawyers who, without his support and guidance, would have had a hard time making it on their own in a profession that was at the time very traditional and which, in his view, restricted both entry and advancement to those who did not have traditional backgrounds. One of the lawyers he mentored, Laura FitzSimmons, believes that "[w]hen Al's sense of justice was offended, he would

mobilize his unbridled energy and brilliance to right the wrong. Al would gladly take two punches if he could throw one for a cause in which he believed."

He was always a champion to the underdog and fearless in his efforts to protect their rights. He used his knowledge of the law to help others, particularly the disenfranchised. He was tireless in his efforts to bring justice to those who he believed had been failed by the justice system. Justice Gunderson authored many decisions that reflected his deep understanding of the real struggles of people who are marginalized by class and race. In *Sheriff, Washoe County v. Hawkins*, 104 Nev. 70, 752 P.2d 769 (1988), the court considered a decoy operation, in which hundred dollar bills were festooned near a pocket of an undercover officer who was pretending to be passed out in a doorway. This operation resulted in the arrest of a young black man, while the white companion of the defendant, who was equally culpable, was not arrested. In condemning the decoy operation and arrest, Justice Gunderson wrote: "We venture to say nothing about the prospect that, if such officers were not out "fishing" for "crime-prone" young blacks and other underclass males, they could utilize their energies discerning real crime elsewhere—surely with less certitude of success, but with much greater social utility. Nor will we attempt to quantify the probable social cost of making criminals and convicts out of productive persons, who may upon release never return to the ranks of the gainfully employed."

Justice Gunderson was the recipient of numerous awards from the legal community, including the Nevada Judges Association 1982 award for outstanding jurist, the Nevada Trial Lawyers Association "Man of the Year Award" in 1975, and the State Bar Association Liberty Bell award in 1976 for "judicial excellence." A true scholar and judicial reformer, he continued his education and earned a Masters of Law degree in Judicial Administration from the University of Virginia in 1982.

After retiring from the supreme court, Justice Gunderson taught at the Southwestern Law School in Los Angeles. He thrived in the academic environment and was particularly gratified by the opportunity to mentor law students. He continued his interest in chess and became an avid sailor, spending his free time as a crew member on a number of Pacific Ocean voyages.

Justice Gunderson died in 2010 when he was 80 years old. He is a survived by his wife of 45 years, Lupe, currently a Professor Emeritus at the College of Southern Nevada teaching Spanish/ESL, and a son, Randy, currently a student at the University of California, Los Angeles.

Upon Justice Gunderson's death, U.S. Senator Harry Reid reminisced that "[o]f all the determined leaders I have met in Nevada, no one was tougher than Al. No one was funnier. And no one worked harder than he did."