EDITOR'S PICK

# A tale of two justices and their fraught friendship returns to St. Paul

"Courting Harry" relitigates the 80-year friendship of Roe v. Wade author Harry Blackmun and Supreme Court colleague Warren Burger, with the audience as jury.

By Jennifer Brooks
The Minnesota Star Tribune

MAY 14, 2025 AT 6:00AM

Hanna Bunting, left, plays Supreme Court Chief Justice Warren Burger, and John Middleton is Harry Blackmun in "Courting Harry," returning to Minnesota's History Theatre on May 16. (Provided by History Theatre)

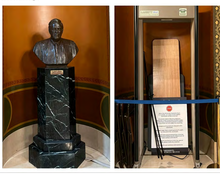
A bust of the late Supreme Court Chief Justice Warren Burger sits in the Minnesota Capitol, gazing out over a matching nook, currently serving as a roped-off storage area on the opposite wall.

The unoccupied space was supposed to hold a matching bust of Supreme Court Justice Harry Blackmun, but politics and protests kept lawmakers from installing the author of Roe v. Wade in a place of honor for years.

Blackmun and Burger – two childhood friends from St. Paul who rose to the highest court in the land – remain as divided in death as they were in life.

Now, in an America where Roe, which legalized abortion for half a century, is no longer the law of the land, they reunite on the History Theatre stage for a return performance of "Courting Harry." The play, which opens Saturday, relitigates a frayed, fraught and often funny 80-year friendship, with the audience as jury and John Middleton and Pearce Bunting in the starring roles.

"It's an extraordinary portrayal of a friendship," said Joel Sass, who directed both the current production and the original History Theatre debut in 2013 – the same year the Legislature tried, again, to install Blackmun's bust. "With all the humor and heartbreak that can be part of the gift of having an 80-year friendship."



A bust of Warren Burger gazes out over a cluttered niche in the opposite wall, which was supposed to hold a matching bust of his childhood friend and fellow Supreme Court Justice Harry Blackmun. (Jennifer Brooks/The Minnesota Star Tribune)

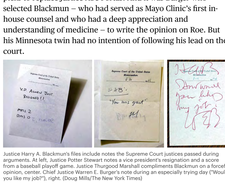
In the play, the old friends joke and grouse and revisit the accumulated slights and injuries that piled up over the better part of a century.

They were the Minnesota twins, two kids from working class families in Dayton's Bluff who became friends in kindergarten. Over the long years that followed, Blackmun held on to letters, journals and notes scribbled on napkins, building an enormous archive of both his legal scholarship and their friendship.

When Harry Blackmun, right, was named to the U.S. Supreme Court, his mother warned that the appointment would change his relationship with his boyhood friend, Chief Justice Warren Burger. She was right. (Mike Lien/The New York Times)

He turned that trove over to the Library of Congress, with instructions to keep it sealed until five years after his death. When the time came, Linda Greenhouse, the New York Times' Supreme Court correspondent, was the first print journalist given access to more than a thousand boxes of documents that ranged from 1913 to 2001.

It was Burger, newly appointed as chief justice by President Richard Nixon, who recommended his friend for the Supreme Court seat after the Senate rejected the president's first two picks to replace Justice Abe Fortas. And it was Burger who selected Blackmun – who had served as Mayo Clinic's first in-house counsel and who had a deep appreciation and understanding of medicine – to write the opinion on Roe. But his Minnesota twin had no intention of following his lead on the court.



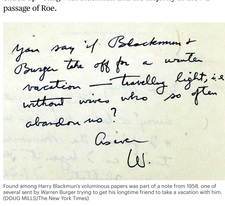
Justice Harry A. Blackmun's files include notes the Supreme Court justices passed during arguments. At left, Justice Potter Stewart notes a vice president's resignation and a score from a baseball playoff game. Justice Thurgood Marshall compliments Blackmun on a forceful opinion, center. Chief Justice Warren E. Burger's note during an especially trying day ("Would you like my pill?"), right. (Doug Mills/The New York Times)

"It turned out that they were very different people and had very different views," said Greenhouse, whose Supreme Court coverage earned her a Pulitzer in 1998. "Not that Blackmun was any kind of liberal in today's understanding. He wasn't. He was a very conservative person socially, as well as his judicial approach. They just drifted apart and by the end of Burger's life, they really weren't speaking."

Her reporting became a book, "Becoming Justice Blackmun." That book became the backbone of playwright Lee Blessing's script for "Courting Harry."

Blackmun's mother once warned him that serving together on the Supreme Court would change their friendship. She was right. Even a relationship as long as theirs could be stretched to the breaking point. When Warren E. Burger died at age 87 in 1995, the archives revealed only a terse journal entry from Blackmun: "WEB dies."

For Blessing, the play is not only the story of a bygone friendship, but a bygone world where political debates could be civil, or even change someone's opinion now and then. Burger ended up voting with Blackmun and the majority in the 7-2 passage of Roe.

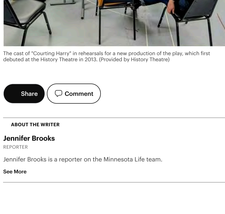


Found among Harry Blackmun's voluminous papers was part of a note from 1958, one of several sent by Warren Burger trying to get his longtime friend to take a vacation with him. (DOUG MILLS/The New York Times)

But a political gulf opened between the more conservative Burger and Blackmun, who championed affirmative action, civil liberties, LGBTQ+ rights and opposed the death penalty.

"Nixon hugged him the day he showed up at the White House," Blessing said, "When he left two or three decades later, he left the court as the most liberal member of the court – and President Clinton hugged him when he left."

Even a 90-minute play can barely scratch the surface of an eight-decade friendship. History Theatre will mark the play's return with a series of events that will feature everyone from Greenhouse, Blessing and Sass to federal judges, legal scholars and Blackmun's former Supreme Court clerks. For tickets and a full schedule of "Courting Harry" conversations, visit historytheatre.com/2025-2026/courting-harry.



The cast of "Courting Harry" in rehearsals for a new production of the play, which first debuted at the History Theatre in 2013. (Provided by History Theatre)

Share
Comment

ABOUT THE WRITER

**Jennifer Brooks**
REPORTER

Jennifer Brooks is a reporter on the Minnesota Life team.

See More