

HARRY SHULMAN

FELIX FRANKFURTER†

ACCORDING to a philosophic observer of the human situation, character is an achievement. It presupposes struggle, a triumph over baser elements in man's nature. Harry Shulman exposes the emptiness of this paradox. Just as the gifts of genius, whether as thinker or artist, are innate, not to be attained by the utmost effort, so, in rare instances, superior moral qualities are born, not made. Harry Shulman was one of these rare creatures.

So fine was the texture of the man, outwardly so simple and intrinsically so unpretentious, that only after a time did one become aware of the beauty and strength of his character. All who knew him will respond to this sense of him. But how can one convey it to those who did not know him? His special savor had to be experienced. There was a distinctiveness about it—a blend of the homespun and the subtle—that eludes recapture, certainly by me. The only authentic intimation of what manner of man he was is to give a bit of Harry Shulman himself.

It is especially appropriate to give to the Yale community an unbosoming of himself in the candor of intimate friendship. When he decided to remain at Yale and to decline a call from his own law school, a call appealing to him on many scores, this is what he wrote:

“Yale University
School of Law
New Haven, Connecticut

10/2/45

“Dear F.F.:

“About two weeks ago I finally made my choice on the Harvard-Yale matter. I yielded to the emotional and sentimental forces and determined to stay at Yale.

“But, as you said to me at Lyme, in the last analysis the decision depends on something inside. That is what happened here. I doubt whether I can articulate the feelings that led to the choice. Maybe it was only inertia—or that laziness which I could not conceal from you. Both the Dean and the President urged me strongly to stay and stated their belief that my leaving would be a very serious blow to Yale—particularly at this critical time. You know I don't take myself that seriously. But I could not bring myself to let them feel that I let them down—or the several members of the faculty who genuinely wanted me to stay. I did

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not want to be cited as proof of the argument that has been made here against the appointment of 'Harvard men,' "They'll go back to Harvard at the first opportunity anyway." (Not that this and other untenable arguments won't be made anyway!) And I wanted to kill the report which I began to hear that I harbored some form of grudge or ill-will or feeling of hurt as a result of the Deanship business of more than five years ago. (Actually, I was and am very happy that I was not asked to be Dean; and I feel that I gained rather than lost in that incident.) These factors would probably not be enough were I unhappy at Yale, or were the School to interfere with my work. But neither is true. Such unpleasantness as exists is not basic and is not invulnerable to a moderate sense of humor. All in all, I felt that, after 15 years here, Yale was entitled to the loyalty which I felt and which I believed would be breached if I left.

"All my good wishes for the new Term; and our best to Marion.

Harry

"P.S. I have written very freely—for you and Marion alone!"

"I don't take myself that seriously." "... not invulnerable to a moderate sense of humor." How relaxed, how unstrained in making a decisive choice! How easy he made appear a hard decision! But everything about him was modulated—his voice, his temper, his thoughts, his actions. In speaking of the "laziness" which he "could not conceal" from me, he referred to a teasing remark of mine, during our year together at Cambridge, about the seeming effortlessness with which he did such excellent work. There was no waste motion, no false stroke, and so I said to him one day: "Harry, I cannot make up my mind whether you are intellectually economical because you are lazy or whether you can afford to be lazy because you are intellectually economical." Admiration of his intellectual powers by all who had basis for judgment—Mr. Justice Brandeis, Professor Bohlen and his eminent advisors on the Restatement of Torts, the seasoned critics who listened to his Holmes Lecture, delivered when the end was near—was excelled only by an uncommon want of self-recognition. Indeed, one of his most vivid qualities was his complete humility. This superb disinterestedness, in the service of his keen analytical faculties and his genial common sense, explains why both the Ford Company and the union deemed him indispensable to the success of the Ford-Auto Workers collective agreement. Only perversity could withstand the firm benignity of his spirit, harnessed to the shrewd resourcefulness of his mind. Controversies and bitterness were bound to dissolve in his presence.

One always returns to his moral qualities. But his morality never turned rancid. His righteousness was never tinted with self-righteousness. Simple, abounding goodness saved him from it. He too was tried. Like everyone who mixes with men and has to manage them, he encountered the foolish and the obstreperous. But he treated them with intelligent neglect. For his judgment was enlightened by an understanding heart and his strength was fortified by a prophylactic humor.

What Harry Shulman has meant to legal education, what he will continue to mean in the lives of generations of his former students, the insights that he added for the unraveling of legal problems, and the guiding lines he has left for others to pursue in the peaceful evolution of industry—the various aspects of his fruitful life must receive the accounting of others. Mine is the poor effort of an aching heart to give some intimation of the man that was Harry Shulman. Would I could do so in more enduring words.