

**MANIFEST OF THE CHARGES PREFERRED
TO THE NAVY DEPARTMENT AND
SUBSEQUENTLY TO CONGRESS,
AGAINST JESSE DUNCAN ELLIOT, ESQ.,
AND A REFUTATION OF THE
RECRIMINATION RAISED BY THAT OFFICER**

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Manifest of the charges preferred to the Navy department and subsequently to Congress, against Jesse Duncan Elliot, Esq., and a refutation of the recrimination raised by that officer by Charles Crillon Barton

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CHARLES CRILLON BARTON

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MANIFEST
OF THE
CHARGES PREFERRED
TO THE
NAVY DEPARTMENT

AND SUBSEQUENTLY TO CONGRESS,

AGAINST

JESSE DUNCAN ELLIOTT, Esq.,
*A Captain in the Navy of the United States, for unlawful
conduct while Commodore of the late
Mediterranean Squadron;*

AND

A REFUTATION

OF THE

RECRIMINATION RAISED BY THAT OFFICER.

BY CHARLES CRILLON BARTON,
OF THE UNITED STATES NAVY.

ERRATA AND OMISSIONS.

- Page 13, after the word trial!! at the end of the 15th line, from the top, insert and read, "a convincing proof that he knew a court to be unrequi-
site."
- " 14, after the word "allegation," toward the end of the 3d line, from top, insert and read, "*prove of any avail.*"
- " 15, for "care," first word of 2nd line, from bottom, read "cure."

TO THE PUBLIC.

FOR a trespass on your attention, I trust a sufficient apology will be found in the documents of this publication. Yet a few explanatory remarks may be respectful and proper. More than three years ago, I had suffered from the unlawful conduct of an officer of high grade in the navy, while serving in his squadron. I had, however, full confidence in the justness and adequacy of the laws for the government of the Navy, for my redress. These pointed out a lawful mode by which to seek redress; and I certainly hoped to have obtained it by adopting that mode. Hence I determined, in my own mind, at the very juncture when I was made to feel cruelty to the heart's core, that if I lived, I would, when I should have returned, prefer charges. I have been guilty of no haste, no impertunity, no attempt at uniting any extraneous influence to bring it about, resting simply on the intrinsic justness of the cause. I was in a kind of abeyance for justice, contingent to a vague perception of some opposing obstacle to the realization of my lawful expectation of redress. Yet I thought that whatever held me in this abeyance, would, in reasonable time be removed. Having awaited in this state of expectation patiently for eighteen months, until the published report of the vicinal approach of the Mediterranean squadron; I then, within a few weeks of its expected arrival, officially charged the officer with his misdeeds, virtually asking his arrest and trial. This inceptive step toward redress having been made, lawfully and discreetly, it was not impugned as being either unlawful or indiscreetly exhibited, but my complaint was respectfully acknowledged, and I was informed in that acknowledgment, that it had been put on file. Soon thereafter a development of further unjust conduct, emanating from the same officer, induced me to reiterate my charges to the successor of the retired authority first appealed to, with the additional complaint this recent development gave me reason to prefer. This new appeal was also respectfully received, and the additional charge had also been placed on file. Still cherishing confidence that my lawful complaint, urged in a manner at which no exception had been taken, would, as soon as more important business left leisure to attend to mine, receive due attention, I again awaited patiently the result. Propriety and respect caused this course—nor did a single act of impertunity, verbally or in writing, emanate from me to abstract from the integrity of the course named, or lessen its claim to strict fairness. Nearly two years previous to the presentation of my charges, a dispassionate communication, fraught with similar tenor as that which mine exhibited, had been addressed, also to the proper authority, by one who had the right in my absence to make an inceptive charge. This, too, was respectfully acknowledged and filed, and information conveyed in that acknowledgment, that the wishes expressed in it on a point that admitted of speedy action, had been virtually anticipated. From that source, neither, did there emanate any further urgency, much less impertunity. The whole course of that part of the government which had control of these matters, was characterized, after my return to this country, by so much manifest consideration and official sympathy for my situation, past and then present, that any other course than silence was held by me as improper and unofficer-like, and as savouring of a want of confidence without having any reason to give for it. Delay still continued. Though inaction

on my charges surprised me, it did not call forth any further request from me or any one interested in me, until the assertion reached a public press, that that press had reason to know—that the officer in question would not be brought to trial. Still I doubted this, until repeated declarations, afterwards made public, evidently emanating from the officer himself, reached me, that the announcement of the press was not premature. This publication directed me to the only other appeal left—that to congress. I applied to the Honourable Charles Naylor, our able and eminent representative. The issue of that appeal revealed that I had, during all this time, been secretly accused of official misdemeanors, if not crimes; to which were added allegations of personal demeanor highly injurious, as misrepresented, to my standing in the estimation of the head of that Department to which I belonged. In a word, from being the *accuser*, I was detuded by those accusations and allegations and misrepresentations into the character of the *accused*: my own charges having in consequence been set aside! All this too had become a matter of record in the printed and published annals of the nation—the proceedings of congress. In these, my character as there depicted, was to be transmitted injuriously to a future time, which might be coeval with my rise in the Navy to the rank of the officer I had accused, but in whom the mutation into my accuser had now occurred. There was no alternative but to submit to this injustice, or meet the accusations, as an honourable officer when accused will ever meet them, openly, fully, fearlessly, and by proofs substantiating his innocence. To do this simply with the head of the Department, would not satisfy any officer holding, and claiming to deserve, an honourable standing in the Navy. True, such course, if satisfactory in itself, would have exonerated me with the director of the Navy, and of course would have left my character unscathed in the service,—and had the affair been confined to that department and the navy, no further attempt at vindication would have been conceived or adopted. But I have been held up to the nation, or as large a portion of it as might choose to read the proceedings of congress, as one attainted—and therefore a publicity has been given to my refutation, commensurate with the charges so unjustly preferred and so secretly. No further apology will be required, by the public, than this exposition, for intruding on its notice, this *Brochure*. As an aspersed officer in the service of a favourite arm of our national protection, I respectfully ask of that public, a patient perusal of this publication, and am entirely willing to abide its decision on my character. I ask the public whether tyranny is approved by it—whether it is not a word which speaks volumes of evils and mischief to a free people—and whether the unalienable rights it violates, are not as dear to a naval officer as to any other citizen! And whether it is not a singular result, that one who only strove in a lawful manner to preserve to himself those imprescriptible rights so dear to us, by seeking redress for the undue exercise of power—has been forced to rest with odium on him, thus tacitly acquiescing in its justness, or appear before it with a full exposé and exculpation.

I seize this occasion as a fit one, and the only public opportunity I may ever have, to express my grateful thanks for the extreme kindness, attention and essential services I received from Captain Tompkinson, commander of [then] his Britannic Majesty's corvette Tribune, to Surgeons Oliver Evans and Patrick Martyn of the British Navy, to Captain Foul of the Austrian Navy, and to the other British and foreign officers in Smyrna, and, though last, not the least deserving of thanks, my disinterested, generous-hearted and skillful attending surgeon, Dr. Marpurgo, now of Paris.

I am the Public's very respectful and obedient humble servant.

CHARLES CRILLON BARTON.

Philadelphia, March 16, 1839.

PHILADELPHIA, *March 16, 1839.*

SIR:—

From the documents (now printed,) sent by you to Congress on the 12th ult. relating to my charges against Captain Jesse D. Elliott, and my solicitation for a court martial on his conduct to me, I learned, *for the first time*, the SECRET IMITATIONS against me which he had lodged with the Navy Department a long time ago, (his letters communicating them to Mr. Dickerson, are dated Dec. 5, 1835, April 20, 1836, and Feb. 14, 1837.) These appear to have accomplished his object, by creating in the department an impression which seems hitherto to have determined you, as Secretary of the Navy (and I presume determined also your predecessor, Mr. Dickerson,) to deny me the arrest and trial of Captain Elliott. This I infer, and allow me, sir, to say, the members of congress and the public infer the same—from your letter to the Hon. James K. Polk, speaker of the house of representatives of the U. S., giving reasons why you have not hitherto brought Captain Jesse D. Elliott to trial on my charges. In this you observe “the facts disclosed in those papers furnish the sole ground on which the Department has hitherto declined acting on the charges of Midshipman Barton, and are in themselves the only reason why Commodore Elliott has not been brought to a trial on those charges.” If I and the public be wrong, sir, in the inference stated, I respectfully beg to remark, that it is the only conclusion which appears to follow, logically, the premises—and I will be glad to be set right, if in error in this. Captain Elliott, sir, assails me in the documents referred to, with the characteristic falsehood of all his representations in this affair. Wherever he has attempted to create impressions concerning it, he has done so by an indulgence in this fabulous propensity. He makes several offensive allegations: amongst which is that of “desertion from my station,” which could have sprung from no other commander in the navy. Sir, there is no officer in the service but Captain Jesse D. Elliott, into whose mind such an imputation, under the circumstances, could have entered for an instant—none of such unholy contempt equally for truth and righteous justice, as to pollute the lips with the utterance of, and envenom the pen with the malice of inditing—such a monstrous and consummate slander. All his allegations against me are, in the gist they present, positively and unconditionally FALSE. This is not the worst of it—he knew them, and knows them now, full well, to be false. Thus Captain Elliott has heaped further injury on me, sir, and I now formally charge him to you with this additional injury, as an additional specification of the charge already made to

your predecessor, Mr. Dickerson, and also to you, "of conduct unbecoming an officer and a gentleman."

First, by the false tenor of his own letters, dated as above mentioned, in the printed documents.

Secondly, by the statement *preposterously* presented with Dennett's mark as an *official document*, which it never can be properly considered, wanting as it does an officer's attestation. It wants this, though the ship was full of officers at the time it purports to be taken *at sea*, as Dennett's statement: and notwithstanding Captain Elliott well knows it is the universal custom in the navy, and even was in his own ship, (except in this instance,) to have all documents whatever requiring a witness, witnessed and attested by an officer and not by a man; even a forward officer is never selected—always a midshipman, a passed midshipman, or a lieutenant of the ship. Thus does the statement carry informality with it *on its very face*. Besides this, it admits of no denial, that the statement, such as it is, is not a deposition at all. It is not for me to inform you, sir, that a deposition is an avowment or document made or subscribed *on oath* before competent authority to administer an oath and "in the language of technical phraseology to take a deposition;" and in such case, the attestation is required of him before whom the statement was made and subscribed and sworn to.

Thirdly, by the informal statement signed by Boatswain Whitaker, a man not remembered to have been seen by Mr. Sargee as present; nor have I, sir, and I aver it *on honour*, the faintest recollection of his vicinity or presence, although all the circumstances of the transaction are vivid in my remembrance.

The result of the whole is, *first*, that I have been secretly accused by Captain Elliott of being a *quarrelsome person*: as evidence of which he informs the Navy Department that I "struck his clerk, and mutilated his face," and leads the Department to suppose this was done *without cause or provocation*.

Secondly, he has secretly alleged, that I also, "for some trivial cause," consequently without provocation, stabbed Dennett, who you were led to think, mildly remonstrated with me, and supplicated to be taken to the officer of the deck for punishment, if he had done wrong, but that I preferred stabbing him! Can any act of a reasoning mind refuse to receive this as the import and effect of the representations of Captain Elliott against me: and these secret until now? In all this Captain Elliott has practiced, or attempted to practice, the mean absurdity of palming off a defence for cruelty toward me, involving a simultaneous unofficer-like and undutiful disregard of fleet surgeon Boyd's remonstrance against his inhumanity, by RECRIMINATION!!! Thus much for my additional charge against Captain Elliott. But, sir, this is not the most heinous of his representations against me, as you will admit, when you advert to that charging me with "*desertion from my station, and a direct disobedience of the express orders to me.*" Did I not defend myself from that foul accusation, you would despise me as wanting the honourable spirit of an officer; the nation would de-

spise me, for it is on record in the annals of the nation—I should despise myself.

I approach you, sir, boldly in self-defence; I say boldly, because—to the official character of a secretary of the navy, whose province it is as such, to listen to, and adjust complaints from those under his guardianship and control,—you unite a character and reputation for literature, which, as it is part of your country's property, I claim the right at any time to speak of. I allude to it here, and at this time, because it assures me that the mind and the education and the tone of moral feeling producing that character and reputation, will be awakened by a proper touch, to the sight of the lustrous beauty of a jewel I am sure you value and appreciate: that jewel, which, by a proverb, is symbolic of two homely words of our language, when in *justa position*, though the *play* on the ear of each, apart, is *fair English*. The *beauty of justice*, however, is embodied in the two monosyllables alluded to: hence they will by this allusion occur at once to your mind. But to recapitulate before I begin my *Defence*. It is revealed to Congress by your documents that I have been secretly assailed, by Captain Elliott, with being a “quarrelsome person,” and one who had in the heat of passion, been guilty, without cause or provocation, of striking and mutilating the face of his clerk, now a purser in the navy; and stabbing an unoffending man, both enormities achieved in downright and demoniac forgetfulness of my station; in a word, in wicked mischief.

Before entering on the details of this recrimination, allow me to meet it for but one moment in gravity, *as* recrimination of cruelty set up as AN OFFSET FOR CRUELTY—and in all due seriousness point out *wherein* I have the advantage over my antagonist in strife of cruelty. This to be sure is a most extraordinary agonism—disgrace and odium being the guerdon. But it is one united to the defiance post at the entrance of the tilting ring by Captain Elliott—not by me. The challenge is put upon *me*. I only meet it. I trust I shall show that *he* wears the stronger agonistic weapon, and I the weaker shield, in this encounter. *Therein* consists my advantage. “*Palnum ferat qui meruit.*”

Admit, for argument's sake, that I was guilty of cruelty it stabbing my inferior when I was in power. Sir, Lieutenant, now Commander Boerum's letter, printed in the documents of Congress, shows that a certain duty had been neglected by the inferior which it was *my especial duty* to see executed.

In an attempt to perform my duty faithfully, I met perverse and stubborn disobedience to my lawful commands, with threatening of personal violence endangering my life, had the instrument raised to effect it been forcibly applied. The inferior had the physical strength; I was the weaker one of the two in strife, and in this epoch of time, *I perpetrated the heinous act of self-defence!* This was *my* act of cruelty.

Now notice, sir, the other—the act of cruelty of him who strove with me for the palm of cruelty. I was, in the case of cruelty against