

journalists of the day (as now) thrived on the sort of conflict Rosa's crusade embraced—an average citizen speaking truth (at least truth as she saw it) to power. The *New York Times* asserted confidently that “publicity will force out enough of the truth to humble the overbearing spirit of the service.” But the navy was a strong and proud institution. Would that confidence prove justified?

✦ Up to this point, Arthur Birney had kept a much lower profile than Davis, and it was now his turn to take center stage. Physically, he was far more impressive than his opponent. At least six feet tall and fit-looking, with silver white hair and a walrus mustache, Birney shared his brother attorney's self-assurance. Like Henry Davis, Birney was a professor as well as a trial attorney and completely at ease speaking in public. He was also an Episcopalian, but Rosa's spiritual quest appeared to hold little interest for him. His brother attorney was childless, while Birney was the father of seven, and harbored firm ideas about how to raise manly sons. Birney knew his harshest judges would not be the men in uniform sitting at the table before him but reporters—in his view they were partly responsible for the inquiry. The proceedings were instituted, he said now, “very largely for the purpose of satisfying the public mind.” In fact, Birney admitted, he had deplored “the action of the Court on Saturday in sitting with closed doors.” The Navy Department had been satisfied with the original investigation, “but there was spread from Maine to Texas, and from the Atlantic to the Pacific, the charges which these letters contained.” Using rhetoric very similar to Leonard's, Birney said that if Rosa's charges “are simply the hysterical ravings of a woman, with no evidence whatever to sustain them, the Court is entitled to know what it is that has poisoned the public mind, to such an extent that these young men came here at the beginning convicted of an awful crime.”

After hearing Birney's caustic remarks, Henry Davis grew concerned about Rosa's composure. He urged the court to focus on the task assigned by the Department's precept, namely, to investigate whether Sutton caused his own death. But he too acknowledged the pivotal role of “the public” interest in the case. “Let it be granted for the argument,” Davis pleaded, “that this mother hysterically raved, and in her ravings accused these young men of murder.” Even so, he argued, the court had heard from every available witness, and the public had followed the testimony as well. If Rosa had been the driving force behind the inquiry based on some ill-advised conclusions, her own scathing remarks would no more enlighten the public than an angry man venting his rage on the street who “stands for nothing

when a grand jury of his fellows has indicted the man he is talking about.” Davis hoped that Birney would spare his client and said that the only reason for bringing the letters into the courtroom was to gratify “a prurient curiosity or something worse.”

“Now at last we stand forth in our true light, and the thorn in counsel’s side appears—the re-reading of these letters. Now I say that the public is entitled to know,” Leonard responded, admitting that he did have a prurient curiosity about the case. The court closed briefly and ruled that the entire record of Saturday, August 7, including Rosa’s testimony and the letters, be read in open session. But perhaps to Leonard’s surprise, Rosa was fully prepared to explain everything she had said to Swartz and “perfectly willing” to have her examination conducted publicly. And so, for much of the next hour, she could watch as two men—first a stenographer, then Major Leonard—read her heated prose out loud. Her daughter, Rose, got up from the inquiry table in the middle of Leonard’s performance and left the room.

Finally, the attorney for the accused lieutenants had his chance to go after “the accuser” in front of the “largest audience so far”—most of whom were women. Birney began with questions about Rosa’s correspondence with several people before she came East for the first time on September 7, 1908. She had written surgeon Frank Cook, who declined to discuss the case with her. But she had not tried to contact the lieutenants her daughter had interviewed. Barely hiding the disdain in his voice, Arthur Birney established that the only sworn statement Rosa had to support her cause was William Owens’ account of what happened as he drove Jimmie and his fellow marines back to the student officers’ camp. The temperature hit ninety-seven degrees; Rosa was dressed in black silk from head to toe and used her fan continually. Birney moved on. “In one of your letters you speak of your son’s forehead being crushed. To quote your exact language, you say: ‘That shot was only fired to hide their crime. His forehead was crushed, nose broken, lip cut open, teeth knocked out, big lump under his jaw from a blow or a kick, and an incision in the back of his head one and one-half inches long.’ Had you read the testimony of Dr. Pickrell, Surgeon U.S. Navy, at the time you made the statement?”

“I don’t think he said very much. I read what he said,” Rosa said tersely, wary of falling into a trap.

“Have you read the testimony of Dr. Cook?” asked the attorney, who, curiously enough, had questioned Cook that morning about the injuries Rosa described to Swartz even before Major Leonard introduced her letters into evidence.

"I read everything in that testimony," said Rosa, no doubt thinking about the inquest.

"Will you tell me where you received any information that your son's forehead was crushed?"

"Why, it says so in that testimony."

"In the testimony?"

Rosa explained, as she had to Major Leonard, that a hospital steward said Jimmie "had a hole in his forehead." She tried as best she could to recall the wording of the 1907 inquest.

"Will you indicate where in this testimony before the court of inquest any such thing as that appears?" Birney asked.

"Well, it is the evidence of one of the witnesses." At this point, Henry Davis came to her defense. "Lieutenant Bevan said it." He read from the 1907 testimony: "The flash appeared just in front of [Sutton's] head. I supposed he had shot himself in the forehead and the hospital steward stated when he came that he felt the wound in the front part of the head."

The more questions Rosa answered, the more evident it became that many of her accusations did indeed have a source other than Jimmie's ghost. Her son's apparition had, it seemed, provided leads about his death that Rosa was able to corroborate from what she read in the 1907 testimony, from letters she received, and, she would later disclose, from her daughter's sleuthing in Annapolis.

Arthur Birney now cited surgeon Frank Cook's statement that the cause of Sutton's death had been the bullet in his brain, and again he pressed Rosa on why she thought her son's skull had been fractured. She gave Birney a fixed gaze. "Mr. Birney, I want to tell you this: I am under oath to tell you what I think to be the truth. I thought those officers were under oath, and I thought every word they uttered was the truth, and from their own testimony I inferred what I did, and they made the statement there that there was a hole in my son's forehead. That is the reason and the only reason I thought his forehead must have been broken."

But Rosa admitted she could not remember who told her Jimmie's teeth had been knocked out. And after reading that Adams had beaten her son in the back of the head, she had mistakenly assumed the one and a half inch incision was there. Birney switched to another topic—one he assumed would leave no doubt in anyone's mind about how unstable Rosa Sutton really was.

"Did you consult a medium?" he demanded.

"I did not."

"You obtained no information from that source?"

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"I certainly did not," Rosa said firmly. This was insulting.

"You have said in one of these letters that you had a supernatural appearance from your son?"

"Yes."

Again Birney asked if she had used a medium. He knew that people constantly claimed to hear from dead relatives with the help of mediums—the practice was widespread—and one the court would deem ludicrous. Probably unaware of the Catholic ban on such practices, Birney assumed Rosa had done the same.

"No, sir," Rosa replied. "I told you I did not consult a medium. It was not necessary."

"It was only at your home, then?"

"It was in my own home, in broad daylight."

"His appearance?" To Birney this whole supposition was absurd.

But Rosa was positive about what she had seen. "Yes," she said.

Thwarted from demonstrating that Mrs. Sutton had willingly ventured into the world of the occult, Birney tried another line of questioning. He would prove she did not deserve the sympathy so many reporters and others had given her.

"Now, Mrs. Sutton," said the attorney, "you gave out a great many interviews to the newspapers, did you not?"

"I did not."

"Didn't you?"

"I did not."

"You repeatedly had interviews with reporters or correspondents?"

"I did not," Rosa replied for the third time.

"Not even recently?"

"Recently—what did you mean?"

"Within the last month."

"The only interview I have given out to a newspaper myself was one concerning the offering of evidence or testimony, something like that, to former Secretary Newberry, and he did not pay attention to it. I gave out that interview."

Now Birney thought he could catch Rosa by surprise. "In the newspaper which I have before me, being the Baltimore News of Sunday, July 18, appears this statement attributed to you." Birney read out loud: "As soon as the first board called it a suicide I began my work to disprove that theory. The family had little hope of my success. Day after day, in black and white, I collected, bit by bit, the evidence I desired. Link by link I forged

the chain. It surprised even me, endowed with my mother zeal. Last September I announced my determination to come East.' Did you make that statement?" the attorney asked.

"No, I did not make that statement," Rosa said.

"Were you confronted with the reporter?"

"I may have said that I intended to follow this up, spoke in a general way, and somebody might have heard it; but 'link by link' and all that thing, I never said." Rosa began to realize what Birney was up to. Although reporters often embellished their interviews, the sensational press had become her greatest ally simply by telling the story of Jimmie Sutton's fate with gusto. Rosa was convinced that when Americans learned the details of what happened, they would believe her—even if she had not revealed her own thoughts about it to the press. Newspapers, she told the court, knew enough about it anyway.

But Arthur Birney had something else in mind; he hoped to demonstrate that Rosa was a cold, calculating woman who had ruthlessly pursued his clients from the moment her son died. She was motivated not by overwhelming grief but rather by revenge, a quality unbecoming to a woman. He pointed out to Rosa that the Baltimore paper had placed her remarks as a direct quotation. Still, she gave no ground. So Birney went back to the letters and asked Rosa why she told Swartz that Lieutenants Adams, Utley, and Edward Osterman had conspired to beat up her son. Rosa had several reasons, not all of which would come out that morning. William Owens had sworn that Lieutenant Adams tried to start a fight with Sutton on the way back to the student officers' camp in his machine. Rosa believed Owens and concluded that the fight at the end of the car ride had been agreed on in advance, as no officer "would be goose enough to ask another man to fight when that would mean a court martial if he didn't know that the other officers were going to agree that night." Jimmie had also written a letter home saying some of the marines were out to get him, and Rosa would claim his ghost had told her "my hands are as free from blood as when I was five years old." Although she was wrong about the three men plotting this initial fight with Adams, because Osterman and Utley may well have tried to prevent it, it was only moments later that Adams and Sutton ended up in the fatal brawl.

Throughout Birney's examination of her, Rosa impressed reporters and the men and women in the audience with her confidence. Her daughter had returned a few minutes after she began testifying and watched from a nearby bench in the courtroom, probably smiling to herself. Rose had needlessly worried that her anxious, high-strung mother might snap under

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the pressure of an inquisition, but she conducted herself well even when Birney began to ask more piercing questions about Jimmie's character.

"In one of those letters you say your son was a brave man and no man would dare to call him a coward without being called to account for it," the attorney stated.

"I don't think there was ever any braver man ever lived than my son," Rosa shot back.

"What did you mean by saying [to Swartz] that no man would dare to call him a coward?"

"I mean to say that he would prove he was not a coward or make him take it back. I don't think you would let any man call you a dirty coward without you resenting it."

So Birney asked Rosa if Jimmie would have forced a man who had insulted him to apologize or else whip him.

Now Rosa was on tenuous ground. She had grown up under the strict tenets of her convent school; her first instinct was that her son should have obeyed the navy's written rules. It was unlikely she knew of the unwritten code of behavior among the men in the service academies—you never reported on one of your comrades. "I don't know," she replied. "He might have reported it. I think that is against the rules and regulations, to force a man to fight by calling him a coward."

"You say 'the man does not live that would have called Jimmie a coward to his face and not have to prove it?'"

"Yes."

"What did you mean by that?"

Rosa replied that her son would have told anyone who called him a coward to apologize and might have reported the insult (rather than fight). Birney had just what he wanted. "And you think your son, whom you designate as an honorable young man, would have reported to his commanding officer if any other officer had called him a coward?"

"I think it is more honorable than fighting," Rosa said, viewing the issue from a mother's perspective. But a man like Arthur Birney would never have advised one of his own sons to appeal to a higher authority when challenged to fight.

"I am asking you what you think your son would have done."

"I cannot tell you what my son would have done; I can only say what I think," Rosa replied. Rosa was determined to appear calm but she was losing patience. Jimmie was no saint, and in fact she had admitted to Harry Swartz that her son could be as wild and cocky as his compatriots. But he had written her that he was getting control of his temper and had stopped

fighting. So when Birney asked directly whether Jimmie would have taken an insult, Rosa said no, though he might have tried to avoid a common fist fight.

Now Birney got right to the point; he could make both Rosa and her dead son unsympathetic characters. "Don't you know that he did take part in a number of fist fights?" he asked.

"Before he was a man," admitted Rosa.

"While he was in the service here?"

"He had to do it in the [Naval] Academy, but not in the Marine Corps. I never heard of his doing such a thing in the Marine Corps," Rosa said, striking her fan on the table.

The Marine Corps officers listened carefully as Rosa fielded questions from their attorney, but they avoided meeting her eyes. Somewhat satisfied, Birney now asked Rosa to explain why she thought her son was already unconscious when the final shot was fired. She again referred to the testimony from the inquest, which described him as senseless. Birney contradicted her, "I think you will not find that in the testimony."

Rosa protested and again Henry Davis came to her defense, "Mr. Adams says it himself."

"Does he?" Birney responded. He did not ask for further proof but continued to grill Rosa on the accusations in her letters.

"Then you mean to confine your judgement of this unfortunate event and your judgement that these three men, Lieutenant Utley, Lieutenant Adams, and Lieutenant Osterman, beat your son to death upon the testimony which was taken at the Court of Inquest alone?" When she first wrote Swartz, Rosa had been mistaken about Osterman's role; he had not been present during the second fight that led to her son's death. She had taken the inquest testimony literally because the men were supposed to tell the "sacred truth." And, forgetting again that the men had not been sworn in, she said she could not believe anybody would "lie on their oath." But this second investigation had once more exposed elaborate contradictions in the accused marines' stories and disturbing lapses of memory. With the evidence that she had, was there any chance for justice—or redemption for her son—in this forum? ✕

The defendants, who had grinned openly at each other when Rosa's letters to Swartz were read out loud, began to look somber. Their attorney glanced at them as he continued, glossing over the inconsistencies in their testimony with his next question. "Although these gentlemen absolutely acquit themselves by their testimony and the testimony of their fellows of any such part in it [a murder], you put another interpretation upon it?"