

A SMILE for the HANGMAN



Laura Was Flighty and Pretty.

Bow Your Head, Tom Dula

Oh, bow your head, Tom Dula,
Oh, bow your head and cry,
You've killed poor Laura Foster,
And you know you're bound to die.

I take my banjo this evening,
I pick it on my knee,
This time tomorrow evening
'Twill be no use to me.

As in the earlier case of Frankie Silver, the legend grew that the condemned murderer had composed a personal death-song. Less touching is the truth—the verses were written by Thomas C. Land, a school teacher like Bob Cummings. It has been widely sung, and several versions are quoted in collections of Southern folk songs. One book erroneously calls it a ballad brought from England. It has been heard in the mountains of Virginia, and in the Ozarks of Arkansas.

Ann Melton Freed.

There remained Ann Melton, who had been given several stays of sentence. When at last she came to trial in Wilkesboro, she was helped by a statement of exonerated Dula. And she made a beautiful and demure defendant. A gallant jury found her not guilty.

Years later she was fatally injured when an ox cart overturned upon her. Some of the Happy Valley folk think that Satan came in person to escort her to the other world.

Laura Foster's body lies in an unmarked grave. It's hard to locate that grave on the brightest of summer days in Happy Valley.

There are a few old folks who say that the best time to go looking for that grave is at night. Midnight, go looking, and Laura Foster's ghost will come gliding toward you, very glad to point out the grave, if only you'll stop long enough to pay attention.

By MANLY WADE WELLMAN.
Illustrations by Bill Ballard

The war was over in Wilkes County as everywhere else. It was 1862, and some of those who marched away had marched back — even handsome young Tom Dula, who lived in Happy Valley and had every reason to be happy.

He'd served with the 26th North Carolina Regiment, and mightily he indeed had returned from the decimated ranks of that unit. The 26th had been battered at New Bern, shattered at Malvern Hill, almost wiped out at Gettysburg. Once, in the Wilderness, the 26th went into battle 45 strong and came out with 21 dead and wounded. The 30-odd who surrendered at Appomattox were mostly late recruits.

But Tom Dula was never even wounded. They say he smiled at death as at everything else, and that Death's skull-face crept away. It was kind of like a tale about how Davy Crockett grinned the "coon out of the tree" . . . And he was a fiddle-scrapping fool and a harjo-picking caution. He loved the girls, and the girls loved him.

Naturally Laura Foster, daughter of Will Foster who lived on Beety Branch, made bright blue eyes at Tom Dula. Laura was as flighty as she was pretty—right many young hill men came courting, and most of them found warm welcome. Spring came to the mountains, that extra-lovely spring of 1866. And in May, Laura Foster saddled her brown mare Belle and flung a sack of clothes on the cartle and rode off. Forever.

"Eloping? Wasn't it bad luck to marry in May? Anyway, weren't Laura's numerous favorite swains all living in Happy Valley? Will Foster and his sons searched and inquired, but they found nothing. It was a good three weeks later, on June 10, that someone led a gaunt mare to the cowles' store at Elkville.

"Found her tied to a tree, and she'd gnawed off all the bark," said the finder. "She's been tied up a right smart of time. It's the Foster's mare—Belle."

Everybody dropped tools or fishing rods or moonshine jugs and parties of searchers went scouring out over ridge and hollow, poking into streams, peering behind rocks. Near the spot where the mare had been tied, trampled brush was found. The earth seemed darkly stained and clotted. Blood! Later, a mile and half further, a horse shied and snorted, and the searchers found a grave, half hidden under laurels.

They dug. Among those plying shovels was Bob Cummings, a former school teacher, small and lean and one of the few men who had admired Laura Foster without being admired himself. Soon they revealed what they sought—a rotting body. It was no treat to look at, and even veterans of the war stepped back nervously.

"It's Laura," said Cummings, and several looked at him sharply.

"Look at the chestnut hair," went on Cummings tonelessly. "And that's her dress. And Laura had a gold tooth on the left upper side of her mouth."

It is not on record who checked for the gold tooth, but it was there.

Side Pierced, Legs Broken.

Laura Foster's side was pierced with a deep stab, and her legs had been broken, as though fit the pitiful body into the crowded grave. Under her lay a bundle of clothes, the elopement baggage she had flung over Belle's saddle. The body was carried to Elkville, and there Coroner G. A. Car-

ter came to hold inquest and perform the autopsy. Cummings spoke again, and was heard with interest varying from the admiring to the suspicious. "This murder was done by someone we have known and trusted," he said bluntly. "He may be standing among you at this moment. Let's investigate as fully as possible until the law arrives."

He walked away. One or two, who wondered if Cummings might not know more than he had told, followed him to his boarding place, an Elk Creek farmhouse. There they found that he had packed and left. Later they traced him back to the opened grave.

He held out something. "It's the knife that stabbed her to death," he said.

But he didn't have to look. His handsome face scowled fearfully. "I'll have vengeance on whoever killed her," he said at once, and left. Next day he was gone from Happy Valley.

But half a dozen young bucks had likewise fled. All of them had been eager visitors to the Foster place. When it came to that Bob Cummings, so glibly the amateur detective at the grave, had vanished almost as suddenly as Tom Dula. You could take your choice about who was guilty, and why. Sheriff W. G. Hix was at a loss where to start looking for anybody.

But he didn't have to look.

In mid-July, the loafers in front of the Cowles store saw a cavalcade of five horsemen amble into Elkville. At the head, grim and tense, rode Bob Cummings. Two of his friends, Jack Adkins and Ben Ferguson, carried guns and guarded the other two riders, each of them tied to the saddle. The prisoners were Tom Dula, smiling as usual, and Jack Keaton.

"I will charge these men with murdering Laura Foster," announced Cummings, almost stuffily triumphant. "And I also ask the arrest of Mrs. James Melton."

Mrs. Melton—Ann Melton! The loafers pricked up their ears. She was a pretty brunette, rumored to look at other men than her hard-working husband, and—yes—folks said she'd been seeing a right scandalous much of Tom Dula.

It turned out that Cummings, with his two friends, had found that Dula and Keaton were hiding in Tennessee. Cummings wrote an adequate simulation of a writ of extradition, and they put the pair under arrest and brought them home. Keaton looked pallidly at his neighbors, but Dula, that gay smiler at death, seemed more good-humored than ever. He asked that his hands be freed. Then he unsling a fiddle from the saddle he rode, and seraped a lively tune for the gaping crowd. A deputy sheriff took him and Keaton to Wilkesboro. A day later, pretty Ann Melton was also locked up.

Keaton, who took his arrest more seriously than Dula, was also more fortunate. He was able to prove an alibi and was set free, while Dula and Ann Melton were bound over to the full term of court on a charge of murder. Into Wilkesboro then rode a striking figure, burning-eyed and fierce-mustached, who was immediately recognized and cheered from both side of the street.

Zeb Vance On Scene.

Zebulon Baird Vance, 36 years old in 1862, was one of North Carolina's heroes. He had organized the 26th North Carolina Regiment in 1861, and had been its first colonel while Tom Dula was a rookie private. Vance had resigned his colonelcy to become governor of the State in 1862, but he

never lost his love and concern for the brave and bullet-torn 26th. He had been practicing law at Charlotte since the close of the war, and when word came of Dula's arrest, Vance picked his saddle bags. Hang one of the 26th? Not if Zeb Vance could prevent it. He announced himself as attorney for Dula, and asked that his client be tried separately from Ann Melton. He further succeeded in gaining a change of venue to Statesville in Iredell County. Solicitor Walt Caldwell, who was preparing the State's case, seemed in danger of being devoured alive by the brilliant and picturesque Vance.

But the solicitor was talking to Cummings, who explained, step by step, his successful sleuthing.

He, Cummings, had thought of Laura Foster with love where others had thought of her only with appetite. That is why he had become a volunteer bloodhound on the trail of Tom Dula.

Washerwoman Talks.

Cummings had coaxed a confidence from Betsey Scott, who, as a country washerwoman, knew many community secrets. Mrs. Scott told him she had seen Laura Foster riding her mare, and carrying a bundle of clothes. Laura had said that she was going to meet Tom Dula and marry him. Cummings had paid the washerwoman to keep silent, and had assisted in the search for the body.

Among the articles of clothing lying in the grave, Cummings had spied a handkerchief that, with a lover's eye, he saw had never belonged to the dead girl. It was a woman's handkerchief—a woman must have been there, to help with the murder and the burial. Who would help Tom Dula? Cummings had decided that the best bet was Ann Melton, with whom Dula had been spending stealthy time. Again he paid Betsey Scott, this time to spy at the Meltons while she did washing there, and what she told him confirmed his suspicions of Ann. It also led him to Dula's hiding place in Tennessee.

Dula went to trial before Judge Ralph Buxton. Vance had as associate counsel Judge R. F. Armfield and R. P. Allison, and these did their best to shake the circumstantial evidence brought against their client. Cummings was exoriated for his highly irregular methods in arresting Dula. The testimony of Betsey Scott was challenged and attacked.

Vital Information.

She had one telling piece of information to give Dula's motive. He suffered from venereal disease, and blamed this upon Laura Foster. He had said, in the bearing of several, that he would "put through" the person responsible for his plight. And apparently he had enlisted his new love, Ann Melton, in his plot to entice Laura into ambush by a promise of marriage.

When Vance was unable to confuse the washerwoman on the stand, he objected strongly to admission of her evidence, as mainly hearsay. Finally, standing before the jury, he pleaded in moving terms.

"I have known Tom Dula during years of strain and stress, when a man's soul was tried," he assured the men in the box, "and I tell you in all sincerity that never did a better soldier live, and never did one action of his ever lead me to believe him capable of murder."

There were Confederate soldiers on that jury, and chiefly to them did Vance address himself when he recalled the desperate days of war.

"Is there a man among you," he wound up, "with a spark of love for the Lost Cause but can see

that even if Tom Dula had killed this lewd woman, Laura Foster—this minion of the devil—that the life of this man, who fought for what he thought best for your family and mine, is worth a hundred lives of such women as that dead viper."

Sentenced to Hang.

Apparently twelve men disagreed with him. Tom Dula was found guilty of murder in the first degree, and was sentenced to hang.

Vance appealed to the State Supreme Court, which agreed with him that some of the testimony was irregular. Dula was given a new trial, and in January, 1868, he faced another jury.

Again the charges, again the earnest defense of Vance and his colleagues, again dramatic pleas to the jury. And again the verdict—guilty of murder in the first degree.

A second appeal to the State Supreme Court was made. This time it was unsuccessful. "There is no error," wound up the opinion of Chief Justice Richmond M. Pearson.

On beautiful May Day of 1868, Dula rode to his public scaffold in Statesville. He sat on a coffin in a wagon, and one story says he played his fiddle. Standing before the crowd, he made a last joke to Sheriff W. E. Watson, who put the noose over his head.

"Nice Clean Rope."

"You have such a nice clean rope," crowsed Tom Dula. "I ought to have washed my neck."

Mountain fashion, folks started to sing about him. The Tom Dula song is affecting enough.

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Oh, bow you head and cry,
You've killed poor Laura Foster
And you know you're bound to die.

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This time tomorrow evening
'Twill be no use to me . . .

