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Under the Shadow of the Awful Gallows-Tree: The Murder  
Trials of Thomas Dula and Ann Melton as a Case Study in Gender and Power in  
Reconstruction Era Western North Carolina

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A thesis  
presented to  
the faculty of the Department of History  
East Tennessee State University

In partial fulfillment  
of the requirements for the degree  
Master of Arts in History

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by  
Heather Lenae Miller  
May 2015

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Dr. Steven Nash, Chair  
Dr. Tom Lee  
Dr. Elwood Watson

Keywords: Southern Appalachia, western North Carolina, gender roles

## ABSTRACT

Under the Shadow of the Awful Gallows-Tree: The Murder  
Trials of Thomas Dula and Ann Melton as a Case Study in Gender and Power in  
Reconstruction Era Western North Carolina

by

Heather L. Miller

This is a micro-history that explores everyday life on a small scale by tracing the common, if elusive lives of Thomas Dula, Ann Melton, and Laura Foster, and the communities they lived in, to explore the culture in which they lived—and died. Reactions to the murder unleashed an outpouring of discourse embedded in broader, national debates concerning gender roles.

The dominant cultural theme that emerged from the murder trials as reflected in middle-class newspapers maintained that true women did not kill and real men acted as gentlemen and defenders of women's honor. The project mines a wealth of primary source material: court documents, population censuses, and newspapers. By examining the discourse surrounding Tom Dula's execution and Ann Melton's acquittal for the murder of Laura Foster it illuminates the murder narrative as a public forum for discussing gender roles and power in 1860s America.

## ACKNOWLEDGEMENTS

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## TABLE OF CONTENTS

	Page
ABSTRACT .....	2
ACKNOWLEDGEMENTS .....	3
PROLOGUE .....	5
Chapter	
1. INTRODUCTION .....	11
2. “WHISKEY, WOMEN, AND FIDDLING, BOYS, HAVE BROUGHT ME TO MY RUIN”: RECONSTRUCTING THOMAS DULA’S LIFE PRIOR TO THE MURDER ...	36
The Isbell Family .....	42
The Cowles Family .....	45
The Dula Family .....	46
3. “HER SOUL IS BLACKENED WITH CRIME, HER HANDS IMBUED WITH THE BLOOD OF HER NEAR KINSWOMAN”: RECONSTRUCTING ANN MELTON’S LIFE PRIOR TO THE MURDER.....	77
4. “NO EYE HAD SEEN HIM, NO EAR HAD HEARD HIM, THE SECRET WAS HIS OWN”: NORTH CAROLINA CAPITALIZES ON THE MURDER CASE AND CONSTRUCTS IT AS MYSTERY TO MAKE A PROFIT .....	109
5. CONCLUSION.....	140
BIBLIOGRAPHY.....	146
VITA.....	154

## PROLOGUE

Sometime during the early morning hours of May 25, 1866, twenty-two year old Laura Foster of Caldwell County, North Carolina, met a tragic end. Murdered six miles from her home, Laura's body lay in a shallow grave in an isolated locale known as "the Bates' Place." The last friendly face to see her was her neighbor, Betsy Scott, who lived about a mile down the road from the Foster family. According to Scott, early that morning she met Laura on River Road "riding her father's mare bareback, with a bundle of clothes in her lap" heading in the direction of the secluded Bates' Place.<sup>1</sup>

The morning of May 25 had started out probably like any other day on the Foster farm. Wilson Foster of Caldwell County, North Carolina, rose from his bed to begin a hard day's work on the small farm he rented from Colonel James Isbell, his wealthy landowning neighbor, and friend.<sup>2</sup> Early dawn's light crept faintly through his bedroom window as he dressed himself for work that May morning. Fifty-eight year old Wilson Foster was a small framed man, somewhat reserved, with hazel eyes, and dark, wavy brown hair. His quiet nature made him prefer solitary activity over social; he spent time, whenever he could, alone in the woods, hunting and trapping.<sup>3</sup>

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<sup>1</sup> Testimony of Betsy Scott, *State of North Carolina v. Thomas Dula*, No. 8922 (N.C. S. Ct. 1867), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/457/rec/17> (accessed May 2, 2014). Hereafter cited as *North Carolina v. Dula*, No. 8922. The state law reporter, *North Carolina Reports*, referenced the murder date as January 25, 1866, but this is clearly wrong as other sources mostly cite May 25, 1866, as the date. See *State of North Carolina v. Thomas Dula*, 61 *North Carolina Reports* 437 (N.C. S. Ct. 1868), Google Books, <https://play.google.com/books/reader?id=M300AQAAMAAJ&printsec=frontcover&output=reader&hl=en&pg=GB.S.PA430> (accessed Aug. 28, 2014). Witness testimony further confirms that the murder must have occurred sometime after March 1866. For more information see witness testimony in *North Carolina v. Thomas Dula*, Case No. 8922 and *State of North Carolina v. Thomas Dula*, No. 8923 (N.C. S. Ct. 1868), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/512/rec/1> (accessed May 2, 2014). Hereafter cited as *North Carolina v. Dula*, No. 8923.

<sup>2</sup> *Ibid.*

<sup>3</sup> W.O. Absher, ed., *The Heritage of Wilkes County, North Carolina* Vol. 2 (Winston-Salem: Wilkes County Genealogical Society, 1982), 589.

He had worked as a tenant farmer before the Civil War's outbreak and at some point had taken up the blacksmith trade.<sup>4</sup>

Sometime after 1860 and before 1866, his wife Martha died, leaving him to raise their surviving children by himself.<sup>5</sup> His eldest child, Laura, twenty-two, still lived at home in 1866. Because Martha was gone, it is likely that Laura took charge of most, if not all, the household duties, including cooking the family's meals. An hour before rising, Wilson Foster testified that he heard his daughter wake and leave her bed, disappear outside a few moments, return, take something from a nearby chest, and assumed she went back to bed, but he was soon mistaken. Around sunrise Wilson Foster discovered much to his dismay that Laura had not gotten up to make breakfast and was nowhere in sight.<sup>6</sup>

A hasty search outside the house revealed that she had taken the family's only mare. The rope the horse was tied to was also missing. Foster set out to find his missing daughter and his

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<sup>4</sup> Wilson Foster's age is estimated based on the census records of 1850, 1860, 1870, and 1880 for Caldwell County, North Carolina. In 1850, Foster worked as a laborer; in 1870 he employed himself as a blacksmith and a farmer. The census of 1870 indicates that Foster had \$100 in real estate and \$150 in personal estate. In 1860 Foster's personal real estate totaled \$200, so he had lost some real estate possibly during the war years. For more information see Absher, ed., *The Heritage of Wilkes County, North Carolina*, 589. Although Foster labored as a tenant farmer on the land of his more prosperous neighbor it appeared that he had owned some land. Caldwell County deed records indicate that he obtained a grant from the state to acquire 100 acres on the waters of the Yadkin in late 1848. Later, in 1853, Foster received an additional 90 acres by the state on the Yadkin below Thomas Jones Ford. The value of this land is unknown. Foster appears to be one of those tenants who was able to acquire enough savings to purchase land. He serves as an example showing how tenancy did not always lead to a dead end. For more information on antebellum tenancy in Appalachia see H. Tyler Blethen, "Pioneer Settlement," in *High Mountains Rising: Appalachia in Time and Place*, eds., Richard A. Straw and H. Tyler Blethen (Urbana and Chicago: University of Illinois Press, 2004), 21-22. See U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Caldwell County, Population Schedule, Division of Archives and History. microfilm roll M432\_623, 36A; U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Caldwell County, Population Schedule, Division of Archives and History. microfilm roll M653\_890, 169; U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Caldwell County, Population Schedule, Division of Archives and History. microfilm roll M593\_1127, 13B.

<sup>5</sup> Martha shows up in the 1860 census, but not in the 1870 census. For information on Martha's death see Absher, ed., *The Heritage of Wilkes County, North Carolina*, 589. This source notes that Martha and their children, John and Elizabeth, died in an epidemic in 1863-1864. The date for Laura's disappearance, May 20, 1865, is inaccurate, but other facts correlate with other sources (census records and marriage bonds).

<sup>6</sup> Testimony of Wilson Foster, North Carolina v. Thomas Dula, No. 8922.

horse by following the peculiar tracks the horse had left.<sup>7</sup> Rather than suspect foul play, Foster initially registered slight irritation at his daughter for taking his only mare. That day he scoured the neighborhood in search of Laura, but day quickly turned into night without sign or word of Laura's whereabouts.<sup>8</sup>

As days passed and news of Laura's disappearance circulated from neighbor to neighbor, the Elkhville community became increasingly alarmed that she had not been seen or heard of since May 25<sup>th</sup>. Community leaders formed a search party and roamed the hills and valley nearby, but still they found no trace of Laura.<sup>9</sup> Suspicion rested primarily on Thomas Dula, a tall, brown haired, brown eyed, light complexioned young man in his twenties, who had himself been born and raised a few miles from the victim.<sup>10</sup> He was the youngest son of Thomas P. Dula and Mary Keaton Dula, yeoman farmers from Wilkes County.<sup>11</sup>

Word had also gotten around Elkhville that Tom frequently visited Laura as her suitor. Wilson Foster reported that on the night before Laura disappeared Tom Dula arrived at his house around midnight to call on Laura and had left the house shortly thereafter.<sup>12</sup> Because of Laura's relationship with Dula, all suspicion pointed to him. No one could prove, however, that he had murdered her because a body had not yet been found. A month into her disappearance Dula

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<sup>7</sup> Ibid. Foster testified that he had not finished shoeing the horse so it left a peculiar track easy to follow.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Oath of Allegiance for Thomas C. Dooley, June 11, 1865, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, Record Group 109, microfilm M270, roll 0420, 20, National Archives, Washington, D.C.

<sup>11</sup> North Carolina County Marriage Records, 1741-2011, [http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&msT=1&gss=angs-g&gsfn=Thomas+P.+&gsfn\\_x=NP\\_NN&gsln=Dula&gsln\\_x=NN&msgdy=1822&msgpn\\_\\_ftp=Wilkes+County%2c+North+Carolina%2c+USA&msgpn=3154&msgpn\\_PInfo=7-%7c0%7c1652393%7c0%7c2%7c3245%7c36%7c0%7c3154%7c0%7c0%7c&cpxt=0&catBucket=rstp&uidh=6fc&msgdp=5&cp=12&mssng0=Mary+&pcat=ROOT\\_CATEGORY&h=3057699&recoff=6+7+26&db=NC-MarriageRecords&indiv=1&ml\\_rpos=3](http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&msT=1&gss=angs-g&gsfn=Thomas+P.+&gsfn_x=NP_NN&gsln=Dula&gsln_x=NN&msgdy=1822&msgpn__ftp=Wilkes+County%2c+North+Carolina%2c+USA&msgpn=3154&msgpn_PInfo=7-%7c0%7c1652393%7c0%7c2%7c3245%7c36%7c0%7c3154%7c0%7c0%7c&cpxt=0&catBucket=rstp&uidh=6fc&msgdp=5&cp=12&mssng0=Mary+&pcat=ROOT_CATEGORY&h=3057699&recoff=6+7+26&db=NC-MarriageRecords&indiv=1&ml_rpos=3), (accessed, August 28, 2014); John Edward Fletcher, *The True Story of Tom Dooley: From Western North Carolina Mystery to Folk Legend* (Charleston: The History Press, 2013), 19; U.S. Bureau of the Census, *Eighth Census of the United States 1860*, Wilkes County, North Carolina Population Schedule, North Carolina Division of Archives and History, microfilm roll M653\_918, 168.

<sup>12</sup> North Carolina v. Thomas Dula, No. 8922.



decided to flee Wilkes County for Tennessee based on what he feared was mounting suspicion against him. His fears were not unfounded. Just days before his departure he had learned some unsettling news: members of the clannish Hendrix family, also of Elkville, had been spreading the rumor that he had been the one who killed Laura Foster.<sup>13</sup>

Shortly thereafter, suspicion against him only heightened when he left the community to hide out in the hills and hollows of East Tennessee. By now Wilson Foster had filed a warrant for Dula's arrest. Apparently, he, too, had come to believe that Dula had indeed had some role in his daughter's disappearance. The arrest warrant also listed Ann Melton, Granville Dula, and Pauline Foster as accomplices.<sup>14</sup>

Dula's escape proved futile. On July 11, 1866, less than two months after Laura's disappearance, Wilkes County sheriff deputies located Dula, arrested him, transported him back home, and incarcerated him in the county jail to await sentencing.<sup>15</sup> A break in the case occurred when Pauline Foster made a startling confession upon her arrest, one that implicated both Tom Dula and Ann Melton in the murder. The confession sent shock waves throughout the entire community and beyond. Under interrogation Pauline testified that a few days after Dula's arrest Ann Melton revealed to her the location of Laura Foster's grave. According to Pauline, Melton wanted to see if the grave had been disturbed, and if so, she planned to move the body elsewhere. Pauline agreed to lead authorities to the place where Laura's body lay in exchange for her freedom.<sup>16</sup>

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> "The Death Penalty," *The New York Herald*, May 2, 1868.

<sup>16</sup> For reasons unknown legal authorities chose not to press any further charges against Pauline Foster. Granville Dula was also eliminated as a suspect early on. See *State v. Thomas Dula*, Fall Term 1866, Wilkes County Superior Court Minutes, North Carolina Digital Archives, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/354/rec/6> (accessed May 12, 2014); Testimony of Pauline Foster, *North Carolina v. Thomas Dula*, No. 8922.

The community search party came upon what must have been a grisly sight indeed. In an abandoned locale known as the Bates' Place they sighted a pile of twigs covering a dark, discolored spot of ground. "An offensive smell" differing from "the surrounding earth" overwhelmed the senses of those present.<sup>17</sup> There on a high ridge above Wilkesboro the search party unearthed Laura Foster's remains, "too decomposed" even for Dr. Carter, the attending physician, to discern whether the stab wound on her left breast had cut through to the heart and severed a main artery. The body lay on its right side, "face up," in a shallow hole approximately two and a half feet deep, "very narrow, and not long enough for the body, the legs drawn up."<sup>18</sup> Pauline Foster was eliminated as a participant in the murder, and Ann Melton charged as an accomplice, and promptly arrested.<sup>19</sup>

Tom Dula and Ann Melton were confined in separate quarters in the Wilkes County jail to await sentencing. On the motion of the defense counsel the two were tried separately and outside Wilkes in the town of Statesville, two hours away. The severance conveniently postponed Melton's trial, so Dula faced the jury alone on October 18, 1866, when the first trial commenced.<sup>20</sup> The decision to move Dula's trial ahead of Melton's rested on the fact that Dula had been charged as principle in the murder and Melton as an accessory. Logically the principle suspect would be tried first then the accessory participant.

The first trial produced a guilty verdict. Dula's defense attorneys appealed. A second trial followed, but again the jury found the defendant guilty and sentenced him to death by hanging.

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<sup>17</sup> Testimony of J.W. Winkler, North Carolina v. Thomas Dula, No. 8922.

<sup>18</sup> Ibid.

<sup>19</sup> State v. Thomas Dula, Fall Term 1866, Wilkes County Superior Court Minutes, North Carolina Digital Archives, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/354/rec/6> (accessed August 28, 2014); State v. Thomas Dula, Spring Term 1868, Wilkes County Superior Court Minute Docket, North Carolina Digital Archives, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/520/rec/1> (accessed August 28, 2014).

<sup>20</sup> North Carolina v. Thomas Dula, No. 8922.

Fortunately for Ann Melton, she was acquitted based on an alleged last minute confession Dula had made to his lawyer the night before his impending execution. In the confession Dula explained that only he had committed the murder and no one else. On May 1, 1868, “twenty four minutes after 2 p.m...the body of Thomas Dula was suspended between heaven and earth.”<sup>21</sup> A large crowd of more than 3,000 watched as Dula left the latter.<sup>22</sup>

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<sup>21</sup> Homer Keever, “Witness Describes Dula Hanging,” *Statesville Record and Landmark*, January 15, 1959.

<sup>22</sup> J.B. Danforth, Jr., editor, “By Telegraph,” *Daily Argus*, May 2, 1868.

## CHAPTER 1

### INTRODUCTION

The murder of Laura Foster in 1866 would likely have fallen into obscurity had it not been for its continuing hold on the public imagination. From the beginning press coverage touted it as a crime of passion in which Tom Dula murdered his sweetheart to appease a former jealous lover for whom he still had feelings. However, the historical account, one that includes what happened after the murder and the myriad reactions it elicited, is far more complex. On November 20, 1866, after the first trial for Dula had gotten underway, *The Fayetteville News* reported that the evidence, though circumstantial, “was too clear and strong to avoid conviction.”<sup>1</sup> No direct evidence linked Dula to the murder, but judges, prosecution lawyers, and newspaper editors seemed sure of his guilt.

Since concrete evidence linking Dula to the murder was lacking, legal experts were forced to use their imaginations to come up with a plausible narrative to explain something as inconceivable as murder. The reconstructed account of the murder given by the prosecuting attorneys alleged that Tom Dula had stabbed Laura Foster in the breast holding “a certain knife of the value of five cents” in his right hand.<sup>2</sup> Yet, none of the witnesses from the surviving court records related that they had actually seen Tom Dula kill Laura Foster, and he supposedly never confessed to the murder until he knew his own death was imminent. How did legal experts come to the conclusion that he had murdered her with a knife, let alone one valued five cents? This unanswered question and others like it account for the case’s enduring appeal.

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<sup>1</sup> H.L. and J.H. Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 20, 1866.

<sup>2</sup> The description of the murder weapon suggests that more information was presented at the trial than what was recorded. See *State of North Carolina v. Thomas Dula*, No. 8922, (N.C. S. Ct. 1867), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/457/rec/17> (accessed May 2, 2014). Hereafter cited as *North Carolina v. Dula*, No. 8922.

The murder case abounds with missing testimony, glaring inconsistencies, folklore, and myth. Such factors easily draw one into wanting to solve the crime. Indeed, many writers have tried to solve it and each have claimed to offer the “true” account of what really happened.<sup>3</sup> It is important to note that the murder story is, at best, a cobbled account of what legal experts and social commentators believe happened. Operating on this premise makes it easier to recognize other cultural dynamics that were at play.

More valuable to the historian is what the trial and persistent interest can tell us about the people and community that experienced this event. Differences in class, gender, race, and even time have further distanced contemporary and later generations of story writers from the central characters. From the 1950s onward writers have attempted to construct the story as an Appalachian homicide complete with Appalachian themes of love and betrayal. Other than its location there was nothing particularly Appalachian about this homicide. The placement of the murder as one thoroughly Appalachian in origin appeared in the mid-1950s, when tourism became an increasingly popular industry.

Instead, reactions to the murder unleashed an outpouring of discourse that was embedded in broader, national debates concerning gender roles. Within these murder narratives lay assumptions about what constituted “normal” male and female behavior. Two factors helped secure Dula’s conviction and Melton’s acquittal: their standing in the community and perceptions of how well they carried out their gender roles. Dula lost out in both instances where Melton’s image fared better in both—at least initially. The dominant cultural theme that emerged

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<sup>3</sup> For scholars’ interpretations of the case see John Foster West, *Lift Up Your Head, Tom Dooley: the True Story of the Appalachian Murder that Inspired One of America’s Most Popular Ballads* (Asheboro: Down Home Press, 1993), 1-20; John Edward Fletcher, *The True Story of Tom Dooley: from Western North Carolina Mystery to Folk Legend* (Charleston: The History Press, 2013), 11-14.

from the murder trials as reflected in middle-class newspapers maintained that true women did not kill and real men acted as gentlemen and defenders of women's honor.<sup>4</sup>

Although the murder of Laura Foster occurred in a rural Appalachian community removed from urban dangers, it resonated with city dwelling, middle-class Americans in the late 1860s precisely because it spoke to fears many held about sexually vulnerable young women who continued to migrate to these urban areas, sometimes alone, and sometimes with their families, for stable employment in an increasingly industrialized and mobile society.<sup>5</sup> The murder occurred not long after the Civil War. Historians generally concur that Reconstruction, the period right after the Civil War, was one of the most crime-infested periods in the nation's history.<sup>6</sup> In a world where violence permeated everyday life, why did this homicide capture so much attention?

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<sup>4</sup> For a full discussion of the gender norms of this period see Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly* Vol. 18, Issue 2, Part 1 (Summer 1966), 151-174; Carroll Smith-Rosenberg and Charles Rosenberg, "The Female Animal: Medical and Biological Views of Woman and Her Role in Nineteenth-Century America," *The Journal of American History* Vol. 60, No. 2 (Sept. 1973), 332-356; D. Harland Hagler, "The Ideal Woman in the Antebellum South: Lady or Farmwife?" *Journal of Southern History*, Vol. 46, No. 3 (Aug. 1980), 405-418; Laura F. Edwards, *Scarlett Doesn't Live Here Anymore: Southern Women in the Civil War Era* (Chicago: University of Illinois Press, 2000); Wilma A. Dunaway, *Women, Work, and Family in the Antebellum Mountain South*, (Cambridge: Cambridge University Press, 2008); Craig Thompson Friend and Lorri Glover, *Southern Manhood: Perspectives on Masculinity in the Old South* (Athens: University of Georgia Press, 2004); Michael S. Kimmel, *Manhood in America: A Cultural History* (New York: Free Press, 1996); Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (New York: Oxford University Press, 1995); Sylvia D. Hoffert, *A History of Gender in America: Essays, Documents, and Articles* (Upper Saddle River: Prentice Hall, 2003); Craig Thompson Friend, *Southern Masculinity: Perspectives on Manhood in the South since Reconstruction* (Athens: University of Georgia Press, 2010).

<sup>5</sup> The amount of newspaper coverage surrounding the trial reveals the extent to which it resonated with the wider American public. The majority of papers that chronicled the case were located in mostly urban areas where such fears were on the rise; in contrast, fewer papers in rural western North Carolina covered the story.

<sup>6</sup> Historian David T. Courtwright has asserted that "the end of the Civil War gave rise to an especially large crime wave"; David T. Courtwright, *Violent Land: Single Men and Social Disorder from the Frontier to the Inner City* (Cambridge: Harvard University Press, 1996), 45. See Bruce E. Stewart, *Blood in the Hills: A History of Violence in Appalachia* (Lexington: University Press of Kentucky, 2011), 11. Stewart characterizes violence in the post-Civil War period as an epoch of "increased racial violence and labor conflict." Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), 4-7. Brown describes it as an era replete with "Ku Kluxers, lynch mobs, White Caps, Bald Knobbers, night riders, feudists, and outlaws." Crime historian Roger Lane has speculated that much of this violence stemmed from the absence of local law enforcement, especially in the South. Roger Lane, *Murder in America: A History* (Columbus: Ohio State University Press, 1997), 148.

Following the war, Americans North and South endeavored to reconcile what they believed to be a “dramatic and dangerous upturn in both sexual and gender disorder” that arose from the troublesome war experience.<sup>7</sup> The murder of the young, single Laura Foster by her suitor readily brought these fears to the surface. Dula’s murder conviction demonstrated how quickly community leaders could come to a consensus, even in the midst of an atmosphere bitter and divisive. Tom Dula was a person of marginal status in his community. In fact, struggle characterized Tom’s entire life and existed in various forms—the struggle for economic stability, comfort, and security. As a man of little resources, the odds were stacked against him from the outset.

Furthermore, Ann Melton’s acquittal stemmed from the fact that juries at the time, in Southern Appalachia and nationwide, were unwilling to convict and execute women in cases involving capital punishment. Two conflicting images of Ann arose out of the popular discourse covering the trial: in one, Ann was an ideal woman—one who calmly bore the “manners and bearing” befitting “an accomplished lady”<sup>8</sup> In the other image, Ann was still a woman, but not one that deserved true womanhood or southern lady status. She was a “Lady Macbeth,” an aggressive shrew who had acted more masculine than feminine and in doing so had overstepped the prescribed boundaries of her gender.<sup>9</sup>

What had been the motive? On circumstantial evidence the state proved that Tom Dula had formed a “criminal intimacy” with Laura and with Ann, had contracted a venereal disease from Laura, and had transmitted it to Ann. The prosecution charged that Tom had vengefully killed Laura because she had given him syphilis. Lawyers on both sides spotlighted certain

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<sup>7</sup> Frankie Y. Bailey and Donna C. Hale, eds., *Blood on Her Hands: The Social Construction of Women, Sexuality, and Murder* (Belmont: Wadsworth/Thomson Learning, 2004), 92-93.

<sup>8</sup> John M. Sharpe, “The Tom Dula Murder Case,” *The Landmark*, January 31, 1933.

<sup>9</sup> “An Old Murder Case,” *The Union Republican*, February 17, 1916.

aspects of the case while dismissing and overlooking others.<sup>10</sup> Lawyers for the prosecution, for example, underscored the sexual practices of both the defendants and the victim to support their claim that Tom's motive for murder arose from resentment he felt for getting a venereal disease.<sup>11</sup> They also argued that witness testimony confirmed that Tom's secret meeting with Ann on a ridge near the Melton residence the day before the murder constituted "sufficient evidence" proving an agreement between them to commit murder. Despite repeated objections from defense lawyers, the prosecution successfully used "the declarations and acts of Ann Melton" to prove an "alleged agreement" between Dula and Melton to murder Foster.<sup>12</sup>

This thesis seeks to extend earlier scholarship of social and cultural history by exploring how the murder narrative was treated and evolved in popular discourse surrounding the time of the murder, the murder trials, Dula's execution in May 1868, and Melton's acquittal later that year. The project mines a wealth of primary source material: court documents, population censuses, agricultural records, and newspapers. It draws most heavily on surviving court transcripts from the two trials and contemporary news articles. Trial transcripts offer the voices of people historians normally would not hear from. Pauline Foster, a poor, illiterate white from Watauga County, would likely never have shown up as extensively in the historical record had it not been for Dula's two murder trials. Herein lies one of the advantages of using this kind of source material.

However, there is an evident disadvantage to relying on trial transcripts. Typically poor whites were almost always presented negatively because the cases that came to the local courts

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<sup>10</sup> In describing major headline trials, legal historian Lawrence M. Friedman has argued that lawyers on both sides work to come up with a "coherent, sympathetic, story" to sell to the jury. It is these reconstructed accounts, he asserts, that expose "common stereotypes, attitudes, and norms of the period." Lawyers attempt to persuade juries by invoking popular "ideas, images, and concepts" they believe will be most convincing. See Lawrence M. Friedman, "Front Page: Notes on the Nature and Significance of Headline Trials," *St. Louis University School of Law*, Vol. 55 (Summer 2011), 1269.

<sup>11</sup> State of North Carolina v. Thomas Dula, No. 8923.

<sup>12</sup> Ibid.



involved acts in which they had transgressed social norms in some way, whether it came in the form of slandering one's neighbor, stealing from the general store merchant, or fighting in the local tavern. The other disadvantage would be that they did not write out their testimonies themselves, but rather middle-class county clerks, or judges wrote them, sometimes verbatim, oftentimes not. Therefore what poor white tenant farmers and laborers said was filtered through those who wrote their accounts. When explaining what the motive had been for Laura's murder, Judge William M. Shipp added the word "disgusting" in the case summary of the second trial to describe the venereal disease Dula had allegedly contracted from Foster.<sup>13</sup> His use of "disgusting" to describe syphilis reveals the process in which trial transcripts were often filtered by the writers.

Nevertheless, the advantages outnumber the disadvantages. By examining the discourse surrounding Tom Dula's execution and Ann Melton's acquittal for the murder of Laura Foster, and grounding the case in historical context, it illuminates the murder narrative as a public forum for discussing gender roles and power in 1860s America. Prior scholarly works examining the murder case have dealt exclusively with the ballad, explaining how the ballad's purpose serves, much like earlier New England scaffold sermons and pamphlets did centuries before, as a way to lay out the murder drama. Until now, no study grounds the case effectively within the historical context. The work is a micro-history that focuses on individuals who lived lives outside respectable middle-class society and operated on its fringes.

As a micro-history, it explores everyday life on a small scale by tracing the common, if elusive lives of Thomas Dula, Ann Melton, and Laura Foster, and the communities they lived in,

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<sup>13</sup> Ibid.

to explore the culture in which they lived—and died.<sup>14</sup> It is important to study these individuals because only then will we get a more complete picture of the past in all its forms, warts and all. By determining what a society views as abnormal one can better perceive what those in power believe the norm ought to be at a given time.<sup>15</sup> Civil War historian Stephen Berry calls this method “weirding”—“the historians’ equivalent of ‘freakonomics,’ the use of economic theory to investigate the atypical subjects in the hope of yielding fresh insights into typical social dynamics.”<sup>16</sup> If anything in our culture is perceived as “weird” it is murder because a consensus exists on the unnaturalness of taking another person’s life. Being the most extreme of offenses and acts of social disruption, murder cases most acutely delineate what a society believes is the norm. When “properly narrated and analyzed...the isolated incident, even the bizarre one, can be more explanatory, even revelatory, than the typical one.”<sup>17</sup> A detailed examination of the Dula case hopes to shed light on the typical through the atypical.

More than forty years ago historians began directing attention away from the time worn accounts of distinguished landed gentry, rulers, and politicians to seemingly ordinary individuals. The arrival of the “new social history” of the 1960s and 1970s helped pave the way for historical crime study. By the early 1970s historians began to take interest in histories of crime and violence. This is not surprising considering the turbulent decade that had recently preceded it.

Violence and bloodshed seemed as “American as cherry pie” after the shocking assassinations of

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<sup>14</sup> For a more in-depth discussion of microhistory and its merits see Marjoleine Kars, “History in a Grain of Sand: Teaching the Historian’s Craft,” *The Journal of American History*, Vol. 83, No. 4 (Mar., 1997), 1340-1345; Jill Lepore, “Historians Who Love Too Much: Reflections on Microhistory and Biography,” *The Journal of American History*, Vol. 88, No. 1 (June 2001), 129-144; and Richard D. Brown, “Microhistory and the Post-Modern Challenge,” *Journal of the Early Republic*, Vol. 23, No. 1 (Spring 2003), 1-20.

<sup>15</sup> British historian Martin J. Wiener has contended that the most sensational murder trials can be handled as “social dramas” in the anthropological sense” where much insight concerning “the law as an expression of a society’s fundamental values and an instrument of its latent conflicts.” See Martin J. Wiener, “Murder and the Modern British Historian,” *Albion: A Quarterly Journal Concerned with British Studies*, Vo. 36, No. 1 (Spring 2004), 2.

<sup>16</sup> Stephen Berry, “Introduction,” in *Weirding the War: Stories from the Civil War’s Ragged Edges*, ed. Stephen Berry (Athens: University of Georgia Press, 2011), 5.

<sup>17</sup> *Ibid.*

President John F. Kennedy in 1963, and Martin Luther King, Jr. and Robert F. Kennedy in 1968.<sup>18</sup>

An interest in studying crime history emerged from violence studies conducted in the late 1960s and early 1970s.<sup>19</sup> Thus, the trajectory of American crime historiography started with broad research areas with mostly quantitative analysis (crime trends and policing) then narrowed to focus on specific crimes with heavy sprinklings of qualitative analysis. Crime historiography visibly demonstrates how cultural history has largely—though not completely—overtaken social history as a trend. Scholars from various social science disciplines have taken up the task of investigating America’s crime history, so historians have never truly monopolized this type of study.

The earliest scholarship focused on regional studies of violence, singling out the American South as a region with history steeped in violence and bloodshed. Regional scholars agreed that culture played a significant part in shaping this violent tradition and supported a “subculture of violence thesis” proposing that southern culture sanctioned violent encounters.<sup>20</sup>

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<sup>18</sup> See Robert E. Lester, “Introduction,” in *Records of the National Commission on Violence, Part I: Executive Files, The Lyndon Baines Johnson Library*, ed. Robert E. Lester (Austin: University Publications of America, 2004), v-vii, [http://cisupa.proquest.com/ksc\\_assets/catalog/16513.pdf](http://cisupa.proquest.com/ksc_assets/catalog/16513.pdf) (accessed January 23, 2015).

<sup>19</sup> In 1968, the National Commission on the Causes and Prevention of Violence was formed and operated as a forum for researching America’s violent historical roots. Published in 1969, the commission’s findings influenced a number of scholars, and became the go-to source on the subject. Topics of high priority included assassinations, group violence, individual acts of violence, law and law enforcement, media, firearms, American history and character. The report claimed that Americans suffered from “historical amnesia” regarding their violent roots and issued a call for further research. See Robert E. Lester, “Introduction,” in *Records of the National Commission on Violence, Part I: Executive Files, The Lyndon Baines Johnson Library*, ed. Robert E. Lester (Austin: University Publications of America, 2004), v-vii, [http://cisupa.proquest.com/ksc\\_assets/catalog/16513.pdf](http://cisupa.proquest.com/ksc_assets/catalog/16513.pdf) (accessed January 23, 2015).

<sup>20</sup> See W.J. Cash, *The Mind of the South* (New York Vintage Books Edition, 2002), 3-29; John Hope Franklin, *The Militant South, 1800-1861* (Cambridge: Belknap Press of Harvard University Press, 1956), xiii; Dickson Bruce, *Violence and Culture in the Antebellum South* (Austin: University of Texas Press, 1979), 5-7; Bertram Wyatt-Brown maintained that an honor code fed violent tendencies; Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 2007), 263-365; Sheldon Hackney, “Southern Violence,” *The American Historical Review* 74 (February 1969), 906-925; John Shelton Reed, “To Live—and Die—in Dixie: A Contribution to the Study of Southern Violence,” *Political Science Quarterly* 86 (September 1971), 429-443; Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19<sup>th</sup> Century American South* (New York: Oxford University Press, 1984), 13.

In addition to regional studies, early scholarship investigated collective acts of violence over individual, specifically political assassinations and various forms of group violence. This trend dominated scholarship from the mid-1970s until the early 1990s.<sup>21</sup>

A pattern has also surfaced in the scholarship revealing a difference in the way historians have handled crime studies in various sections of the United States. Historians who have written about Northern crimes have generally underscored themes of urban culture, mass culture, class, sex, and gender over race.<sup>22</sup> Some northern studies have employed race, but most use ethnicity as a theme.<sup>23</sup> In contrast, historians who study southern crime have mostly emphasized race over class and gender while still including the latter two. Indeed, the bulk of southern crime scholarship deals with highly racialized crimes—lynching, race riots, and whitecapping.<sup>24</sup>

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<sup>21</sup> See Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (Oxford University Press, 1975), 3; William F. Holmes, "Moonshining and Collective Violence: Georgia, 1889-1895," *Journal of American History* 67, (December 1980), 589-611; Gilles Vandal, *The New Orleans Riot of 1866: The Anatomy of a Tragedy* (Lafayette: University of Southwestern Louisiana, 1983); William Joseph Cummings, "Community Violence, and the Nature of Change: Whitecapping in Sevier County, Tennessee, During the 1890s (Master's Thesis, University of Tennessee, 1988), 1-4; George C. Wright, *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob Rule and "Legal Lynchings"* (Baton Rouge: Louisiana State University Press, 1990); W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana: University of Illinois Press, 1993).

<sup>22</sup> Roger Lane, *Violent Death in the City: Suicide, Accident, and Murder in Nineteenth-Century Philadelphia* (Cambridge: Harvard University Press, 1979); N.E.H. Hull, *Female Felons: Women and Serious Crime in Colonial Massachusetts* (Urbana: University of Illinois Press, 1987); Elaine Abelson, *When Ladies Go A-Thieving: Middle-Class Shoplifters in the Victorian Department Store in Nineteenth Century America* (New York: Oxford University Press, 1989); Patricia Cline Cohen, "Unregulated Youth: Masculinity and Murder in the 1830s City," *Radical History Review* 52 (1992), 33-52; Amy Gilman Srebnick, *The Mysterious Death of Mary Rogers: Sex and Culture in Nineteenth-Century New York* (Oxford and New York: Oxford University Press, 1995); Patricia Cline Cohen, *The Murder of Helen Jewett: The Life and Death of a Prostitute in Nineteenth Century New York* (New York: Alfred A. Knopf, 1998); Jeffrey S. Adler, "'I Loved Joe, But I Had to Shoot Him': Homicide by Women in Turn-of-the-Century Chicago," *Journal of Criminal Law and Criminology* Vol. 92, Issue 3 (Spring 2002), 867-898

<sup>23</sup> Earlier works that have employed race include works by Roger Lane, *Roots of Violence in Black Philadelphia, 1860-1900* (Cambridge: Harvard University Press, 1986), and Eric H. Monkkonen, "Racial Factors in New York City Homicides, 1800-1874," in *Ethnicity, Race, and Crime: Perspectives Across Time*, ed., Darnell F. Hawkins (Albany, NY: SUNY Press, 1995), 99-120. Works that focus on ethnicity include Elliott Gorn, "'Good-Bye boys, I Die a True American': Homicide, Nativism, and Working Class Culture in Antebellum New York City," *Journal of American History* Vol. 74, No. 2 (Sep., 1987), 388-410; Mary Tin Yi Lui, *The Chinatown Trunk Mystery: Murder, Miscegenation, and Other Dangerous Encounters in Turn-of-the-Century New York City* (Princeton: Princeton University Press, 2005), and Timothy J. Gilfoyle, *A Pickpocket's Tale: The Underworld of Nineteenth-Century New York* (New York: W.W. Norton & Company, 2006).

<sup>24</sup> See George C. Wright, *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob Rule and "Legal Lynchings"* (Baton Rouge: Louisiana State University Press, 1990); Melton McLaurin, *Celia, A Slave: A True Story*

Historians of the North were also quicker to treat seriously research into interpersonal violence, specifically domestic violence in early America whereas southern historians have been slower in researching such patterns unless they involve the master-slave relationship.<sup>25</sup> Northern historians additionally served as the vanguard for histories devoted to trends in early American crime literature.<sup>26</sup> Southern historians have finally caught up in crime literature analysis with Michael Ayers Trotti's 2008 publication of *The Body in the Reservoir: Murder and Sensationalism in the South*. *The Body in the Reservoir* is a cultural history that chronicles a spate of sensational murder cases in Richmond, Virginia, from the turn-of-the-nineteenth century to the Progressive Era. Trotti argued that "in terms of both technological change and style of covering sensation, the South mirrored in most (but not all) ways the elaboration of mass culture's sensationalism in the rest of the nation" but differed significantly on matters of gender and race.<sup>27</sup>

Even in the analysis of crime literature race appeared to be a central issue in how southern and northern culture differed. These differences speak to assumptions historians place

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*of Violence and Retribution in Antebellum Missouri* (Athens: University of Georgia Press, 1991); W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana: University of Illinois Press, 1993); Lisa Lindquist-Dorr, *White Women, Rape, and the Power of Race in Virginia, 1900-1960* (Chapel Hill: The University of North Carolina Press, 2004); Steven Weisenburger, *Modern Medea: A Family Story of Slavery and Child-Murder from the Old South* (New York: Hill and Wang, 1998); Suzanne Lebsack, *A Murder in Virginia: Southern Justice on Trial* (New York and London: W.W. Norton & Company, 2003).

<sup>25</sup> Elizabeth Pleck, *Domestic Tyranny: The Making of American Social Policy Against Family Violence from Colonial Times to the Present* (New York: Oxford University Press, 1987); Daniel A. Cohen, "Homicidal Compulsion and the Conditions of Freedom: The Social and Psychological Origins of Familicide in America's Early Republic," *Journal of Social History* 28 (Summer 1995), 725-64; Christine Daniels and Michael V. Kennedy, ed., *Over the Threshold: Intimate Violence in Early America* (New York: Routledge, 1999); Cynthia Grant Bowman and Ben Alman, "Wife Murder in Chicago, 1910-1930," *Journal of Criminal Law and Criminology*, Vol. 92, (2000), 739-90. On the South, see Melton McLaurin, *Celia, A Slave: A True Story of Violence and Retribution in Antebellum Missouri* (Athens: University of Georgia Press, 1991).

<sup>26</sup> Daniel A. Cohen, *Pillars of Salt, Monuments of Grace: New England Crime Literature and the Origins of American Popular Culture, 1674-1860* (New York: 1993); Daniel A. Cohen, "The Beautiful Female Murder Victim: Literary Genres and Courtship," *Journal of Social History*, Vol. 31, Issue 2 (Winter 1997), 277-306; Karen Halttunen, *Murder Most Foul: The Killer and the American Gothic Imagination* (Cambridge: Harvard University Press, 1998).

<sup>27</sup> Michael Ayers Trotti, *The Body in the Reservoir: Murder and Sensationalism in the South* (Chapel Hill: University of North Carolina Press, 2008), 6.

on the types of violence they perceive as being more endemic to the South as opposed to the North.<sup>28</sup> Furthermore, the introduction from northern studies of ethnicity and southern studies of race and slavery brought fresh insight and dimensions into the study of violence and crime. Ethnicity, race, and slavery continue to show up as central themes in these studies. Interest in them has not waned, but only increased.

Additionally, these themes appear in the currently fashionable subfield of crime: cultural microhistories of popular murder trials. Beginning in the early 1990s historians geared their attention to studying the most sensational crimes and masterfully crafting narrative to attract wider audiences. The interest given sensationalized crimes came partly from a growing focus on “microhistory.” Since the mid-1970s scholarship had broken new ground in micro historical studies, and by the 1990s had gained in prominence. This new emphasis of history on a smaller scale provided even more encouragement for cultural study of crime.<sup>29</sup>

Since the 1990s studies of sensational murder trials became something of a subfield in crime histories. New England murder cases originally dominated scholarship in this category, but not for long. The following decade saw an increase in studies devoted to sensational murder trials south of the Mason-Dixon Line. While most seminal studies of sensationalized murder trials largely focused on the North, Melton McLaurin’s *Celia, A Slave: A True Story of Violence*

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<sup>28</sup> Unlike previous studies of the South, *Sapphic Slashers: Sex, Violence, and American Modernity* (2000) by Lisa Duggan deviated somewhat from the race issue though it was still a vital part of her analysis. Duggan told the story of the 1892 murder of Freda Ward by her lover Alice Mitchell in Memphis, Tennessee. Although her story centered on the lesbian love murder she situated it as a parallel to a lynching that occurred in Memphis just months after the murder to argue that both cases exemplified “the overlapping operations of institutions of publicity and the state in defining the sanctity of the ‘white home’ as the central symbolic site of the nation.” Duggan posited that images of both “the homicidal lesbian” and “the black beast rapist” threatened “white masculinity” and “the stability of the white home as fulcrum of political and economic hierarchies.” The significance of *Sapphic Slashers* to microhistories of murder trials rests primarily in its investigation of the post-reconstruction South. Previous studies largely detailed cases that occurred in the antebellum period. *Sapphic Slashers* forged new ground in this respect and suggested the direction in which future studies were headed. See Lisa Duggan, *Sapphic Slashers: Sex, Violence, and American Modernity* (Durham and London: Duke University Press, 2000), 1-3.

<sup>29</sup> Carolyn Strange, “Review Essay: Murder and Meanings in US Historiography,” *Feminist Studies* Vol. 25, No. 3 (Autumn, 1999), 679-681.

*and Retribution in Antebellum Missouri* (1991) forged new ground in its being one of the first to bring attention to the American South.<sup>30</sup>

McLaurin employed narrative to illuminate tensions in antebellum society over slavery's moral dilemma. He demonstrated how frequently female slaves became targets of their master's abuse and highlighted the myriad ways in which southern courts justified slavery.<sup>31</sup> His ample utilization of race and gender analysis showed the stark reality that the slave woman Celia lived in an incredibly oppressive environment where she had no choice but to kill her abusive master to end years of sexual exploitation she had experienced at his hands. McLaurin argued that slavery placed blacks and whites in "situations that forced them to make and to act upon personal decisions of a fundamentally moral nature."<sup>32</sup> In this way, he highlighted Celia as a historical actor.

In a similar fashion, Steven Weisenburger's *Modern Medea: A Family Story of Slavery and Child-Murder from the Old South* (1998) explored the impact of slavery on southern society, particularly on the slaves themselves. *Modern Medea* focused on the plight of a slave woman. Steven Weisenburger argued that runaway slave Margaret Garner's 1856 murder of her two year old daughter to keep her from going back to a life of slavery amid a botched escape symbolized the rift that was becoming increasingly evident between North and South over slavery.

Weisenburger noted that the infanticide brought the plight of women slaves to the forefront of

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<sup>30</sup> See Michael A. Bellesiles, ed., *Lethal Imagination: Violence and Brutality in American History* (New York and London: New York University Press, 1999), 1-16; Marjoleine Kars, "History in a Grain of Sand: Teaching the Historian's Craft," *The Journal of American History*, Vol. 83, No. 4 (Mar., 1997), 1340-1345; Jill Lepore, "Historians Who Love Too Much: Reflections on Microhistory and Biography," *The Journal of American History*, Vol. 88, No. 1 (June 2001), 129-144; and Richard D. Brown, "Microhistory and the Post-Modern Challenge," *Journal of the Early Republic*, Vol. 23, No. 1 (Spring 2003), 1-20.

<sup>31</sup> On June 23, 1855, Celia murdered her master and disposed of his body in the fireplace of her slave cabin. The murder occurred at a time when the debate over whether or not Kansas should be admitted as a free or slave state was being decided. See Melton McLaurin, *Celia, A Slave: A True Story of Violence and Retribution in Antebellum Missouri* (Athens: University of Georgia Press, 1991).

<sup>32</sup> McLaurin, *Celia, A Slave*, xii-xiv.

public discourse in addition to illuminating “slavery’s awful, violent power over and within slave families.”<sup>33</sup> Like previous works *Modern Medea* dealt with events in the antebellum period. Studies concerning postwar issues would not become popular until the next decade, and that time was not far off.

The arrival of Suzanne Lesock’s *A Murder in Virginia: Southern Justice on Trial* in 2003 served as one of the early explorations into the postbellum South. *A Murder in Virginia* illustrated how the race issue pervaded all areas of Southern living. The account described the 1895 ax slaying of forty-six year old Lucy Pollard, a white Lunenburg County, Virginia farmer at the hands of her African American neighbor(s). Lesock’s subtitle “Southern Justice on Trial” suggested that racial injustice was indeed a perceived characteristic of southern courts.<sup>34</sup> Four African Americans were arrested for Pollard’s murder: three females and one male. Only one escaped the death penalty.

Lesock pointed out that a surprising number of Virginians, black and white, defended the three women. She contended that this case went against the predictable New South account of a racist justice system intent on targeting blacks. Instead, she claimed that despite the “galloping racism” that enveloped every facet of American life in the 1890s, the case represented a time when Southerners were still “experimenting and struggling” with emancipation’s aftermath, a time before the rigidity of Jim Crow made it nearly impossible for blacks and whites

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<sup>33</sup> Steven Weisenburger, *Modern Medea: A Family Story of Slavery and Child-Murder from the Old South* (New York: Hill and Wang, 1998), 5-8.

<sup>34</sup> I do not mean to say that racial injustice has not been a critical issue in southern history, nor that it does not warrant recognition. It certainly has played a role, and still plays one. The point I wish to make is that historians have focused much of their attention on these types of crimes over anything else, and have neglected for the most part murders involving members of the same race. When “domestic” murder/crime is noted in relation to the South it has almost always been cited in a racial context and involved incidences where slaves murdered their masters or masters exploited/murdered slaves.



to work together to promote justice.<sup>35</sup> Southern micro historical murder trials continues to be wedded to racial analysis, and rightfully so as race continues to be an important thread in American culture.

An examination of the 1866 and 1868 murder trials of Tom Dula and Ann Melton in Reconstruction era western North Carolina would help bridge the current gap in scholarship. If anything, the murder case is significant for its location in Southern Appalachia because it serves as ripe and fruitful ground for showing how different locations in the South connected to wider cultural threads in American society. This murder case shared more commonality with American culture than anything specifically Appalachian although it occurred in the Appalachian mountain South. Only recently has the case been described as thoroughly Appalachian and the motive for this portrayal lies in tourist dollars. In this way the Dula murder case bolsters the assertion current Appalachian scholars have made that Appalachia is not as isolated a locale as it has been portrayed.<sup>36</sup>

Furthermore, it is imperative to look at how Ann Melton and Tom Dula compared to prevailing gender norms in the 1860s. Looking at positive constructions of what mid-nineteenth century American society considered the ideal woman and the ideal man better illuminates just how far those who deviated from the social “norm” transgressed prescribed gender boundaries. Since the narrative takes place in Southern Appalachia, a vital sub region of the South, literature on Southern men and women will be discussed. Variations of these ideals existed throughout the country.

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<sup>35</sup> Suzanne Lebsock, *A Murder in Virginia: Southern Justice on Trial* (New York and London: W.W. Norton & Company, 2003), 13-18.

<sup>36</sup> For further discussion of Appalachia’s relationship with wider American culture as it relates to violence and crime, see Stewart, ed., *Blood in the Hills*. The essays in this edited volume challenge the prevailing stereotype that Appalachia is inherently a violent land filled with violent prone individuals. Instead they show that violence was not particularly endemic to Appalachia, but moreover rooted in “deeper tensions within the fabric of all American society.” Stewart, ed., *Blood in the Hills*, ix.

Outside the South, historians who study American masculinity have, on the whole, tended to devote their attention to middle-class northern manhood over southern. Sociologist Michael Kimmel posited that around the turn-of-the 19th century, two paradigms for American manhood existed: the Genteel Patriarch, whose identity was linked strongly to landownership, and the Heroic Artisan, who prided himself in the autonomy and skill of his work as artisan, shopkeeper, or farmer.<sup>37</sup> Kimmel asserted that both ideals placed a high premium on land ownership, whether in the form of “landed estates or of the workman’s physical body.”<sup>38</sup> In the 1840s and 1850s the “self-made man” emerged as the dominant ideal of American manhood in northern states. Self-made men were mobile, competitive, aggressive in business, and most of all tied uncomfortably “to the volatile marketplace” that had given him birth.<sup>39</sup>

All three models existed in the South in the 1860s in variant forms. However, most historians agree that southern men adhered largely to an older version of manhood at least until the Civil War. They have labeled this older version “communal manhood” to stand for manhood that was inextricably linked to public worth.<sup>40</sup> In contrast with the northern born self-made man ideology that embraced individualism, communal manhood stressed “usefulness,” “service,” and “duty” to family and community.<sup>41</sup> Historians concur that although the self-made man ideology had made significant inroads in Southern culture before the Civil War, a combination of economic, political, and social reasons kept southerners from fully submitting to this ideal.

Instead, southern white men continued to view themselves and their way of life in contrast to what they saw as characteristic of Northern men: “urban, industrial, liberal, corrupt,

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<sup>37</sup> Michael S. Kimmel, *Manhood in America: A Cultural History* (New York: Free Press, 1996), 6.

<sup>38</sup> Michael S. Kimmel, *The History of Men: Essays in the History of American and British Masculinities* (Albany: State University of New York Press, 2005), 38.

<sup>39</sup> In a later work by Kimmel he defined the self-made man as “marketplace manhood.” See Kimmel, *The History of Men*, 38.

<sup>40</sup> Craig Thompson Friend, ed., *Southern Masculinity: Perspectives on Manhood in the South since Reconstruction* (Athens: University of Georgia Press, 2010), x-xii.

<sup>41</sup> Kimmel, *Manhood in America*, 14.

[and] effeminate.”<sup>42</sup> It was not until after the war that the self-made man became a more acceptable form of manhood in the South. Southern historian Craig T. Friend has argued that the Civil War brought about the demise of communal manhood. He has contended that the desolation and the poverty that pervaded the southern landscape epitomized how much communal manhood had failed. New South advocates, through their promotion of uplifting the South with industrialization and agricultural diversification, represented the South’s eventual embrace of the self-made man and their attempt to catch up with their northern brethren.<sup>43</sup>

In this way, historians of the South concur with their northern colleagues that men in the South differed from men in the North in their adherence to an older model of manhood. Southern masculinity invokes images of the past while northern based masculine values represent masculinity on the cutting edge of change. The scholarship mirrors patterns found in other areas depicting the antiquated South and the modern North. For historiography on Southern white masculinity, scholarship on “honor” also continues to influence historical research. Historians have defined honor as a deeply rooted, centuries old value system brought over from Europe in which men had to “prove their worth through their courage” to other men. Honor extended to adult white males only, excluding women, children, and slaves.<sup>44</sup> By underscoring honor, historians have inadvertently perpetuated the myth that southern culture is monolithic.

In 1983, historian Bertram Wyatt-Brown examined this antebellum honor code in *Southern Honor: Ethics and Behavior in the Old South*. Wyatt-Brown explored the class of elite southern gentlemen. He defined the honor code as a moral code that legitimized racial and class injustice. Wyatt-Brown illustrated how this widely held belief clashed with northern middle-class

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<sup>42</sup> Friend, *Southern Masculinity*, x.

<sup>43</sup> *Ibid*, xv.

<sup>44</sup> Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (Oxford and New York: Oxford University Press, 1984), 13.

values and further complicated notions of a national ideal masculinity.<sup>45</sup> Wyatt-Brown's analysis underscored the conflict between northern and southern masculinities before the Civil War.

A little over a decade since Wyatt-Brown's ground-breaking study, historian Stephanie McCurry shifted focus from the elite planter to the yeoman farmer in the antebellum South in *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (1995). McCurry analyzed how mastery co-existed with honor in forming southern male identity before the Civil War. She has contended that southern white men sought mastery over their women, children, and slaves, and that this unequivocally solidified yeoman farmer identity with white plantation owners. McCurry's work follows the trend of other historians in analyzing how "mastery" connected with notions of honor and southern masculinity to describe a distinct southern lifestyle.

Historians continued to investigate the relationship between mastery and honor to southern masculinity. In *Southern Manhood: Perspectives on Masculinity in the Old South* (2004), historians Craig Thompson Friend and Lorri Glover made important distinctions between "mastery" and "honor." They defined honor as "a set of expectations determined and perpetuated by the community, which differentiated men in the eyes of others through public rituals." The difference between honor was that it was "achieved by controlling households and commanding slaves" whereas mastery was something "less scripted and more of a consequence to a man's self-identity."<sup>46</sup> This collection of essays sought to go beyond a "white male paradigm of honor

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<sup>45</sup> Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (Oxford and New York: Oxford University Press, 1982), 3-7.

<sup>46</sup> Craig Thompson Friend and Lorri Glover, *Southern Manhood: Perspectives on Masculinity in the Old South* (Athens: University of Georgia Press, 2004), x.

and mastery” by including men of other racial and ethnic backgrounds as adherents to the honor code.<sup>47</sup>

In 2010, the most current analysis to date has been the follow up collection of essays on *Southern Manhood* titled *Southern Masculinity: Perspectives on Manhood in the South since Reconstruction*. This book contributes to the scholarship because it reaches beyond the traditional scope of study on southern manhood in antebellum America and into a new era. It is the first to offer an analysis of how the Civil War affected this concept of honor in the male mindset. The authors maintained that after the war, honor and mastery did not simply vanish overnight, but rather “transformed into new structures of masculinity.”<sup>48</sup> Two paradigms of ideal manhood surfaced following the war’s end: the Christian gentleman and the masculine martial ideal. Both models drew upon the former honor and master codes of antebellum times, suggesting that old models were slow to die out in southern tradition.<sup>49</sup>

Southerners modeled “the Christian gentleman” after esteemed war general Robert E. Lee. The Christian gentleman was honorable, humble, self-restrained, master of his household, and, “above all, pious and faithful.” With the masculine martial ideal Lee again served as an example for exalting Confederate veterans to hero status and celebrating the sacrifices they had made on the battlefield. This ideal emphasized a “warriorlike and heroic manliness” amid defeat.<sup>50</sup>

It is the masculine martial ideal that Zebulon Vance, Tom Dula’s lead defense attorney, tried so hard to convince jurors that Dula exhibited. Although Vance’s attempts at such a portrayal of Dula might have failed in the short term to halt Dula’s execution for murder, in the

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<sup>47</sup> Ibid, xiv.

<sup>48</sup> Friend, ed., *Southern Masculinity*, viii.

<sup>49</sup> Ibid, xi.

<sup>50</sup> Ibid.

long-term this ideal eventually held out in depictions of him. Even today Dula is presented as a war hero despite his involvement in murder. The fact that Dula as war hero prevails seems to confirm that the martial manhood model had at least some degree of validity.

Additionally, scholarship on ideal models of womanhood yields a wealth of evidence for understanding the world in which Ann Melton and Laura Foster lived. Examining these models provides crucial insight into how their lives were constructed. The historiography on southern womanhood shows that most white women submitted to the ideals of “southern lady/belle,” “farmwife,” or a combination of the two.<sup>51</sup> Literature on the southern lady outweighs that of the yeoman farmwife largely because women of the upper echelons of southern society were more literate and thus more likely to keep a record of their daily experiences.

Ann Firor Scott’s *The Southern Lady: From Pedestal to Politics, 1830-1930* (1970) follows this tradition in scholarship and has often been cited as a pioneer study in this field. Scott dismantled the myth that elite southern women adhered to the tenet that women should serve as standard bearers for “softness,” and “purity.” Rather, she maintained that white women’s work on the plantation entailed several tedious duties in addition to caring for a large family and overseeing the family’s domestic slaves.<sup>52</sup> Others have expounded on Scott’s work by incorporating race, class, and gender into the mix to arrive at a more complete portrait of southern women.

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<sup>51</sup> To read more on the “southern lady” paradigm see Ann Firor Scott, *The Southern Lady: From Pedestal to Politics, 1830-1930* (Chicago: University of Chicago Press, 1970); Catherine Clinton, *The Plantation Mistress: Woman’s World in the Old South* (New York: Pantheon Books, 1982), and Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South* (Chapel Hill and London: University of North Carolina Press, 1988). For studies that include other ideals of womanhood, like the “farmwife” see D. Harland Hagler, “The Ideal Woman in the Antebellum South: Lady or Farmwife?” *Journal of Southern History*, Vol. 46, No. 3 (Aug. 1980); Laura F. Edwards, *Scarlett Doesn’t Live Here Anymore: Southern Women in the Civil War Era* (Chicago: University of Illinois Press, 2000), and George C. Rable, *Civil Wars: Women and the Crisis of Southern Nationalism* (Chicago: University of Illinois, 1989).

<sup>52</sup> Anne Firor Scott, *The Southern Lady: From Pedestal to Politics, 1830-1930* (Chicago and London: University of Chicago Press, 1970), 14-15.

Ten years after Scott's seminal study, D. Harland Hagler introduced the concept of the ideal farmwife to the discussion on women's roles. Hagler astutely called attention to the white women of antebellum society who did not conform to planter class ideals. He argued that they "specifically rejected aspects of the lady ideal," launched a "widespread attack on the presumed conduct of ladies," and developed their own version of ideal womanhood.<sup>53</sup> The ideal farmwife worked the fields, labored at a variety of tasks, acted as a helpmate to her husband, and carried out duties as a full (but unequal) partner in his business enterprises. Similar to the southern lady, the farmwife strove, albeit with less cash and resources, to be a "perfect wife, devoted mother, and impeccable homemaker."<sup>54</sup> Like communal manhood had invoked images of the past, the farmwife had represented an older ideal of womanhood.<sup>55</sup>

The upheaval of the Civil War inevitably placed southern womanhood in "a state of flux." George C. Rable has maintained that as a result of the war's impact two competing ideologies emerged. The ideal of the "polished southern belle" competed with that of the "hardworking farmwife," resulting in a "fragmented and inconsistent" ideology.<sup>56</sup> Rable claimed that most women supported the existing social order despite its flaws. He conceded that not all women "uniformly embrace[d]" the Old South's value system, yet they "did much more to uphold than to undermine it."<sup>57</sup>

In *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (1996), Drew Gilpin Faust seems to agree with Rable that women, especially elite, slaveholding women, wanted to hold on to the lifestyle they lived prior to the war, but reluctantly constructed

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<sup>53</sup> D. Harland Hagler, "The Ideal Woman in the Antebellum South: Lady or Farmwife?" *Journal of Southern History*, Vol. 46, No. 3 (Aug. 1980), 405.

<sup>54</sup> Hagler, "The Ideal Woman in the Antebellum South," 406.

<sup>55</sup> *Ibid.*, 406-417.

<sup>56</sup> George C. Rable, *Civil Wars: Women and the Crisis of Southern Nationalism* (Chicago: University of Illinois, 1989), 4-5.

<sup>57</sup> Rable, *Civil Wars*, 2.

new identities out of war time necessity. The war had permanently destroyed much of the life they knew, so they invented “new out of much of the old.”<sup>58</sup> As a social historian Faust related how antebellum southerners defined themselves by race, gender, and class. Race marked the difference between bound and free, gender distinguished independent from dependent, and class determined the degree of wealth, power, education, and refinement.<sup>59</sup>

Faust’s assertion that the war disrupted the notion of the southern lady as helpless and dependent reveals something of her view regarding the pervasiveness of such beliefs in at least the upper ranks of southern society before the war. By the early 1860s she claimed that biological explanations continued to dominate popular discourse on women’s nature. Faust echoed an earlier claim made by historian Elizabeth Fox-Genovese by explaining that privileged southern women defined themselves “in relation to the slave institution that on which their privilege rested...[benefitting] most from the South’s class and racial arrangements” as they had the most to lose from wartime upheavals.<sup>60</sup> Similar to studies of violence and crime, women’s historians of the South have bolstered the claim that slavery and race were central to how Southern society functioned.

Thavolia Glymph’s *Out of the House of Bondage: The Transformation of the Plantation Household* (2008) elaborated on slavery’s centrality in the southern household by directing even more attention to the power relationship between women, slaveholding and slave. Glymph focused on white slaveholding women’s employment of violence as an instrument of power over their slaves. She underscored the contradictory image of plantation mistress as “soft” and “delicate,” yet still a slaveholder who sanctioned a surprising degree of violence. She further

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<sup>58</sup> Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (Chapel Hill: University of North Carolina Press, 1996), 7-8.

<sup>59</sup> Faust, *Mothers of Invention*, 3-4.

<sup>60</sup> *Ibid*, 4-7.



contended that violence by white women was deemed different on account of who wielded it; violence was “transformed and made different through a gendered analysis of power.”<sup>61</sup> Like scholars before her she shattered the notion that the household existed solely within the private sphere in her assertion that the plantation household was “also a workplace, not a haven from the economic world...”<sup>62</sup>

Glymph’s purpose of portraying the southern household as one that served as home and workplace to underscore the absence of a southern society governed by “separate spheres ideology” highlights the continuing discourse among women’s historians over how much southern society reflects larger, mostly northern social and cultural trends. Historians like Glymph typically take the stance that the urban, northern based nineteenth-century ideology of “true womanhood” took longer to establish a firm foothold in the South as it had in the North. Beginning in the early half of the nineteenth-century, the ideology of “True Womanhood” became fashionable among middle and upper class women. Under this ideology men and women were seen as fundamentally different from each other. Men’s lives involved work in the public sphere and women’s lives concerned the private life of home and childrearing. Middle-class women were placed on a pedestal—simultaneously “elevated and isolated by their domestic sphere.”<sup>63</sup>

Women’s historians have largely considered this ideology as the norm with which all women compared themselves to though seldom, if any, ever completely measured up to the ideal.<sup>64</sup> Unlike northerners, southerners did not share the view that families or households were

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<sup>61</sup> Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge: Cambridge University Press, 2008), 20-24.

<sup>62</sup> Glymph, *Out of the House of Bondage*, 2-3.

<sup>63</sup> See Ellen Carol DuBois and Lynn Dumenil, *Through Women’s Eyes: An American History with Documents* (New York: Bedford St. Martin’s, 2008), 186-187.

<sup>64</sup> DuBois and Dumenil, *Through Women’s Eyes*, 186-187.

chiefly the preserves of women, but rather vague “terrain” that contained women’s sphere.<sup>65</sup> Scholars of Southern history, Southern Appalachia particularly, have challenged the prevalence of the true womanhood ideology as it relates to the South. Foremost among these challengers is sociologist Wilma A. Dunaway who contended that the “cult of true womanhood” was culturally hegemonic. Dunaway charged that women in Southern Appalachia have suffered greatly from narrowly focused separate spheres thinking rooted in “biological determinism.”<sup>66</sup>

Altina Waller’s research into the Hatfield and McCoy feuds similarly left her to conclude that women’s lives in the mountains and foothills of eastern Kentucky and West Virginia differed significantly from the true womanhood ideal of the North. The attention Waller gave to Margaret and Daniel McCoy’s marriage and divorce illustrated how Appalachian women played an important role in family decisions, suggesting that no spheres of influence sharply divided men and women in the mountain region. Rather centuries old beliefs maintained a strong hold on most marriages. The McCoy’s view of marriage as a business partnership where husband and wife performed “well-defined, and separate, but equally important tasks in farming and raising a family” continued to ring true in Tug Valley and surrounding areas.<sup>67</sup>

Historiography on southern womanhood attests that women’s and men’s lives were not sharply divided into spheres, yet women’s work revolved mostly around the home and its surrounding environs. In conclusion, no one ideology attained hegemonic cultural dominance. For white women in the South, the cardinal characteristics of “meekness,” “chastity” and “self-sacrifice” could be found among ideal women in both the upper and lower classes, whether or

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<sup>65</sup> Fox-Genovese, *Within the Plantation Household*, 195.

<sup>66</sup> See Wilma A. Dunaway, *Women, Work, and Family in the Antebellum Mountain South*, (Cambridge: Cambridge University Press, 2008), 7-8.

<sup>67</sup> Altina L. Waller, *Feud: Hatfields, McCoys, and Social Change in Appalachia, 1860-1900* (Chapel Hill: University of North Carolina Press, 1988), 58. In 1872, Margaret McCoy filed for divorce from her husband Daniel after fifty-five years of marriage. Waller posited that Margaret’s greatest complaint against Daniel concerned his repeated failure to respect and listen to her part in the family’s decision making.

not they adhered to the ideals of farmwife or southern lady.<sup>68</sup> The vast majority of women's lives in Southern Appalachia in the mid-nineteenth-century more closely resembled that of the resourceful farmwife. Ann Melton lived in this world where both the southern lady and the farmwife were exalted figures.

However, Ann Melton's story in this narrative leaves much to speculation. It is likely that she submitted to neither of these images of womanhood, at least not completely. In the larger American society, the southern models of farmwife and belle/lady were becoming more outdated and out of tune with the northern based model of "true womanhood." This feminine paradigm increasingly occupied the hearts and minds of middle-class Americans who resided in the rapidly expanding urban cities. Over the span of the nineteenth-century American cities became breeding grounds for mass consumer culture and modernity. Considering all the changes that were taking place at this time the ways in which trial lawyers and newspaper men depicted Ann Melton becomes all the more revealing for their inherent value in serving as indicators for what nineteenth century Americans believed were social norms. From the surviving sources it appears that Melton held an ambiguous position in the public imagination—somewhere between woman and fiend.

This paper seeks, albeit in a very small way, to bridge the gap in current scholarship. The two trials of Thomas Dula and Ann Melton in post-bellum western North Carolina illuminate authority and community relations in a small, Appalachian community. A close examination of the Dula trials provides a window into understanding postwar society in the Appalachian South. By exploring the Dula case one can look at Reconstruction history in western North Carolina

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<sup>68</sup> Victoria E. Bynum, "Mothers, Lovers, and Wives: Images of Poor White Women in Edward Isham's Autobiography," in *The Confessions of Edward Isham: A Poor White Life of the Old South*, eds., Charles C. Bolton and Scott P. Culclasure (Athens: University of Georgia press, 1998), 93.

through the lens of the court system. My analysis builds upon work that uses the analytical category of gender to rethink the nature of power.

Laura Foster, Ann Melton, and Tom Dula lived in the hills of Wilkes County. This story is mostly about them—the hill residents—and their way of life. It provides a rare glimpse into the elusive lives of common whites. Unfortunately a glimpse is all there is because no one will ever know the whole story.

## CHAPTER 2

### “WHISKEY, WOMEN, AND FIDDLING, BOYS, HAVE BROUGHT ME TO MY RUIN”: RECONSTRUCTING THOMAS DULA’S LIFE PRIOR TO THE MURDER

On May 1, 1868, a dense throng of men, women, and children assembled in Statesville, North Carolina, to witness the execution of convicted murderer Thomas C. Dula, of Wilkes County. They came to listen to the last words of the condemned and to watch his body suspend “between heaven and earth.”<sup>1</sup> At eighteen minutes before one o’clock, the procession, which included Iredell County Sheriff Frank Wasson, prison guards, and clergymen, wound slowly through the crowded streets to the gallows in the middle of an open field. Dula sat atop his wooden coffin in a horse-drawn cart with his sister and brother-in-law beside him. The half hour before arriving at the gallows must have felt like an eternity.<sup>2</sup>

According to a *New York Herald* reporter, Dula sat on his coffin “with a smile upon his features.”<sup>3</sup> Once the cart came to a complete halt, he rose from his seat and addressed the crowd. “Turning his dark eyes upon them [he] spoke in a loud voice which rang back from the woods as if a demon there was mocking” him, the same reporter noted. Dula’s hour long speech included references to his childhood, his parents, his time in the army, and local and state politics.<sup>4</sup>

At one point in his gallows speech, he boldly denounced William Woods Holden, the newly elected governor of North Carolina, as “a secessionist, and a man that could not be

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<sup>1</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>2</sup> “The Office of Sheriff,” Iredell County Sheriff’s Office, <http://www.co.iredell.nc.us/departments/sheriff/history.asp> (accessed February 3, 2015).

<sup>3</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>4</sup> *Ibid.* Gallows speeches given by prisoners were part of the execution ritual that dated back well into the late seventeenth-century in the New England colonies. For a more thorough discussion of this tradition see Daniel A. Cohen, *Pillars of Salt, Monuments of Grace: New England Crime Literature and the Origins of American Popular Culture, 1674-1860* (Oxford: Oxford University Press, 1993), 3-40.

trusted.”<sup>5</sup> Standing on the gallows near death, perhaps Dula reasoned that he had nothing to lose in expressing his disdain for a politician he did not like. He never articulated why he distrusted the governor, and if he did, the reporter did not view it as relevant. The most likely reason for his distrust stemmed from the fact that, as governor, Holden had the power to grant a stay of execution but chose not to. However plausible, this could not have been the case.

Holden had just been elected and was not governor when the state supreme court upheld the conviction and sentence.<sup>6</sup> One possibility is that Dula might simply have assumed it was Holden who was responsible for his demise. Another possibility is that Dula fully understood his situation and knew who was responsible for his ending up “under the shadow of the awful gallows-tree” that fateful day in May 1868.<sup>7</sup> He might, too, have made the connection that Holden was close to the Cowles family, prominent Wilkesboro merchants who, years before, had involved his father, Thomas Sr., and his cousin, Anderson Dula, in a contested and prolonged lawsuit in the local courts over a business deal that had ended badly.<sup>8</sup>

Tom Dula’s gallows speech represents the closest one can get to understanding how he viewed his trial and conviction. Although the reporters did not write what Dula said verbatim, one can reasonably speculate that at least a kernel of truth can be extracted from the accounts of his last moments. Dula’s last words shed light on what seems to have been a small, rural farming community fraught with many tensions. His conviction lay in the intricate web of social

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<sup>5</sup> Ibid. In 1864, before the war’s end, Holden emerged as the state’s leader of the peace movement advocating a peaceful end to the war without the humiliation of unconditional surrender and defeat. His opponents labeled him a traitor for taking this stance.

<sup>6</sup> Holden served as provisional governor for North Carolina for seven months in 1865, from May 29 to December 28. Jonathan Worth succeeded Holden in December. After his defeat to Worth, he fell back to his work as editor for *The Standard*, but remained active in politics. With the success of the Republican Party, he decided to run again for governor in 1868, this time on the Republican ticket, and won. He took office on July 1. See Horace W. Raper, and Thornton M. Mitchell, eds., *The Papers of William Woods Holden, Volume 1, 1841-1868* (Raleigh: North Carolina Division of Archives and History, 2000), xxi-xxv.

<sup>7</sup> H.L. and J.H. Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 20, 1866.

<sup>8</sup> In 1868, Calvin Cowles married Ida Holden, Governor Holden’s daughter. See Thomas Felix Hickerson, *Happy Valley History and Genealogy* (Chapel Hill: Thomas Felix Hickerson, 1940), 53.

dynamics at place in Elkville at the time and shows just how quickly community leaders could come to a consensus, even in the midst of an atmosphere bitter and divisive. Within Elkville and surrounding communities Tom Dula, son of yeoman farmers, owned no land or personal property in 1866. He occupied marginal status as a poor white and spent his entire life struggling for economic stability, comfort, and security.<sup>9</sup>

Dula's case reveals how he lived on the margins of respectability and at some point found himself at odds with community leaders. His alleged involvement in Laura Foster's murder was a crime not as much in the fact that he had taken a life, but more in how the act thwarted the legitimacy of local power. Historians of the Reconstruction Era have argued that with the collapse of antebellum mountain society in western North Carolina from war's accumulated hardships "the nonelite [began to] challenge the position and the assumptions of the entrenched leadership."<sup>10</sup> Following the Civil War, Wilkes County leaders regained their former control almost effortlessly.<sup>11</sup> Dula's conviction exemplifies the power local political leaders like James Isbell, and Josiah and Calvin J. Cowles wielded in order to maintain the status quo.<sup>12</sup> They exercised their influence by charging exorbitant prices for store goods to local farmers, utilizing the local courts in civil suits against their debtors—often the same poor white tenant or yeoman

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<sup>9</sup> The labor market for poor whites, at least by the 1850s, remained unstable. See Charles C. Bolton, "Edward Isham and Poor White Labor in the Old South," in *The Confessions of Edward Isham: A Poor White Life of the Old South*, eds., Charles C. Bolton and Scott P. Culclasure (Athens: University of Georgia press, 1998), 19-31.

<sup>10</sup> Gordon B. McKinney, "Women's Role in Civil War Western North Carolina," *The North Carolina Historical Review*, Vol. 69, No. 1 (January 1992), 38.

<sup>11</sup> Although Cowles was removed of his duties as Wilkesboro postmaster during the Civil War, he made a comeback in 1868 with his election to serve as a delegate to the North Carolina Constitutional Convention. See Calvin Josiah Cowles, <http://ncpedia.org/biography/cowles-calvin-josiah> (accessed March 15, 2015). James Isbell served two terms in the North Carolina General Assembly between 1864 and 1865. See R.D.W. Conner, ed., *A Manual of North Carolina* (Raleigh: E.M. Uzzell and Co., 1913), 529.

<sup>12</sup> The Isbell and the Cowles families were wealthy planters and merchants who actively engaged in community affairs before, during, and after the war.

farmers who fell on hard times—to recover the money owed them, and, in working the criminal courts to punish those who committed acts that posed a threat to the community.<sup>13</sup>

On the gallows Dula had openly challenged the authority of North Carolina Governor William Holden. If accurate, the gallows speech illustrates Tom Dula’s tendency to be confrontational, even with people who were considered his social superiors. Had Dula also clashed with some of his more prosperous neighbors who controlled community politics? The only evidence suggesting what Dula’s interactions might have been comes from *The New York Herald*. *The Herald* reported that during the trial some of the witnesses appeared visibly “anxious to effect his acquittal through fear of some of his reckless associates in the mountains.”<sup>14</sup>

This statement indicates that Dula had been involved with a rough crowd, and might have established a reputation for recklessness. If so, this would certainly bolster what appears to have been a tendency towards hostile confrontation. Later in the report *The Herald* noted that since his return from war he had become “reckless, demoralized and a desperado of whom the people in his vicinity had a terror.”<sup>15</sup> Dula might have taken on a fierce and reckless attitude as a way to protect his marginal social and economic position – what little he had. *The Herald* reporter never specified what “reckless” and “demoralizing” behaviors Dula had presumably engaged in, so it is possible that the reporter might have been employing the tricks of the trade in attracting more

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<sup>13</sup> See *Cowles and Wilcox v. Thomas W. Carter*, 39 N.C. 82,83 (NC S. Ct. 1845), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll14/id/45450/rec/15> (accessed October 5, 2014); *J. and C.J. Cowles v. Anderson Dula*, 52 N.C. 224, 225 (NC S. Ct. 1859), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll14/id/55757/rec/1> (accessed October 5, 2014); *Thomas P. Dula*, Wilkes County, North Carolina Probate Record, 1855, North Carolina Estate Files, 1663-1979, FHL microfilm 002317515, <https://familysearch.org/pal:/MM9.1.1/QJDF-C5JG> (accessed January 5, 2015); Calvin J. Cowles Papers, 1773-1941, Southern Historical Collection, Collection 03808, Vol. 84: Notebook, Estate of T. P. Dula, 1858, Wilson Library, University of North Carolina-Chapel Hill; *Sarah Horton v. W.W. White and others*, 84 NC, 297, 298 (NC S. Ct. 1881); *State of North Carolina v. Thomas Dula*, No. 8922 (NC S. Ct. 1867), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/457/rec/17> (accessed May 2, 2014).

<sup>14</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>15</sup> *Ibid.*



readers by dramatizing the murder story even more by noting Dula's immoral tendencies. While it cannot be confirmed with certainty how Tom Dula interacted with his neighbors—particularly the wealthier and more distinguished ones—it can be assumed that he had interacted with them in the same fashion that most white men of poor white and plain folk status would have acted at this time.

Historians have noted that upcountry yeoman operated in a world in which they wielded a surprising degree of control in local politics.<sup>16</sup> Although her study centered on yeoman in the antebellum South Carolina low country, Stephanie McCurry's argument that independent white men maintained "virtually unlimited right...to mastery over his own household and the property that lay within its boundaries" could easily have applied to yeoman farmers in western North Carolina as well. Their worlds would not have differed greatly. Mastery over one's household conferred power and authority and was inextricably tied to political identity.<sup>17</sup>

However, mastery over household and property were an illusion for what on the surface appeared to be an egalitarian society in which any independent white man was an equal, or a man among men. The illusion of egalitarianism put yeoman farmers and planters in a precarious situation. Planters were forced to concede that yeomen had their rights as propertied men.<sup>18</sup> Yet the ability upcountry farmers had in controlling local political processes and in shaping their own culture also kept slaveholders on edge.<sup>19</sup>

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<sup>16</sup> Eugene D. Genovese, "Yeoman Farmers in a Slaveholder's Democracy," *Agricultural History* Vol. 49, No. 2 (Apr. 1975), 334.

<sup>17</sup> Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (New York and Oxford: Oxford University Press, 1995), 6-7.

<sup>18</sup> McCurry, *Masters of Small Worlds*, 19.

<sup>19</sup> Genovese, "Yeoman Farmers in a Slaveholder's Democracy," 334, 340.

The Civil War destroyed mountain society infrastructure.<sup>20</sup> Emancipation meant that North Carolinians, in addition to southerners elsewhere, were forced to reconstruct the social and political institutions that had privileged independent white men of property before the war. The dislocation caused by war inevitably put a strain on all classes.<sup>21</sup> Since Dula grew up in a society that held out the illusion that propertied independent white yeomen farmers had rights as men to govern their own households and participate as they wished in politics then it seems plausible that he could have, indeed, demonstrated oppositional behavior against his social betters, especially during a time of heightened hostility.

The Dula family operated in a community that embraced an informal and complex credit system where neighbors loaned and borrowed money from each other on trust. Landownership was key and indebtedness a way of life. Owning land and property were necessary to obtain independence and be seen as true southern men.<sup>22</sup> Local disputes often arose out of issues of landownership and debt. Similar to other places in the South men in Wilkes County placed a high premium on landownership.

Thomas P. Dula, Thomas C. Dula's father, demonstrated a constant need to acquire land. Throughout the 1840s, Thomas Sr. accumulated land in Elkville. The majority of land he acquired generally numbered less than 100 acres, but it appeared his need for acreage slightly increased over time. In December 1844, the state issued Dula thirty-four acres on the west side of Elk Creek. Eight years later, in February 1852, Dula gained an additional seventy-eight acres, this time near the Homeny [sic] Mill Branch waters of Elk Creek. In late August the following

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<sup>20</sup> McKinney, "Women's Role in Civil War Western North Carolina," 38.

<sup>21</sup> Karin L. Zipf, "'The Whites Shall Rule the Land or Die': Gender, Race, and Class in North Carolina Reconstruction Politics," *The Journal of Southern History*, Vol. 65, No. 3 (Aug. 1999), 501-503.

<sup>22</sup> David Andrew Silkenat, "Suicide, Divorce, and Debt in Civil War Era North Carolina," (PhD diss., University of North Carolina-Chapel Hill, 2007), 195-196, and 198-201.

year, Dula obtained a grant for fifty acres, and in September that same year he added one hundred acres. Both tracts were located near Elk Creek.<sup>23</sup>

Like many yeoman farmers, Thomas P. Dula probably abhorred debt because it placed the debtor in an uneasy position as a subordinate to his creditors. Yet his goal to move upward and increase his social status lured him into going into debt for the possibility of advancement.<sup>24</sup> Unfortunately, no laws existed at the time to protect one's property, and he ended up losing much of the property he sought so desperately to acquire, falling from yeoman to tenant farmer status in the decade before the war. The Dula family was at the bottom of Wilkes's County's white social hierarchy by the 1850s.

### The Isbell Family

In his gallows speech, Dula singled out James Isbell as having been one of the "two or three witnesses [that had sworn] falsely against him" at his trial, claiming that Isbell had committed perjury.<sup>25</sup> James Isbell had been instrumental in the search for Laura Foster weeks after she went missing, and in securing prosecuting attorneys for the case against him. He had also testified for the prosecution during the two trials.<sup>26</sup> Isbell resided in neighboring Caldwell

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<sup>23</sup> See Land grant to Thomas P. Dula, December 5, 1844, Book 149, p. 377, February 16, 1852, Book 157, pp. 113-114, August 20, 1853, Book 157, p. 276, September 27, 1853, Book 157, p. 333, Land Warrants, Plats of Survey, and Related Records, Wilkes County, North Carolina Digital Archives, <http://mars.archives.ncdcr.gov/DisplaySearchResult.aspx> (accessed October 8, 2014); *The Weekly Raleigh Register* included Thomas Dula in a list of Wilkes County residents who owned land taxes for 1848. "Notice," *The Weekly Raleigh Register*, January 2, 1850.

<sup>24</sup> Silkenat, "Suicide, Divorce, and Debt in Civil War Era North Carolina," 198. For more on yeomen farmers and their relationship with debt culture see Ronald J. McCall, "Never Quite Settled: Southern Plain Folk on the Move," (master's thesis, East Tennessee State University, 2013); in a well-crafted biography of a nineteenth century southern yeoman farmer, McCall convincingly demonstrates that Mississippi farmer John Hailes actively participated in a trust based credit system. McCall maintains that Hailes did not participate in the credit system indiscriminately but remained "well informed, and acutely sensitive to land policies and market pressures." McCall, "Never Quite Settled," 11.

<sup>25</sup> "The Death Penalty," *The New York Herald*, May 2, 1868.

<sup>26</sup> North Carolina v. Thomas Dula, No. 8922.

County near the muddy banks of the Yadkin River.<sup>27</sup> Shortly before the war's end, he served two terms in the North Carolina General Assembly between 1864 and 1865.<sup>28</sup>

Like the Dula family, the Isbell family constituted part of Wilkes County's old mountain elite.<sup>29</sup> James Isbell's father, Thomas Isbell Jr., served Wilkes County as justice of the peace in November 30, 1831, an appointment that demonstrated Isbell's influence in the early stages of county settlement.<sup>30</sup> In addition to performing duties of justice of the peace, Thomas Isbell Jr. served on committees promoting commerce and industrial development to the mountains.<sup>31</sup>

Although the Isbell family made their living primarily as planters, they exhibited an early interest in expanding commerce and opening up the mountain economy to the broader market economy. Their heavy involvement in the broader market economy before the war confirms the changes that were already afoot.<sup>32</sup>

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<sup>27</sup> In 1850 thirteen year old James Isbell was living in the King's Creek District of Caldwell County with his parents, Thomas and Lucinda. Fifty year old Thomas Isbell was a farmer with personal real estate that valued at \$6800. Clearly, the family did not struggle financially. U.S. Bureau of the Census, *Seventh Census of the United States 1850*, Caldwell County, North Carolina Population Schedule, North Carolina Division of Archives and History. microfilm roll 432\_623, Record Group 29, 37A; in 1860, Thomas Isbell Sr.'s personal real estate increased to \$8140, see U.S. Bureau of the Census, *Eighth Census of the United States 1860*, Caldwell County, North Carolina Population Schedule, North Carolina Division of Archives and History. microfilm roll M653, 890, 148.

<sup>28</sup> Connor, ed., *A Manual of North Carolina*, 529

<sup>29</sup> Isbell's family had been living in the area for three generations. James Isbell's great-grandfather and namesake, James, migrated from Albemarle County, Virginia, to Wilkes County, North Carolina, around 1778 with his wife, Frances, and their nine children. See Zella Armstrong, *Notable Southern Families*, Vol. 1 (Chattanooga: The Lookout Publishing Company, 1918), 109-112; Isbell's maternal grandfather Benjamin Howard arrived in Wilkes before 1778. In the 1760s Howard owned a substantial amount of land and slaves in Watauga County, a county that bordered Wilkes; see John Preston Arthur, *Western North Carolina: A History* (Raleigh: Edwards and Broughton Printing Company, 1914), 81-82.

<sup>30</sup> Hickerson, *Happy Valley*, 6

<sup>31</sup> On October 31, 1836, he attended a convention in Wilkesboro whose purpose was to construct a railroad from Fayetteville to Wilkesboro. Josiah Cowles, a successful merchant in nearby Yadkin, also attended the convention. "Wilkesborough Convention," *Fayetteville Observer*, November 24, 1836.

<sup>32</sup> On October 19, 1848, Thomas Isbell Jr. acted as administrator in the estate sale of his deceased mother, Discretion Isbell. Calvin J. Cowles numbered among those who were present at the sale. Thomas Isbell Jr. recorded that Cowles purchased three items that day: a sprouting hoe and two chairs; see Armstrong, *Notable Southern Families*, 108-109. Discretion, wife of Thomas Isbell, was the daughter of Benjamin and Prudence Howard. The Isbell family had also been customers at Cowles' store in Elkville. A record from the Caldwell County Court of Pleas and Quarter Sessions for August 19, 1850, reveals that Discretion Isbell still owed money to Calvin and Josiah Cowles. Thomas Isbell paid the debt. See Probate record of Discretion Isbell, 1848, Caldwell County, North Carolina Estate Files, FamilySearch, <https://familysearch.org/pal:MM9.1.1/V5PK-FWY> (accessed January 21, 2015).

By 1860, James, twenty-three, lived with his young wife, Sarah, and worked his farm in the King's Creek district of Caldwell County, near his parents. James was the oldest and only son of Thomas and Lucinda, and stood to inherit more Isbell property as the only son.<sup>33</sup> After the war, the Isbell family still had ample resources. On January 22 and 23, 1866, James and his brother-in-law Larkin Horton sold at public auction \$1422.03 worth of "perishable property liable to waste" from his father's estate: 700lbs of bacon, 250 bushels of corn, 1 mare, 1 sow and pigs, household and kitchen furniture, farming utensils, 4 head of sheep.<sup>34</sup> A number of neighbors and kin gathered at the estate sale to purchase household and farming items that belonged to Thomas Isbell. Five members of the Dula family purchased items. Notable among them was Thomas Dula who bought one small bull for \$10 and 25 bushels of corn at \$34.50.<sup>35</sup>

After the Civil War James Isbell helped manage his mother-in-law Sarah Horton's estate. The Horton family appears to have been landlords. In September 1876, Sarah Horton filed a suit in the Caldwell County Superior Court to recover land she claimed was hers. James Isbell acted as Horton's agent. Evidently the case was a prolonged one. Four years later Isbell "took

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<sup>33</sup> U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Caldwell County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 653, 890, 148

<sup>34</sup> Probate Record of Thomas Isbell, 1866, Caldwell County, North Carolina Estate Files, FamilySearch, <https://familysearch.org/pal:MM9.3.1/TH-1951-22938-5261-74?cc=1911121>(accessed February 2, 2015).

<sup>35</sup> *Ibid.* Three of Thomas C. Dula's Caldwell County cousins had owed Thomas Isbell Jr. money. On July 16, 1866, James Isbell entered into his father's account book that J.W. "John" Dula and Sarah Dula owed his father \$250; William L. Dula owed \$46.53. For both accounts he noted that the chances of them paying were doubtful. J.W., "John W.," was the son of William Hulme Dula and Sarah H. Dula. The Sarah that is listed is J.W.'s mother who was still living at the time of the debt. John W. Dula would have been a third cousin to Thomas C. Dula. The 1860 census has J.W., then twenty-eight years old, living in the Buffaloe District of Caldwell County. He was a wealthy farmer who owned \$8,000 worth of real estate and \$15,000 personal real estate. His mother, Sarah H., fifty-eight, lived with him and his family. See U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Buffaloe, Caldwell County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M653\_890, 171. By 1870, J.W.'s real estate had dropped significantly and equaled \$1000. His personal real estate totaled \$500; See U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Patterson, Caldwell County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M593\_1127, 73. In 1848, when Discretion Isbell, James's grandmother, died, Thomas Isbell Jr., acting as administrator for his mother's estate, paid William H. Dula \$1.67 for a balance owed to him. Probate record of Discretion Isbell, 1848, Caldwell County, North Carolina Estate Files, FamilySearch, <https://familysearch.org/pal:MM9.1.1/V5PK-FWY> (accessed January 21, 2015). The debt-relationship between the families reversed.

possession of a small unoccupied house on the disputed land, and resist[ed] re-occupation thereof by the defendants.”<sup>36</sup> The Caldwell County Court heard the case again the following year.<sup>37</sup> The evidence suggests that local leaders like Isbell resorted to intimidation to suppress any challenges to their authority in cases where courts failed. This case indicates that Isbell and his family were no strangers to the local court system and attempted legal action more than once to keep their property and standing.

### The Cowles Family

The Cowles family was another family who exercised a great deal of influence in the community. Josiah Cowles, a Connecticut native, moved to western North Carolina in 1816, and set up residence in the town of Hamptonville, in Yadkin County. Josiah made his living as a merchant, acquiring a massive fortune in land and slaves before the Civil War. He also took an active role in local and state politics, holding appointments as postmaster, justice of the peace and member of the court of pleas and quarter sessions for Surry and Yadkin counties. Josiah Cowles, and his son, Calvin, were “self-made” men who wanted to make money, and lots of it.<sup>38</sup>

Calvin Josiah Cowles followed largely in his father’s footsteps, setting up trade in 1844 with his father at his store in Elkville on the Wilkes and Caldwell county line. Calvin served as Elkville postmaster from 1852 until the time he moved his family and store to Wilkesboro in 1858. Evidence reveals that he exhibited even more entrepreneurial spirit than his father in his efforts to be successful at a roots and herb business, and in the mining industry. Before the Civil

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<sup>36</sup> Sarah Horton v. W.W. White and others, 84 NC 297, 298 (NC S. Ct. 1881).

<sup>37</sup> Ibid.

<sup>38</sup> The “Self-made” man became a dominant ideal of American manhood in the 1840s and 1850s in the northern states. Self-made men prized and practiced mobility, competitiveness, aggression in business, and were “uncomfortably linked to the volatile marketplace.” See Michael S. Kimmel, *Manhood in America: a Cultural History* (New York: Free Press, 1996), 13-14.

War's outbreak Calvin owned approximately 6,000 acres in Wilkes and surrounding counties.<sup>39</sup> As self-made men who aggressively pursued business ventures their tactics would have inevitably clashed at times with their neighbors who might have viewed business dealings differently.

### The Dula Family

The Dula family would have numbered among those neighbors who held differing views of how to conduct business dealings. Unlike Josiah Cowles who adhered to the northern, urban based values of market driven manhood, Thomas P. Dula, and his son, Thomas C., did not live in a world where this ideology was nearly as prevalent. Most historians agree that southern men adhered largely to an older version of manhood at least until the Civil War. They have labeled this older version “communal manhood” to stand for manhood that was inextricably linked to public worth.<sup>40</sup> In contrast with the northern born self-made man ideology that embraced individualism, communal manhood stressed “usefulness,” “service,” and “duty” to family and community.<sup>41</sup>

Historians concur that although the self-made man ideology had made significant inroads in Southern culture before the Civil War, a combination of economic, political, and social reasons kept southerners from submitting to this ideal. Instead, southern white men continued to view themselves and their way of life in contrast to what they “described as urban, industrial, liberal, corrupt, effeminate men of the North.”<sup>42</sup> Moreover, it is likely that Dula adhered to an honor code that dictated that men had to “prove their worth through their courage” to other men.

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<sup>39</sup> 357 acres of the land he owned in Wilkes comprised the former William Beasley Dula lands near Elkville. This was land that he had acquired from a debt owed him by William B. Dula. Cowles accepted the land as payment.

<sup>40</sup> Craig Thompson Friend, ed., *Southern Masculinity: Perspectives on Manhood in the South since Reconstruction* (Athens: University of Georgia Press, 2010), x-xii.

<sup>41</sup> Kimmel, *Manhood in America*, 14.

<sup>42</sup> Friend, *Southern Masculinity*, x.

If men failed to respond to slights against them then they risked being perceived by peers as less than a real man—or something akin to a “coward” or a “liar.”<sup>43</sup> The aggressive business tactics employed by Cowles and his son would have clashed with Dula’s engrained sense of duty and honor.

To understand more about Dula and what his possible social interactions with his neighbors might have been like one must first look at his beginnings. Most accounts of Dula’s origins begin with the first Dula to settle in the region of Happy Valley, Revolutionary War veteran Captain William Dula.<sup>44</sup> Sometime around 1790, Captain William Dula of Albemarle County, Virginia, moved his large family to an expansive lot of fertile farm land in the upper Yadkin River Valley. Fortunately Captain Dula arrived early in the county’s settlement process and took advantage of his opportunistic arrival by amassing vast sections of productive farm land, some 1,800 acres. In a short time he had emerged as a prominent figure and a leading citizen in the community. At the time of his death in 1835, he owned 84 slaves, and was one of the wealthiest men in the vicinity.<sup>45</sup>

William’s younger brother Bennett moved his family to the region as well. Bennett Dula was Thomas Dula’s grandfather. Less is known about Bennett Dula. Early Wilkes County census and estate records confirm that he made his living as a farmer, but did not thrive as well as his older brother. Rather, Bennett and his heirs settled on the less desirable rocky upland near Reedy Branch.<sup>46</sup>

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<sup>43</sup> Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (Oxford and New York: Oxford University Press, 1984), 13.

<sup>44</sup> Captain William Dula was Thomas C. Dula’s great-uncle.

<sup>45</sup> Davyd Foord Hood, “Dula-Horton Cemetery, Caldwell, North Carolina: Historic Background and Exploration/Settlement and Social History Contexts” National Register of Historic Places Registration Form (2002), National Park Service, Section 8, 4-6; Rev. I.W. Thomas, “Sketch of the Caldwell Dula Family From the Year 1709 to 1916,” *Lenoir News-Topic*, February 26, 1920.

<sup>46</sup> The 1820 census revealed that four persons in the Bennett Dula household were employed in agriculture. U.S. Bureau of the Census, *Fourth Census of the United States 1820*, North Carolina, Wilkes County, Population



In 1810, Bennett Dula owned eight slaves.<sup>47</sup> Ten years later that number had dwindled to two.<sup>48</sup> Sometime between 1810 and 1820 Bennett must have encountered some form of hardship or another that accounted for his loss in property. On April 8, 1822, Bennett made out his final will and testament to his wife and children. First he wished to “give & bequeath [his] Soul to God and body to the toomb [sic] to be Decently Buried.”<sup>49</sup> Unfortunately the will never specified the degree and type of stock, furniture, and farming tools Dula left to his wife’s disposal. He appointed wife Anny and Thomas P., their eldest son, executors of his will.<sup>50</sup> Bennett and Anny had nine children, the youngest still at home at the time of his death.<sup>51</sup>

Thomas P. Dula was in his late twenties when his father died. With the \$100 land he inherited from his father he began to make a living as an independent farmer. In September that same year he married Mary Keaton.<sup>52</sup> Thomas P. fit the mold of the many single, young yeoman

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Schedule, North Carolina Division of Archives and History. microfilm roll 33. In Bennett Dula’s will part of what he left to his wife was farming tools. See Will of Bennett Dula, July 1822, Wilkes County Wills, North Carolina Division of Archives and History, Book 4, 29; Doris Sassower, “Historic Soundview Manor and its Irish Roots,” *The Westchester Historian*, Vol 87, No. 4 (Fall 2011), 125. See also John Foster West, *Lift Up Your Head Tom Dooley: The True Story of the Appalachian Murder that Inspired One of America’s Most Popular Ballads* (Asheboro: Down Home Press, 1993), 2-8.

<sup>47</sup> U.S. Bureau of the Census, *Third Census of the United States 1810*, North Carolina, Wilkesborough, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 43, 883.

<sup>48</sup> U.S. Bureau of the Census, *Fourth Census of the United States 1820*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History, microfilm roll 33\_83, 495.

<sup>49</sup> Will of Bennett Dula, July 1822, Wilkes County Original Wills, North Carolina Division of Archives and History, Book 4, 29.

<sup>50</sup> Ibid. To his wife, “Anny,” he turned over all his land, “stock of every kind, all household furniture & farming tools during here [sic] lifetime, or her widowhood for the purpose of maintaining and raising her children till they become of age or as long as they stay with her.”

<sup>51</sup> On March 19, 1825, Thomas P. and his mother Anny Dula filed a warrant for the arrest of Joel Waters, a neighbor. Some years previous to Bennett’s passing it appears that Bennett had loaned his neighbor Joel Waters \$300, a considerable sum of money in those times. The twin pressures of feeding hungry mouths in addition to her own and managing a household led Ann and her oldest son to seek out those who still owed them money. It was a desperate move, but one that illustrated the tight financial situation that continued to loom over the Bennett Dula household. The incident additionally demonstrates how common whites frequently turned to the local court systems to stay afloat.

<sup>52</sup> North Carolina County Marriage Records, 1741-2011, [http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&msT=1&gss=angs-g&gsfn=Thomas+P.+&gsfn\\_x=NP\\_NN&gsln=Dula&gsln\\_x=NN&msgdy=1822&msgpn\\_\\_ftp=Wilkes+County%2c+North+Carolina%2c+USA&msgpn=3154&msgpn\\_PInfo=7-%7c0%7c1652393%7c0%7c2%7c3245%7c36%7c0%7c3154%7c0%7c0%7c&cpxt=0&catBucket=rstp&uidh=6fc&](http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&msT=1&gss=angs-g&gsfn=Thomas+P.+&gsfn_x=NP_NN&gsln=Dula&gsln_x=NN&msgdy=1822&msgpn__ftp=Wilkes+County%2c+North+Carolina%2c+USA&msgpn=3154&msgpn_PInfo=7-%7c0%7c1652393%7c0%7c2%7c3245%7c36%7c0%7c3154%7c0%7c0%7c&cpxt=0&catBucket=rstp&uidh=6fc&)

farmers who delayed marriage until they had attained a degree of economic independence. Most young men in his station continued to live in their parents' homes until marriage.<sup>53</sup> The Keaton family lived in the same area, so it is likely Thomas P. grew up knowing his future wife. They had four known children, William L. "Lenny," John, Eliza, and Thomas C.<sup>54</sup>

In the 1830s Thomas conducted some, if not all, his trading at William Lenoir's store in neighboring Caldwell County. Two accounts from Lenoir's notebook reveal that Thomas had accumulated a balance at the store. One note stated that he had a balance of \$20 due March 24, 1836, and the other for \$60 due December 22, 1838. For both notes the name listed alongside Thomas's was William Horton, a wealthy Wilkes County landowner who had married Thomas's first cousin, Mildred.<sup>55</sup> The fact that William Horton's name appeared alongside Thomas's hints at the intricate web of social and economic relations that existed in early Elkville. It also shows that Thomas P. Dula occasionally bought things on credit.

The Wilkes County census for 1830 lists the two as living in the same district, so not only were they related, they also lived relatively close to one another as neighbors.<sup>56</sup> Although kin, they likely did not interact on an equal social footing. Thomas was a young, ambitious yeoman farmer who perhaps aspired to one day attain planter status. William was the owner of a sprawling plantation on the mouth of Elk Creek, the master of seventy-five slaves, and a

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msgdp=5&cp=12&mssng0=Mary+&pcat=ROOT\_CATEGORY&h=3057699&recoff=6+7+26&db=NC-MarriageRecords&indiv=1&ml\_rpos=3, (accessed, August 28, 2014).

<sup>53</sup> Bill Cecil-Fronsman, *Common Whites: Class and Culture in Antebellum North Carolina* (Lexington: University Press of Kentucky, 1992), 139.

<sup>54</sup> See John Edward Fletcher, *The True Story of Tom Dooley: From Western North Carolina Mystery to Folk Legend* (Charleston: The History Press, 2013), 19. Tom Dula grew up as the youngest child of Thomas P. and Mary Dula, yeoman farmers. He was also the third son. His position as youngest son meant he would probably inherit less property than his two older brothers.

<sup>55</sup> Maurice C. York, ed., *The Many Faces of Fort Defiance: A Report Submitted to Fort Defiance, Inc.* (Fort Defiance: Fort Defiance Inc., 1979), 2-3. Davyd Foord Hood, "Dula-Horton Cemetery, Caldwell, North Carolina: Historic Background and Exploration/Settlement and Social History Contexts," Section 8, 6. Reverend I.W. Thomas, "Sketch of the Caldwell Dula Family from the Year 1709 to 1916," *Lenoir-News Topic*, February 26, 1920.

<sup>56</sup> U.S. Bureau of the Census, *Fifth Census of the United States 1830*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 19. The census identifies Thomas Dula as the son of "B," meaning Bennett Dula.

powerful politician who had served Wilkes County for 9 intermittent terms in the North Carolina General Assembly from 1820 to 1838.<sup>57</sup>

As a wealthy planter William Horton actively engaged in the broader market economy. Thomas Dula could easily have sized up his relation with Horton as being an advantage and conducted trade with him as part of his goal of becoming an independent farmer. Inwardly, Dula might have even harbored a tinge of resentment for his affluent kinsman and benefactor. In his well-argued study of 19<sup>th</sup> century yeoman farmers, historian Eugene D. Genovese astutely pointed out that upcountry white Southern farmers typically harbored “manifest hatred for the pretensions of the planter gentry,” boldly “sneering” at their aristocratic self-importance when they saw fit.<sup>58</sup> Genovese asserted that upcountry farmers lived in a “quasi-autonomous social world” characterized by “a dual society/economy” that blurred class lines separating merchants from subsistence farmers. This quasi-autonomy allowed yeoman farmers in the upcountry more control of local politics and the ability to fashion to their own liking a regional culture apart from the aristocracy.<sup>59</sup>

The relationship between the Dula and the Horton families must have been a fairly positive one. Well over a century after the murder occurred, the Wilmington based *Star News* provided some intriguing insight into the Dula-Horton connection. An interview with Edith Ferguson Carter, a longtime resident of Wilkes County, revealed that her husband’s great-great grandfather, Jim Horton, asked former North Carolina governor Zebulon Vance to defend Dula

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<sup>57</sup> John H. Wheeler, ed., *The Legislative Manual and Political Register of the State of North Carolina for the year 1874* (Raleigh: Josiah Turner, Jr., State Printer and Binder, 1874), 366-367, Google Books, <https://play.google.com/books/reader?id=NzQ0AQAAMAAJ&printsec=frontcover&output=reader&hl=en> (accessed Oct. 4, 2014); Hickerson, *Happy Valley*, 39.

<sup>58</sup> Genovese, “Yeoman Farmers in a Slaveholder’s Democracy,” 334-335.

<sup>59</sup> *Ibid*, 334.

at his trial in Statesville.<sup>60</sup> In 1860, forty-three year old James C. Horton of Elkville lived as a prosperous farmer in the same community in which the Dula family lived.<sup>61</sup> He was the son of William and Mildred Horton.<sup>62</sup> Another son of William, Rufus D. Horton, came to Dula's aid when he testified at Thomas C.'s trial as a character witness for Mary Dula, Thomas's mother. Rufus alleged that he knew her to be truthful and had "never heard it doubted."<sup>63</sup>

By 1840, Thomas P. and his growing family lived on a modest farm in the Walsh district of Wilkes. The household included nine members, five of who worked in agriculture. Middle-aged Thomas P. labored on a farm, and owned one male and one female slave, each over age ten and under age twenty-four. The Dulas had two sons between the ages of five and fifteen (Lenny and John), and three daughters, ages ranging from one to twenty.<sup>64</sup> Their youngest child, Thomas Caleb Dula, was born sometime in the mid-1840s in Wilkes County, North Carolina.<sup>65</sup>

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<sup>60</sup> Sharon Bond, "Legend of Tom Dooley Still Captivates Ferguson," *Star-News*, August 11, 1985. The article contained some erroneous facts, like the timing of Ann Melton's marriage to James. It cited the marriage as occurring sometime after Tom Dula entered the army in March 1862, but this is wrong. The Meltons married in 1859, before the war.

<sup>61</sup> U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 653\_918, 150.

<sup>62</sup> Hickerson, *Happy Valley*, 39.

<sup>63</sup> North Carolina v. Thomas Dula, No. 8922; Rufus Dula Horton's death certificate lists his parents' names as William Horton and Mildred (Dula) Horton. See Death Certificate of Rufus Dula Horton, North Carolina State Board of Health, Bureau of Vital Statistics, Ancestry.com, [http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&gss=angs-g&gsfn=Rufus+Dula&gsfn\\_x=NP\\_NN&gsln=Horton+&gsln\\_x=NN&msydy=1900&msypn\\_\\_ftp=Wilkes+County%2c+North+Carolina%2c+USA&cpxt=0&catBucket=rstp&uidh=6fc&msydp=10&cp=12&pcat=ROOT\\_CATEGORRY&h=1746889&db=FS1NorthCarolinaDeaths&indiv=1&ml\\_rpos=2](http://search.ancestry.com/cgi-bin/sse.dll?rank=1&new=1&MSAV=1&gss=angs-g&gsfn=Rufus+Dula&gsfn_x=NP_NN&gsln=Horton+&gsln_x=NN&msydy=1900&msypn__ftp=Wilkes+County%2c+North+Carolina%2c+USA&cpxt=0&catBucket=rstp&uidh=6fc&msydp=10&cp=12&pcat=ROOT_CATEGORRY&h=1746889&db=FS1NorthCarolinaDeaths&indiv=1&ml_rpos=2) (accessed Jan. 10, 2015).

<sup>64</sup> U.S. Bureau of the Census, *Sixth Census of the United States 1840*, North Carolina, Walsh District Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 373, 105. The 1840 census identifies Thomas as "Thomas P. Dula." See U.S. Bureau of the Census, *Fifth Census of the United States 1830*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 19. There were five people living in the household, and no slaves, suggesting Dula had bought slaves sometime after 1830 and between 1840.

<sup>65</sup> U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 653. During the trial, Mary Dula, Thomas's mother, confirmed that Dula had turned twenty-two on June 20<sup>th</sup>, 1866. This would have placed his birthdate at 1844. Dula was born sometime between 1844 and 1845. Testimony of Mrs. Mary Dula, North Carolina v. Thomas Dula, No. 8922.

Around the time of Thomas C.'s birth Thomas Sr. acquired thirty-four acres of land on the west side of Elk Creek. By 1848, Thomas P. Dula had accumulated 350 acres on Elk Creek.<sup>66</sup> The following year he filed for seventy-eight acres located near a place called Homeny [sic] Mill Branch on Elk Creek. Two years later he filed for land again in Elk Creek, this time for fifty acres.<sup>67</sup> Thomas P.'s constant need to acquire land illuminates the importance of land ownership in the mountain community. Each additional tract of land meant one step closer to attaining a higher degree of independence.<sup>68</sup> Historian H. Tyler Blethen has explained that the goal of landownership among Appalachian settlers in the antebellum period lay in the need to achieve economic independence, thus "fulfilling Thomas Jefferson's dream of a country of yeoman farmers."<sup>69</sup>

By the late 1840s and early 1850s Thomas P. Dula appeared to be a yeoman farmer about to move up the social and economic ladder. However, 1852 signaled a downturn for his recent fortunes. In late August 1852, a massive flood destroyed bottomland corn and cotton factories in Wilkes County.<sup>70</sup> The destruction of crops meant that local farmers would face the cold winter months struggling to get by. Sometime in November that year, Thomas and his nephew, George

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<sup>66</sup> Land grant to Thomas P. Dula, December 5, 1844, Book 149, 377, Land Warrants, Plats of Survey, and Related Records, Wilkes County, North Carolina Digital Archives, <http://mars.archives.ncdcr.gov/DisplaySearchResult.aspx> (accessed October 8, 2014); "Notice," *The Weekly Raleigh Register*, Raleigh, North Carolina, January 2, 1850.

<sup>67</sup> Land grant to Thomas P. Dula, February 16, 1852, Book 157, 113-114, August 20, 1853, Book 157, 276, September 27, 1853, Book 157, 333, Land Warrants, Plats of Survey, and Related Records, Wilkes County, North Carolina Digital Archives, <http://mars.archives.ncdcr.gov/DisplaySearchResult.aspx> (accessed October 8, 2014).

<sup>68</sup> A highlander's real estate signified wealth and was commonly used as a source of speculative investment. See John C. Insoe and Gordon B. McKinney, *The Heart of Confederate Appalachia: Western North Carolina in the Civil War* (Chapel Hill and London: University of North Carolina Press, 2000), 171-172.

<sup>69</sup> H. Tyler Blethen, "Pioneer Settlement," in *High Mountains Rising: Appalachia in Time and Place*, eds., Richard A. Straw and H. Tyler Blethen (Urbana and Chicago: University of Illinois Press, 2004), 21.

<sup>70</sup> Julie Hubbard, "Letters give view of Wilkes life in 1800s" *Wilkes Journal-Patriot*, April 15, 2011, online edition, [http://www.journalpatriot.com/news/article\\_ea494dce-6789-11e0-88e6-0019bb30f31a.html?photo=2](http://www.journalpatriot.com/news/article_ea494dce-6789-11e0-88e6-0019bb30f31a.html?photo=2) (accessed October 25, 2014).

“Anderson” Dula, became involved in a business deal gone awry between Josiah and Calvin J. Cowles, father and son owners and operators of the general store at the mouth of Elk Creek.<sup>71</sup>

The Cowles sold and agreed to deliver 1,500 pounds of pork on January 1, 1853, at six cents per pound, to Thomas and Anderson Dula.<sup>72</sup> The Dulas’ end of the bargain was to pay for the pork “in two notes and a judgment, and also an account which they had against the plaintiff, one for \$25.86, one for \$16.57, and a store account for goods sold and delivered amounting to \$17.54; also a judgment in the hands of one Brayhill for collection.”<sup>73</sup> January 1, 1853, passed without Cowles delivering the pork. Instead he brought 271 pounds two weeks later, at 6 cents per pound. He then returned a second time, on January 24, 1853, and delivered 762 more pounds of pork, and sold and delivered “some corn, tallow, and raw hide to \$6.48.”<sup>74</sup> Cowles had the store clerk look at the account book to see where the account stood, and found that the defendants owed a balance of \$18.49. He demanded that they pay the balance, in cash, but they refused, countering “that the whole quantity of pork had not been delivered according to the contract.”<sup>75</sup>

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<sup>71</sup> J. and C.J. Cowles v. Anderson Dula, 52 NC 224, 225 (NC S. Ct. 1859), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll14/id/55757/rec/1> (accessed October 5, 2014).

<sup>72</sup> Although the case only mentions one defendant by name, Anderson Dula, Thomas’s name shows up in the last *North Carolina Report* citing the case. The final report details the incident in which Mr. Martin, Cowles’s store clerk, entered the price of the pork into the account books and “paid 75 cents to Thomas Dula, and charged the same to the plaintiff.” *Ibid.*, 225. There were four other individuals named Thomas Dula who lived in parts of Wilkes and Caldwell Counties, all of them cousins. Three of them would have been most likely to have associated with Anderson Dula, son of William Lee McGuire Dula, and half-brother of Thomas P. Those three would have been either Thomas McGuire Dula, older brother of Anderson, Thomas Wesley, son of Jack Dula and first cousin, or Thomas P, an uncle to Anderson. Thomas P. would have been a likely candidate since Calvin Cowles acquired Thomas P. Dula’s estate shortly after his death. This indicates that Cowles was able to get Thomas P.’s estate because he had left a balance at his store. Cowles was also able to get Anderson’s land shortly after his death, and sell it.

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> J. and C.J. Cowles v. Anderson Dula, 49 NC 519, 520 (NC S. Ct. 1857), <http://www.aoc.state.nc.us/www/public/html/volumes/ncsct49.pdf> (accessed October 6, 2015).

At this point, tempers must have flared. Cowles's demand on the Dula family to immediately pay their remaining store balance—in cash—could have been taken by Anderson and Thomas Dula as an affront to their honor. It is possible that Cowles, a transplanted Yankee, had not been aware of how the Dulas might have perceived this as an insult. Cowles reluctantly agreed to deliver the rest of the pork the following day, but failed to keep his word. Instead he sued for the remaining balance in the Wilkes County Superior Court in 1855. The verdict favored Cowles. Anderson Dula appealed to the Supreme Court, which reversed the decision and granted a new trial. A second verdict favored Cowles, and Dula appealed again. Supreme Court Judge Richmond M. Pearson reversed the ruling and granted a new trial.<sup>76</sup>

In the spring of 1859, the Wilkes County Superior Court heard the case for the third and final time. Not surprisingly, the court sided with Cowles, and not surprisingly, Anderson Dula appealed. Judge Pearson, who was by this time growing weary of the case, offered this opinion: “The principle is this: where a contract is entire, and not made divisible by its terms, one of the parties cannot take advantage of his own default...or from a willful refusal to perform his part, for the purpose of putting the contract out of the way, so as to enable him to maintain assumpsit [sic] on the common counts, and thereby evade the rule.”<sup>77</sup> Pearson reversed the judgment and motioned for a new trial, but the story ends here.<sup>78</sup> For reasons unknown, Cowles chose not to press the case any further.

Another equally intriguing clue to this connection comes from an 1855 probate record for Thomas P. Dula. Sometime in 1854 Thomas P. died, leaving his wife Mary a widow and his son

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<sup>76</sup> J. and C.J. Cowles v. Anderson Dula, 47 NC 454, 455 (NC S. Ct. 1855), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/ref/collection/p16062coll14/id/50283> (accessed October 5, 2014); 49 NC 519, 522 (NC S. Ct. 1857), <http://www.aoc.state.nc.us/www/public/html/volumes/ncsct49.pdf> (accessed October 6, 2015).

<sup>77</sup> J. and C.J. Cowles v. Anderson Dula, 52 NC 224, 226 (NC S. Ct. 1859), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll14/id/55757/rec/1> (accessed October 5, 2014), 226.

<sup>78</sup> *Ibid.*, 226-227.

Tom without a father. His death left the family nearly destitute. In October 1854, the Wilkes County Court of Pleas and Quarter Sessions made a motion to allot Mary Dula, “widow of Thomas P. Dula, deceased, provisions out of the estate of the deceased.” The following month, on November 10, they allotted to Mary Dula: “twelve barrels of corn, 9 hogs, 2 sheap [sic], 3 pounds of wool, 5 bushels of potatoes....”<sup>79</sup>

A few months later, in January 1855, Calvin Cowles had been “duly qualified as administrator of all and singular the goods and chattels, rights and credits of Thomas P. Dula, deceased,” and was ordered to make “a true and perfect inventory” of Dula’s estate. The document noted plainly that the estate had “come to the hands, knowledge, and possession” of Cowles.<sup>80</sup> Perhaps this was the reason Cowles chose not to pursue his lawsuit against the Dula family any further—he went through a slightly different, albeit still local, channel to get the money. The fact that the Wilkes Superior Court favored Cowles’s in the lawsuit against the Dula’s all three occasions it was brought to trial reveals the degree of power Cowles and his father held locally. Equally revealing is the North Carolina Supreme Court’s repeated rulings to reverse the ruling from Wilkes Superior Court, and offer a new trial. This suggests that the state Supreme Court might have been more objective in rulings in an effort to offer justice regardless of class.

In 1858, Cowles entered into his business notebook information detailing the estate of Thomas P. Dula. He had an entire notebook devoted to listing and accounting the inventory he

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<sup>79</sup> Probate Record of Thomas P. Dula, 1855, Wilkes County, North Carolina, North Carolina Estate Files, FHL microfilm 002317515, <https://familysearch.org/pal:/MM9.1.1/QJDF-C5JG> (accessed January 5, 2015).

<sup>80</sup> *Ibid.* Cowles was granted administrator of Thomas P. Dula’s estate with the stipulation that Dula had no known will or testament in existence, and that no potential heirs would come forward in court and claim his estate. If a will from Dula surfaced, Cowles’s acquisition of the estate would then be void. Cowles clearly had an advantage over the Dula family in knowing how to work the courts.



had recently acquired from Dula's estate.<sup>81</sup> Thomas Dula's name also shows up in an estate record of Calvin J. Cowles, dated February 24, 1858. The file contains an order to the Caldwell County sheriff to bring "G.W. Anderson and Thomas Dula" to the Superior Court judge of equity in Wilkesboro "on the third Monday after the fourth Monday in February...to answer C.J. Jones, executor to the use of J. and C.J. Cowles of a plea that they render unto him the sum of one hundred and twenty six dollars."<sup>82</sup> One hundred and twenty six dollars was a fairly hefty sum for someone to owe at this time.

Evidently Thomas Dula—whichever one it was—owed Cowles money. If it was Thomas C. Dula he would have been about fourteen or fifteen in 1858. Thomas C. was also good friends with a man named George Washington Anderson, the same man who would testify in favor of him at his murder trial years later. His friend George, or Wash as he was sometimes called, would have been around the same age as Thomas.<sup>83</sup> By this time both of their fathers were deceased, so placing their names on the warrant although they were both underage could have happened without eliciting much shock or disapproval from the community. How they would have accumulated such a bill is uncertain. What is certain, however, is the Cowles family and the Dula family evidently knew each other well.

By 1875, the Cowles' had been able to acquire the estates of at least three members of the Dula family: William Beasley "Buck" Dula, Thomas P. Dula, and Anderson Dula. How had they all become insolvent debtors to the Elkville store owners? A lawsuit from the equity court of Surry County, North Carolina, for 1845 provides an illuminating glimpse into the rates Josiah

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<sup>81</sup> Calvin J. Cowles Papers, 1773-1941, Southern Historical Collection, Collection 03808, Vol. 84: Notebook, Estate of T. P. Dula, 1858, Wilson Library, University of North Carolina-Chapel Hill.

<sup>82</sup> See Calvin J. Cowles, North Carolina Estate Files, <https://familysearch.org/pal:/MM9.3.1/TH-1951-35569-1230-49?cc=1911121&wc=93PV-MJX:1066701902,183222301,1066723022> (accessed January 8, 2015).

<sup>83</sup> The 1850 census reveals that two George Andersons lived in the vicinity. One of them was a thirteen year old boy named George who resided with his family in Wilkes. He was identified as "mulatto." The other went by "Washington Anderson" and resided in Caldwell County with his mother Sally. He was six years old. By 1858 their ages would have been about twenty-one and fourteen.

Cowles charged his customers early on in his business career. Cowles, and business partner, Wilcox, claimed that a former employee, Thomas Carter, had been guilty of “fraud, corruption, and mismanagement.” Cowles and Wilcox believed they had lost “a number of debts” where their “debtors became insolvent by reason of ‘outrageous usury’” committed by Carter, their store clerk.<sup>84</sup>

The Supreme Court judge ruled in favor of Carter, citing that it was “merely incredible” that Carter could have carried on his activities for so long without the knowledge of the two storeowners. The judge maintained that the answer was “positive”—“the plaintiffs well knew of those transactions, and not only acquiesced, but they approved of them.”<sup>85</sup> Perhaps Josiah and his son Calvin Cowles had been guilty of charging exorbitant prices for their goods to the Dula family as well. These lawsuits suggest the possibility that the Cowles and the Dula families might have harbored ill-feelings towards each other. These ill-feelings could have turned into resentment even. Whatever the case might have been the evidence certainly points to the emerging tensions between merchants and farmers before the war.

By 1860, six years after her husband’s death, sixty year old Mary still resided in Wilkes County working the family farm, but receiving assistance from her adult children: twenty-six year old John, twenty-two year old daughter Elizabeth, and fifteen year old Tom. The value of her personal real estate equaled \$125, a meager sum. She made her living as a farmer and lived near the Carltons, the McNiels, the Yates, and the Triplets. Her oldest child Jon was a farmer. Elizabeth and Tom probably worked on the farm as well.<sup>86</sup> Tom either helped labor on the farm,

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<sup>84</sup> Cowles and Wilcox v. Thomas W. Carter, 39 NC 82, 83 (NC S. Ct. 1845), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll14/id/45450/rec/15> (accessed October 5, 2014).

<sup>85</sup> Ibid, 83.

<sup>86</sup> U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 653\_918, 168. Lenny, Thomas C.’s older brother, had married and was living somewhere in Elkville with his young wife, Lucinda, in a

or secured employment as a day laborer on a neighbor's farm. Later census records confirm that Mary also employed herself as a "tayloress."<sup>87</sup>

Less than five years later the family was again torn apart, this time by war. When the Civil War came to the western North Carolina mountains it spelled economic hardship for most families. According to historian Gordon McKinney, the effect of dislocation caused by the war "illustrated the importance of each productive member of the family" and highland residents felt this drop in production most acutely with each male family member who went off to fight.<sup>88</sup> All three of Mary Dula's sons, Lenny, John, and Thomas, enlisted in the Confederate army. This left only her and her daughter Elizabeth to manage the farm in their absence.

Lenny and Thomas enlisted together in Wilkes County, March 15, 1862, as privates in Company K, North Carolina 42nd Infantry Regiment. Thomas was only seventeen when he enlisted and was later promoted to "full musician" on January 30, 1864.<sup>89</sup> In their study of western North Carolina during the war, John Inscoe and Gordon McKinney explain that most young recruits joined the ranks in the company of family, friends, neighbors, and acquaintances "to serve under the command and care of men they knew and trusted."<sup>90</sup> Deciding whether to enlist involved a great deal of planning. Those most likely to join the army came from the ranks

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household of their own. Lenny worked as a laborer and Lucinda found employment as a weaver. The value of their real estate amounted to \$25, and their personal real estate was \$30. The young couple evidently struggled. The fact that Lenny listed himself as a "laborer" indicates that he was more than likely employed as a tenant farmer for one or more of his more prosperous neighbors.

<sup>87</sup> U.S. Bureau of the Census, *Tenth Census of the United States 1880*, North Carolina, Watauga County, Elk Township, Population Schedule, North Carolina Division of Archives and History. microfilm roll T9.

<sup>88</sup> Gordon B. McKinney, "Economy and Community in Western North Carolina, 1860-1865," in *Appalachia in the Making: the Mountain South in the Nineteenth-Century*, eds. Mary Beth Pudur, Dwight B. Billings, and Altina L. Waller (Chapel Hill and London: University of North Carolina Press, 1995), 169.

<sup>89</sup> Thomas C. Dula, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, microfilm roll M270\_0420, 1-20, National Archives, Washington, D.C.; William L. Dula, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, microfilm roll M270\_0420, 1-19, National Archives, Washington, D.C.

<sup>90</sup> Inscoe and McKinney, *The Heart of Confederate Appalachia*, 69.

of unmarried, young men in households containing male relatives or friends.<sup>91</sup> Dula certainly fits this analysis.

The date one chose to join also reveals much about his commitment to the cause. Tom and his older brother Lenny joined the Confederate army in March of 1862—nearly a full year after war began. Tom’s age indicates the obvious: he was simply too young to enlist when the fighting initially broke out a year before. But why did his brother enlist later? Historian Kenneth W. Noe argued that a number of “motivating factors”—“age, camaraderie, Christian duty, and the greater demands of home”—inoculated later enlistees from joining when hostilities initially broke out.<sup>92</sup> Perhaps one, or a combination of these factors, weighed on Lenny’s decision to enlist later on.<sup>93</sup>

In addition to these factors Tom and Lenny’s motivation for enlisting could have come from a \$50 bounty promised to new recruits. Other regiments nearby enticed potential recruits with bounties if they joined the ranks so it is possible Tom and Lenny had also succumbed to the offer.<sup>94</sup> As someone who struggled with debt his entire life \$50 would have looked like gold to Tom. Tom and Lenny’s decision to enlist might further have revealed the social stigma that surrounded conscription. A month following their enlistment the Confederate government initiated the first ever conscription act to remediate the Confederacy’s shortage in manpower.<sup>95</sup>

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<sup>91</sup> Gordon B. McKinney, “The Civil War and Reconstruction,” in *High Mountains Rising: Appalachia in Time and Place*, eds., Richard A. Straw and H. Tyler Blethen (Urbana and Chicago: University of Illinois Press, 2004), 49.

<sup>92</sup> Kenneth W. Noe, *Reluctant Rebels: the Confederates who Joined the Army after 1861* (Chapel Hill: University of North Carolina Press, 2010), 9.

<sup>93</sup> No record of John’s enlistment can be found, but it can be assumed that he enlisted with his brothers, or sometime thereafter. See Fletcher, *The True Story of Tom Dooley*, 19-20. Fletcher states that John died early in the war from pneumonia, but does not mention when, where, and what company he enlisted; Mary Dula testified during her son’s first trial that she had lost two sons in the war and that Thomas was her “sole remaining boy.” See Mary Dula’s testimony in *North Carolina v. Thomas Dula*, No. 8922.

<sup>94</sup> Janel B. Hewett, ed., *Supplement to the Official Records of the Union and Confederate Armies* Vol. 49, Part II, Serial 61 (Wilmington: Broadfoot Publishing Co., 1994).

<sup>95</sup> Martin Crawford, “Confederate Volunteering and Enlistment in Ashe County, North Carolina, 1861-1862,” *Civil War History*, Vol. 37, No. 1 (March 1991), 42.

Historian Martin Crawford explained that the act of volunteering represented “a vital test of private duty and of personal character.”<sup>96</sup> Crawford asserted that the conscription act in April 1862 led several hundred men from nearby Ashe County, North Carolina, to “voluntarily” enlist in North Carolina regiments.<sup>97</sup> It is possible that Tom and his brother enlisted to avoid the shame of conscription. Another possibility is that they stayed out of the war as long as they could to help their mother run the small family farm.

The Confederate service records confirm that after Tom joined the army he experienced much of his time in hospitals convalescing from illnesses he most likely contracted from living in poor camp conditions. “Twice as many Civil War soldiers died of disease as of battle wounds,” wrote Civil War historian Drew Gilpin Faust. Illness and disease ran rampant. Common camp illnesses included “diarrhea and dysentery, typhoid and malaria.”<sup>98</sup> Tom’s experience attests the alarming commonality with which soldiers contracted illness and disease.

Tom spent time in at least three hospitals. His first confinement in a hospital occurred a few months after he enlisted, in early November 1862, at a Confederate hospital in Petersburg, Virginia. On the 24 of November he was released, but his health rapidly deteriorated. On December 3, 1862, Tom was admitted to the Episcopal Church hospital in Williamsburg, Virginia. According to this particular record Tom had fallen ill with fever—possibly typhoid—and was not released for duty until December 25, Christmas Day, 1862.<sup>99</sup> The company muster

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<sup>96</sup> Crawford, “Confederate Volunteering and Enlistment,” 32.

<sup>97</sup> *Ibid*, 42-43.

<sup>98</sup> Drew Gilpin Faust, *This Republic of Suffering: Death and the American Civil War* (New York: Alfred A. Knopf, 2008), 4.

<sup>99</sup> Thomas C. Dula, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, M270, 586957, Record Group, 109, Roll 0420, 1-3, National Archives, Washington, D.C.

roll for the month of January and February 1863 reported that he was present, but “sick,” indicating that he had not fully recovered.<sup>100</sup>

The last known report mentioning his health comes from a company muster roll for October 1864. The report noted that Tom had been absent from his company since August 10, 1864, recovering from an illness in a hospital somewhere in Richmond, Virginia.<sup>101</sup> Upon joining the regiment in March 1862, Tom took his first assignment in April guarding Federal prisoners in Salisbury, North Carolina. Sometime in June 1862, the 42<sup>nd</sup> regiment was ordered to Lynchburg, Virginia, to guard “several thousand Federal prisoners” there.<sup>102</sup> By early November the regiment had returned to North Carolina. On November 5, they engaged in their first skirmish with the Yankees near Tarboro, but Tom was not present. He had taken ill a few days before and was staying at a Confederate hospital in Petersburg, Virginia.<sup>103</sup>

For the first half of 1863 the regiment remained stationed at Garysburg, North Carolina, performing garrison duty. By the fall of that year they had been sent to Petersburg where they engaged in a few skirmishes and small battles.<sup>104</sup> On February 2, 1864, Tom Dula’s regiment fought their first major battle that year in the dense thickets and muddy swamps near the town of Sheppardsville, North Carolina. Despite heavy fire from the Federals, they managed to seize 10 pieces of artillery, 78 prisoners, and “all the enemy’s ammunition and provisions.”<sup>105</sup> This might have been Tom Dula’s first experience in a major battle. However, he was the company’s drummer, and most likely did not engage in any of the fighting.

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<sup>100</sup> Ibid, 5.

<sup>101</sup> Ibid, 13.

<sup>102</sup> Walter Clark, ed., *Histories of the Several Regiments and Battalions from North Carolina in the Great War, 1861-1865*, Vol. 2 (Wendell: Broadfoot, 1982), 792.

<sup>103</sup> Ibid, 793; Thomas C. Dula, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina; M270; 586957, record Group, 109; Roll 0420, 3, National Archives, Washington, D.C.

<sup>104</sup> Clark, ed., *Histories of the Several Regiments and Battalions from North Carolina*, 793-796.

<sup>105</sup> Ibid, 796.

On March 10, 1865, during the battle of Wyse Fork, North Carolina, Tom Dula was taken prisoner and transported to the notorious Camp Hammond, the Union prisoner of war camp at Point Lookout, Maryland, and remained there until his release in June of that year.<sup>106</sup> His brother Lenny also numbered among the prisoners taken to Point Lookout. On June 5, 1865, Lenny succumbed to typhoid fever and was buried in the prison's Confederate cemetery.<sup>107</sup> Ten days later Tom swore an oath of allegiance to the Union and set out on his way home.<sup>108</sup>

Highland loyalties, like places elsewhere in the South, remained bitterly divided. McKinney has explained that "in some localities, civilian neighbors attacked one another with a ferocity usually reserved for the battlefield."<sup>109</sup> These internal divisions originated during the secession crisis and escalated as the war wore on. John Inscoe and Gordon McKinney have characterized the conflict in North Carolina's western counties as one intensely "localized and internalized... far messier, less rational, and more mean-spirited, vindictive, and personal."<sup>110</sup> By October 1863, Wilkes County, like the rest of western North Carolina, had gained a reputation as the Confederacy's "sink of iniquity," where multitudes of deserters, drifters, and conscript dodgers lurked.<sup>111</sup> The mountainous terrain made it especially well-suited for concealment.

Despite accounts detailing the surrender and the arrest of deserters and other duty shirkers, the situation in Wilkes escalated. On April 16, 1864, *The Daily Progress* printed a letter from a Wilkes citizen countering the rumors that had been circulating regarding Wilkes' reputation as a lawless county with few decent, law-abiding people remaining. According to the Wilkes' native, Wilkes Countians had always been "eminent for their Conservatism," and had

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<sup>106</sup> Fletcher, *The True Story of Tom Dooley*, 21-22.

<sup>107</sup> William L. Dula, Burial Registers of Military Posts and National Cemeteries, Archive No. 44778151, Series A1 627, Records of the Office of the Quartermaster General, 1774-1985, Record Group 9, National Archives, Washington, D.C.

<sup>108</sup> Fletcher, *The True Story of Tom Dooley*, 22.

<sup>109</sup> Gordon B. McKinney, "Economy and Community in Western North Carolina, 1860-1865," 167.

<sup>110</sup> Inscoe and McKinney, *The Heart of Confederate Appalachia*, 9.

<sup>111</sup> "Wilkes County," *The Daily Progress*, October 16, 1863.

sent as many as nine volunteer companies into service. The troubles that had erupted involved only “a few misguided men” in the remote section of Wilkes—men of little influence. These men, the author believed, wanted “nothing more or less than to keep out of service and avoid fighting a war in which they believed they had little or no interest at stake.”<sup>112</sup> Wilkes Countians were already becoming increasingly aware of the stigma associated with the high rate of deserters pouring into the mountains and valleys around them.

Hostilities continued to increase as the year progressed. The Wilkes’ County Home Guard was still trying to rid their communities of deserters in November that year. On November 10, 1864, *The North Carolina Argus* reprinted from the *Iredell Express* that “a fight” had occurred in Wilkes between the Home Guard and a band of renegades under the notorious Harrison Church. The Guard fired two volleys and succeeded in injuring Church, forcing the outlaws to retreat.<sup>113</sup> Rufus Lenoir wrote in a letter to his brother Walter that the “insolent and aggressive” robbers and bushwhackers that had infiltrated Wilkes and Caldwell counties had led him to fear that all of western North Carolina would be “ruled by Bushwhackers, Tories, and Yankees.”<sup>114</sup>

The abuse and terrorism carried out by bushwhackers became more unpredictable than ever. Nearly a month after the war officially ended Wilkes County remained vulnerable to violent attacks and looting committed by the dreaded Fort Hamby gang. This band of renegades stationed themselves inside a two-story log cabin on a hill overlooking the Yadkin River. On May 7, 1865, former home guard members organized a posse, and set fire to the house, forcing

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<sup>112</sup> “Letter to the Editor,” *The Daily Progress*, April 16, 1864.

<sup>113</sup> “A Fight in Wilkes,” *North Carolina Argus*, November 10, 1864. For more on the Church raid in Wilkes, see Inscoe and McKinney, *The Heart of Confederate Appalachia*, 238-240. Church and his gang of robbers and renegades focused most of their attention on raiding Confederate sympathizers. Civility and community bonds had so eroded that by early 1865 local citizens decided to take the law into their own hands and formed a posse in an attempt to retaliate against the bushwhackers. The posse unleashed their terror upon the outlaws’ families.

<sup>114</sup> Rufus Lenoir, Letter to Walter Lenoir, in Inscoe and McKinney, *The Heart of Confederate Appalachia*, 105. Wilkes County appeared to be a Unionist stronghold, *Ibid*, 125-127.



the group of outlaws to flee. Three of them were shot down, the rest executed. Major Wade, the notorious renegade Federal soldier who had led the group, managed to escape.<sup>115</sup>

From March 10, to mid-June, Tom languished in the Union prison camp in Point Lookout, Maryland. On June 11, 1865, he was released from Camp Hammond and returned to a war ravaged Wilkes County.<sup>116</sup> In *Manhood in America*, sociologist Michael Kimmel expressed what he believed to be the war's impact on southern men, citing that "defeat meant a kind of gendered humiliation—the southern gentleman was discredited as a "real man."<sup>117</sup> The massive destruction to the Southern landscape inevitably added to that sense of loss and humiliation.

Sometime after his return he resumed his affair with Ann Melton. It seems nearly the entire neighborhood of Elkville knew of the affair. Pauline Foster testified that since she had been staying with the Meltons she recalled that Dula spent "most every day" at the Melton house, sometimes staying through the night.<sup>118</sup> Lotty Foster, Ann Melton's mother, confirmed that, she, too, had frequently witnessed Dula going "in the direction of James Melton's, night and day."<sup>119</sup> In addition to visiting Ann Melton, he had also been seeing Laura Foster.

Wilson Foster, Laura Foster's father, commented that he was "well acquainted" with Dula, who had "commenced visiting at his house two months before the disappearance of Laura."<sup>120</sup> The sole purpose of these visits was to see Laura. Sometimes he came "once a week," and other times he spent the entire night. On at least one occasion Wilson Foster had seen Dula and his daughter in bed together. Two days before Laura's disappearance, Wilson had returned

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<sup>115</sup> Inscoe and McKinney, *The Heart of Confederate Appalachia*, 260-261.

<sup>116</sup> Thomas C. Dula, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, M270, 586957, Record Group, 109, Roll 0420, 1-3, National Archives, Washington, D.C.

<sup>117</sup> Kimmel, *Manhood in America*, 52.

<sup>118</sup> See Testimony of Pauline Foster, North Carolina v. Thomas Dula, No. 8922.

<sup>119</sup> Ibid, Testimony of Lotty Foster. Under cross-examination Foster admitted that other young women lived in the same direction of James Melton's house. He could have been visiting anyone.

<sup>120</sup> Ibid, Testimony of Wilson Foster.

from work to find the two of them “sitting tolerably close together beside the fireplace.”<sup>121</sup> The testimony given by Mrs. Betsey Scott bolstered Wilson Foster’s claim that Dula had been to see Laura the Wednesday before she went missing. Scott informed the jury that she had seen Dula that day walking “some 3 miles from Wilson Foster’s house.”<sup>122</sup>

With all this activity, one wonders how Dula found time to finish his work on the family farm. Mr. Kendall, another neighbor, related that on the day Laura disappeared he had seen Dula early that morning heading towards the Bates’ Place. He asked Dula if “he had been after the women.” Dula responded in the negative, affirming that he had “quit that.”<sup>123</sup> According to Pauline Foster, the times Dula showed up at the Melton house he had wanted to converse with Ann, or to sleep with her. Thomas Foster, Ann Melton’s brother, was recalled by the defense and testified that he had seen “Pauline and Dula sitting in each other’s lap.”<sup>124</sup>

The defense’s strategy in recalling Thomas Foster was chiefly aimed at discrediting the star witness, Pauline Foster. Mrs. James Scott echoed Thomas Foster’s testimony, alleging that she had also seen Pauline sitting in Dula’s lap, “often.”<sup>125</sup> J.W. Winkler’s testimony further cited Pauline’s lack of credibility. Winkler stated that while Pauline was examined at the Elkville store she had said to him, “I would swear a lie any time for Tom Dula, wouldn’t you George?”<sup>126</sup> In addition to discrediting Pauline, testimonies like these served to remove suspicion from Ann Melton.

Elkville resident Martha Gilbert’s testimony pointed suspicion toward Tom, but away from Ann as well. Gilbert took the witness stand twice. The first time she testified that she had

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid, Testimony of Mrs. Betsy Scott.

<sup>123</sup> Ibid, Testimony of Mr. Kendall.

<sup>124</sup> Ibid, Testimonies of Pauline Foster and Thomas Foster.

<sup>125</sup> Ibid, Testimony of Mrs. James Scott.

<sup>126</sup> Ibid, Testimony of J.W. Winkler.

seen Tom a day or two before Laura's disappearance on the road between Mary Dula's and Lotty Foster's, clearing the path with a mattock. Gilbert allegedly struck up a conversation with Tom, and learned that he was "fixing the path and making the road wider so he could go along of nights [sic]."<sup>127</sup> Why would Dula need to travel by night on this road? When she took the stand again, she added something she had failed to mention in the first testimony; she related to the jury that she had noticed the path Dula had worked with his mattock "was steep and broken further on towards Mrs. Dula's, but not towards Lotty Foster's."<sup>128</sup> Wherever Dula was traveling, it was not toward Lotty Foster's house.

His relationship with his neighbor Lotty Foster must have been fairly close—close enough that he felt he could borrow farm and household items from her. Lotty Foster told the jury that on the day before Laura went missing Dula had arrived at her house and asked to borrow a mattock. He returned it 3 or 4 days later. Early Friday morning while Lotty's sons had "gone off to their work," Dula made a return visit. This time he asked Lotty for some milk and she gave him a half gallon of it.<sup>129</sup>

For men of Tom Dula's class, women provided economic stability and comfort.<sup>130</sup> Mary Dula's testimony confirmed that Tom still lived at his parents' home and depended on her for clothes, food, and shelter. On the Friday of Laura's disappearance Mary reported that while she was making supper, Tom left the house for about an hour, but returned in time for supper. She noted that earlier that day he did not eat lunch. Later that night she woke to the sound of Tom

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<sup>127</sup> Ibid, Testimony of Martha Gilbert.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid. Thomas Foster, Lotty's son, supported his mother's statement by adding that he, too, had witnessed Dula ask to borrow the mattock.

<sup>130</sup> See Victoria E. Bynum, "Mothers, Lovers, and Wives: Images of Poor White Women in Edward Isham's Autobiography," in *The Confessions of Edward Isham: A Poor White Life of the Old South*, eds., Charles C. Bolton and Scott P. Culclasure (Athens: University of Georgia press, 1998), 89-90. For more on the importance of the family for economic survival see Joan E. Cashin, *A Family Venture: Men and Women on the Southern Frontier* (Baltimore: The Johns Hopkins University Press, 1991), 78. Cashin explains that most common white men in the South found they could not prosper without economic aid from their family.

moaning. She went to his bed where he was “complaining of chills,” leaned over his bed and gently kissed him on the cheek.<sup>131</sup> Mary Dula provided her son a place to rest and a home when he needed it.

Of his character, Washington Anderson, a neighbor and a friend, reported that he knew Dula to be a “truthful” and a “peaceable man while at home, and it [sic] was good for honesty.”<sup>132</sup> Anderson had served with Dula in the same company and regiment and affirmed that “his character was good as a soldier.”<sup>133</sup> It is interesting that no one referenced Tom’s work ethic in their depictions of him as an upstanding member of the community. This would seem like something friends and neighbors would certainly have noted if they knew it would save him from the gallows. Why they did not note it will forever be a mystery. One speculation is that those closest to Dula knew and recognized that he spent most of his time pursuing leisure activities over work, so they avoided bringing it to attention for fear it would damage his already weak defense.

James Isbell, one of the wealthy landowners of Happy Valley, informed the jury that he felt no “enmity against the accused,” and added that his assistance in employing counsel for the prosecution came from his supreme interest in “the public good.”<sup>134</sup> Isbell’s alleged concern for the public good of the community might have been couched in an older ideology of ideal manhood, one that emphasized the importance of community service.<sup>135</sup> If Isbell had any other motive for indicting and convicting Dula he certainly was not going to tell it, not publicly. His

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<sup>131</sup> Testimony of Mary Dula, *North Carolina v. Thomas Dula*, No. 8922.

<sup>132</sup> *Ibid.*, Testimony of Washington Anderson.

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*, Testimony of James Isbell.

<sup>135</sup> Most historians of masculinity concur that the South represented an older version of manhood that held out until the Civil War. They identified this version as “communal manhood” in which men’s identities were tied inextricably to familial and communal responsibilities, and rooted heavily in public worth. See Friend, ed., *Southern Masculinity*, x-xii; Communal manhood embraced and underscored “usefulness” and “service” in contrast with the self-made man ideology’s preoccupation with the “self.” See Kimmel, *Manhood in America*, 14.

testimony describing the search party's discovery of Laura Foster's decomposing corpse provides additional insight into his involvement in the case. Isbell told jurors that at the gravesite he had noticed "the prints of what appeared to have been a mattock in the hard side of the grave."<sup>136</sup> Isbell and his elderly father-in-law, David Eagles Horton, were the first to discover the grave.

No other witnesses testified to the mattock marks at the grave. No record of David Horton's testimony can be found. Only Isbell's testimony survives. The only other account describing the gravesite comes from Dr. George Carter's testimony. In describing the decomposed state of the corpse, Carter told the jurors that the hole in which the body lay was approximately "Two and a half feet deep, very narrow, and not long enough for the body."<sup>137</sup> He made no reference to mattock marks. With forensic science barely in its infancy, one wonders how Isbell arrived, with confidence, at the conclusion that the grave had been dug using a mattock. Why had Dr. Carter failed to note the marks? The marks were either not there, Dr. Carter overlooked them, or he could not confirm, with absolute certainty, that the marks were made by a mattock.

Had Isbell seen Dula a day or two before Laura's disappearance carrying the mattock he had borrowed from Lotty Foster? Had he listened to Martha Gilbert's, Lotty Foster's, or Thomas Foster's testimonies regarding the mattock or heard gossip relating to Dula's activities before Laura's disappearance? Since Isbell lived a considerable distance from the Dula house it would have been more likely that he had been privy to some of the gossip. If he had seen or heard anything about a mattock that would show that Isbell was not an unbiased participant in the case

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<sup>136</sup> Testimony of James Isbell, *North Carolina v. Thomas Dula*, No. 8922.

<sup>137</sup> *Ibid*, Testimony of George Carter.

against Dula and Melton like he led jurors to believe. Indeed, anyone as involved in the case as Isbell would not have been unbiased, or remained that way for long.

Something or someone had convinced him to secure prosecution lawyers. The decision to secure prosecuting counsel indicates that he held a biased opinion early on. It is worth noting that Isbell seemed to reply, with confidence, in his observation, never including any reference that the prints could have been made by any other object besides a mattock, like a shovel, or some other tool perhaps. Why was he so sure of it?

Later in his testimony, Isbell informed the jury that the gravesite, although it was located on a secluded, “thickety [sic] ridge...was not far from the path leading from Lotty Foster’s to Dula’s house.”<sup>138</sup> Isbell neglected, intentionally or unintentionally, to name other residents who might have lived nearby. The statement implicated Dula’s involvement even more by placing him near the crime scene. Whatever reason Isbell had for helping to build a case against Dula it was clear that he possessed a considerable degree of power at the local level. For one, he was able to assist in employing the prosecution. In this case, actions speak louder than words.

Unlike Ann Melton, Thomas Dula had not been backed by a similar degree of clout by those in the community. Trial testimonies reveal that local public sentiment might already have been aligned against him and in favor of his alleged accomplice, Ann Melton.<sup>139</sup> Defense attorneys worried that if Dula and Melton were tried together, Dula would not receive a fair and impartial trial on the grounds that “important confessions of his co-defendant, Ann Melton,

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<sup>138</sup> Ibid, Testimony of James Isbell.

<sup>139</sup> Scott P. Culclasure, “I Have Killed a Damned Dog:’ Murder by a Poor White in the Antebellum South,” in *The Confessions of Edward Isham: A Poor White Life of the Old South*, eds., Charles C. Bolton and Scott P. Culclasure (Athens: University of Georgia press, 1998), 79. Culclasure asserts that reputation and social standing determined how a case would appear to the local community and the governor’s office. Juries believed individuals—even victimized women—acted as free agents of their own will, Ibid, 84.

[would] be given in evidence.”<sup>140</sup> In the end the defense’s move to try the two separately proved futile.

The fact that Dula’s trials had to be moved outside Wilkes for a fair trial and the fact that Ann Melton had been tried in Wilkes and acquitted strongly indicates that the two had widely differing degrees of support in the community.<sup>141</sup> The defense based their decision to move the trial outside Wilkes to Iredell County from the knowledge that the case had been “much canvassed” in Wilkes, and aroused such excitement that the public mind had become prejudiced against them.<sup>142</sup> After Dula’s execution, defense attorneys Zebulon Vance and Col. R.F. Armfield got Melton’s case sent back to Wilkes, “on the ground that Dula having been twice tried in Iredell the public was so familiar with the facts the woman couldn’t get justice in the county.”<sup>143</sup> The decision to try the two separately hurt Dula, but aided Melton’s chances of acquittal. Other cases during this time in which a man and a woman were tried separately almost always favored the women accused, but not the men.<sup>144</sup> Surely his defense attorneys would have been privy to this pattern in criminal convictions, and proceeded with caution in their decision. Perhaps they had good reason to make this move since the prosecuting attorneys ended up underscoring Ann Melton’s involvement in an attempt to secure a conviction for Dula, their prime suspect.

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<sup>140</sup> North Carolina v. Thomas Dula, No. 8923 (N.C. S. Ct. 1868), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/512/rec/1>, accessed May 2, 2014.

<sup>141</sup> “North Carolina in a Nutshell,” *The Wilmington Morning Star*, May 7, 1868.

<sup>142</sup> North Carolina v. Thomas Dula, No. 8923.

<sup>143</sup> “An Old Murder Case,” *The Union Republican*, February 17, 1916.

<sup>144</sup> See Ann Jones, *Women Who Kill* (New York: Holt, Rinehart, and Winston, 1980), 91. All the cases Jones includes involve women who participated as accomplices in the murder of their spouses. Although Melton did not kill her husband, these cases are similar in that both a man and a woman were alleged confederates in murder. Jones cited the case of Ann Baker, 1816 (Philadelphia), Elsie Whipple, 1827 (Albany, New York), Lucretia Chapman, June 1831 (Pennsylvania), Ann Simpson, 1850 (Fayetteville, North Carolina), Sarah Littles, 1857, (Rochester, New York), and Mrs. Wilson, 1863, (Harpwell, Maine).

During the nineteenth-century penologists pinned the cause of most crime on “unrestrained passion, especially when it dated from childhood.”<sup>145</sup> When possible, news reporters included previous instances where the accused had committed a deviant act in order to show the succession of vice and depravity that led to the murder. *The Rutherford Star*’s inclusion of Tom Dula’s violent encounter in Wilmington in 1864, two years previous to the murder, serves as an example. On June 9, 1868, a month after Dula’s execution, *The Rutherford Star* recounted, from a reprint of the *Wilmington Journal*, an incident that occurred during the latter years of the war while Dula had been stationed with his regiment near Wilmington. Before his execution he allegedly confessed to injuring one man and possibly murdering another while he was stationed in Wilmington.

The story went that Dula met three blockade runners inside a house of ill fame where a quarrel broke out between him and one of the men. During the brawl Dula managed to secure a chair nearby and knocked his opponent down with it. The other man joined in and commenced fighting Dula, who stabbed his attacker “in the breast or bowels.” With his pistol he struck the remaining one on the right arm and fled the scene to return to his regiment’s camp.<sup>146</sup> The account paints the picture of a common-white man whose life contained an incredible degree of violence. It also suggests that Dula displayed violent tendencies before the murder, giving readers little doubt that he was capable of murdering his young girlfriend.

*The New York Herald* added that Dula’s former army companions allegedly believed that he had murdered the husband of a woman with whom he had “criminal intercourse” while

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<sup>145</sup> Ed Hatton, “He Murdered Her Because He Loved Her: Passion, Masculinity, and Intimate Homicide in Antebellum America,” in *Over the Threshold: Intimate Violence in Early America*, eds. Christine Daniels and Michael V. Kennedy, (New York: Routledge, 1999), 113.

<sup>146</sup> “Correspondence of the Wilmington Journal,” *The Rutherford Star*, June 9, 1868.



stationed in Wilmington.<sup>147</sup> The paper also noted that Dula ran with a tough crowd of “reckless associates” from the mountains.<sup>148</sup> Reckless behavior implies a penchant for stirring up trouble. “In the mountains” further alludes to the lawlessness that was already associated with renegade activity in Wilkes County even before the war’s end. The reputation that Wilkes County garnered during the war as a hotbed for violence and lawlessness possibly heightened readers’ interest in the murder case.

The press coverage of the trials generally speculated that Dula was “a hardened, desperate villain” known for “reckless” behavior.<sup>149</sup> At a time when one’s public appearance meant everything, character evidence became one of the crucial links in determining whether or not the accused received a light or a harsh sentence. Zebulon Vance, Dula’s lead defense attorney, continually emphasized Tom Dula’s war record. Whenever he could, Vance stressed Dula’s Confederate service record as a positive attribute to his character as a man and a Southerner.

Even the *New York Herald* correspondent noted that Dula had served “gallantly” in the Confederacy.<sup>150</sup> His military service could also work against him, however. Just as easily as it lauded Dula’s experience as a soldier, the press also pointed out the war’s “demoralizing” effect on him. After noting Dula’s gallantry, *The Herald* was quick to add that since the war his recklessness and depravity had only escalated.<sup>151</sup> Such words allowed the public to distance themselves from murderers like Dula, and they further showed how the act placed the condemned outside respectable society.

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<sup>147</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>148</sup> *Ibid.*

<sup>149</sup> W.M. E. Pell and Seaton Gales, eds., “State Items,” *The Semi-Weekly Raleigh Sentinel*, May 16, 1868.

<sup>150</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>151</sup> *Ibid.*

The discourse covering the two trials included elements of what historian Karen Haltunnen has termed “the Gothic narrative of murder” that came into practice by the end of the late-eighteenth and early-nineteenth centuries in America. Earlier execution sermons focused primarily on the state of the murderer’s soul and strove to demonstrate how human depravity was universal. In this sense the murderer was no different than any other transgressor. Gradually, with the help of Enlightenment Liberalism, views shifted. No longer was human evil so easily recognized. The criminal transgressor was reconstructed as “a moral monster, between whom and the normal majority yawned an impassable gulf.”<sup>152</sup> News reports from the Dula trial confirm this trend in their labeling of him as “depraved,” “hardened” and “savage.”

*The New York Herald* noted how “the savage fortitude that had characterized his trials, sentencing” and confinement suddenly eroded the night before Dula’s solemn journey to the gallows. He nervously paced the floor of his cell, and slept but a few hours. At “eight minutes half past one” the following day, Dula arrived in a horse-drawn cart under a rudely constructed gallows on the edge of town. *The Herald* correspondent described Dula’s address to the dense crowd in a way that suggested his “otherworldly” character: “turning his dark eyes upon them [he] spoke in a loud voice which rang back from the woods as if a demon there was mocking the tone and spirit of a wretch who well knew he was going into eternity with an unconfessed

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<sup>152</sup> Karen Haltunnen, *Murder Most Foul: The Killer and the American Gothic Imagination* (Cambridge: Harvard University Press, 1998), 3-5. Tales of sexual murder figured prominently in the nineteenth-century Gothic narrative. They added to the Gothic elements of “horror” and “mystery.” For more on this transition in murder literature see Roger Lane, *Murder in America: a History* (Columbus: Ohio State University, 1997), 96. Lane explains that by the 1840s the morality of the execution sermon had lost much of its hold and was replaced by a message that stressed mystery and uncertainty and hinted at the justice system being corrupt. The editor of *The Wilmington Morning Star* employed Gothic rhetoric by explaining that the Dula case was a “tragedy involved in great mystery.” See *The Wilmington Morning Star*, May 7, 1868.

murder upon his mind and falsehoods on his lips.”<sup>153</sup> The correspondent’s emphasis on Dula’s “dark eyes” indicated that perhaps Dula was demonically possessed.<sup>154</sup>

The *Rutherford Star* echoed *The Herald*’s depiction of Dula, ranking him as “the most hardened, desperate devil that was ever hanged in this or any other State.”<sup>155</sup> *The Rutherford Star* added that he was a “desperate devil.”<sup>156</sup> “Hardened,” “fierce,” and “savage” were words that might have characterized an uncivilized animal—or a cold-blooded murderer. “There is everything in his expression to indicate the hardened assassin—a fierce glare of the eyes, a great degree of malignity, and a callousness that is revolting,” observed the correspondent to *The New York Herald* detailing Thomas Dula’s final moments.

About twenty-five years old, of average build, Dula possessed a most arresting visage. *The Herald* correspondent noted that he was “good-looking,” but “not handsome.”<sup>157</sup> Like Ann Melton, the press reported that Laura Foster had “likewise succumbed to his amours.”<sup>158</sup> The newspapers depicted Dula as one whose good looks naturally drew women to him. News correspondents credited Dula with a magnetic influence—almost a supernatural charm. *The Carolina Watchman* charged that Dula had “decoyed” Laura Foster from her home “under promise of marriage and instead of a bridal chamber, [she] received first a dagger in her heart and plunged uncoffined [sic] into a bloody grave!”<sup>159</sup>

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<sup>153</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>154</sup> A great deal of folklore exists on “the evil eye” and its link to demonic possession. See Roswell Park, *The Evil Eye: Thanatology and Other Essays* (Boston: The Gorham Press, 1912), 9-11. It was a centuries old belief that “the eyes of envious or angry people” could project “some malign influence which could infect the air and penetrate and corrupt both living creatures and inanimate objects.” *Ibid*, 11.

<sup>155</sup> “Correspondence of the Wilmington Journal,” *The Rutherford Star*, June 9, 1868.

<sup>156</sup> *Ibid*.

<sup>157</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

<sup>158</sup> Hamilton C. Jones, ed., “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, Oct 29, 1866.

<sup>159</sup> *Ibid*.

Newspapers further depicted the case as a crime of passion—a fatal love triangle. They touted Ann Melton’s jealousy as the main motive for killing Laura Foster. The other reason for murder newspaper reporters used was that Tom Dula’s infatuation with Ann Melton remained so strong that he changed his mind about marrying Laura, decided he wanted nothing to do with her so he killed her. *The New York Herald* added that Laura Foster had become pregnant with Tom’s child, but Tom did not want the responsibility of providing for neither a woman he did not love nor her child.<sup>160</sup>

Perhaps the newspapers targeted a middle-class audience’s sensibility among their readers, and purposefully avoided commenting on the venereal disease. Too, it might have been more titillating to believe that a “beautiful, but frail” young woman had been led astray by the machinations of a cold-blooded seducer. *The New York Herald* depicted Tom as using his charms to lure Laura into an immoral life, before growing tired of her and killing her. His behavior was characterized as roguish. While Ann Melton’s jealousy spurred Tom Dula to murder, the mass media generally placed most of the agency on Dula, and less on Melton.

Although Dula led a violent life, and was deemed a “hardened assassin” who possessed a mean look, no one branded him a deep-dyed in the wool villain because the violence was expected of him. No one expected a woman to commit murder, much less be involved in one.<sup>161</sup> To some, the Dula case offered a chance to morally instruct the nation’s youth—an increasingly mobile generation—of the dangers of illicit sex, and deception. *The Carolina Watchman* thought

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<sup>160</sup> Ibid. Nothing in the trial testimonies alleged that Foster had been pregnant. See *North Carolina v. Thomas Dula*, No. 8922, and 8923.

<sup>161</sup> Bailey and Hale, *Blood on Her Hands*, iv-v.

“the calendar of crime [contained] not a darker deed.”<sup>162</sup> The story was, one editor, wrote, “a woeful tragedy.”<sup>163</sup>

In Southern Appalachia, as elsewhere, one’s reputation mattered, especially when it came to murder trials. Dula’s defense attorneys portrayed him as a brave young man of good character who came from a good family and who had served faithfully in the Confederacy. Besides his impressive war record, Dula’s strongest line of defense centered on the testimony provided by his mother. The defense called Mrs. Dula to the stand for the purpose of eliciting enough sympathy from the jurors—at least on his mother’s behalf—in hopes of gaining an acquittal. Despite Mary Dula’s respectability, her testimony failed to save her last remaining son from the gallows. Rather, the jury responded to the declarations and the acts of another woman, Ann Melton, though she never testified in court.

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<sup>162</sup> “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, October 29, 1866.

<sup>163</sup> “Ann Melton Acquitted,” *The Western Democrat*, November 10, 1866.

### CHAPTER 3

#### “HER SOUL [IS] BLACKENED WITH CRIME, HER HANDS IMBUED WITH THE BLOOD OF HER NEAR KINSWOMAN”<sup>1</sup>: RECONSTRUCTING ANN MELTON’S LIFE PRIOR TO THE MURDER

“Possessing only outward advantages, she was like a flower without fragrance, a tree without fruit; and with such a history she could not be happy.”<sup>2</sup> John Sharpe, a lifelong resident of Wilkes County, North Carolina, wrote this enigmatic description of Ann Melton sixty-five years after her acquittal for murder. Most newspaper men agreed that she presented a comely appearance. “Unusually attractive,” “most beautiful,” “fair, even beautiful” were the words they used to describe her.<sup>3</sup> Strange that such an attractive woman was connected to what contemporary observers believed to be “one of the most atrocious, cold-blooded, deliberate murders that ever disgraced the annals of human history.”<sup>4</sup> Although authorities charged Ann as an accomplice in the murder of Laura Foster, newspapers devoted less attention to Thomas Dula, the prime suspect. Instead they seemed far more interested in Dula’s infatuation with the woman “whose commands” they believed had brought him “under the shadow of the awful gallows-tree.”<sup>5</sup>

*The Fayetteville News* correspondent had little doubt as to her guilt, citing that the evidence clearly evinced Ann’s role as “an active accomplice...and an equal participant.” Of her physical attributes, the correspondent depicted her as “fair, even beautiful,” with fine “dark, flashing eyes,” a “fresh complexion,” and form and features “slender, graceful, delicate and

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<sup>1</sup> Henry L. and James Henry Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 20, 1866. The Myrovers were father and son who published *The Fayetteville News* as a weekly in July 1866. Henry Myrover, the son, actively participated in Reconstruction politics and advocated particularly for the Democratic Party. See William S. Powell, eds., “James Henry Myrover,” *Dictionary of North Carolina Biography* Vol. 4 (Chapel Hill: University of North Carolina Press, 1996), 355.

<sup>2</sup> John M. Sharpe, “Letter to the Editor,” *The Landmark*, January 31, 1933.

<sup>3</sup> Sharpe, “Letter to the Editor,” 3; James Fulton, ed., “The Death Penalty,” *Wilmington Journal*, May 8, 1866; Myrover, eds., “Notes and Items of Travel in Western NC,” *The Fayetteville News*, November 20, 1866.

<sup>4</sup> Myrover, eds., “Notes and Items of Travel in Western NC,” November 20, 1866.

<sup>5</sup> *Ibid.*

finely-chiseled.”<sup>6</sup> What most struck the correspondent was what appeared to be “an innate consciousness of power, a strong unbending will, a determination that would scorn to cavil at impediments.”<sup>7</sup> This same iron-will and grit allegedly accounted for the “magnetic [sic] influence over those [she held] within her sphere.”<sup>8</sup>

Ann Melton appears an elusive figure in this narrative. How and why she escaped a conviction and secured an acquittal reveals much about the cultural tensions surrounding what it meant to be an ideal woman in 1860s America. Historian Catherine Ross Nickerson has posited that popular murder trials offer “a collective effort to contextualize the extraordinary event of murder within shared structures of social knowledge.” Nickerson defines “social knowledge” as a broad spectrum of cultural “stereotypes, labels, and expectations.”<sup>9</sup> The opposing arguments and strategies the prosecution and the defense used to try and persuade the jury illustrated a diverse web of cultural perceptions at work.

Two competing perceptions of woman’s nature surfaced in trial testimonies and newspaper commentaries. One presented her as the delicate, weaker sex in need of “protection” and deserving of sympathy.<sup>10</sup> The other depicted her as a femme fatale who had manipulated Dula into committing murder.<sup>11</sup> The dominant view of woman as weak and passive won out in

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<sup>6</sup> Ibid; Myrover, eds., “Notes and Items of Travel in Western NC,” November 13, 1866.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Catherine Ross Nickerson, “‘The Deftness of Her Sex’: Innocence, Guilt, and Gender in the Trial of Lizzie Borden” in *Lethal Imagination: Violence and Brutality in American History*, ed., Michael A. Bellesiles (New York: New York University Press, 1999), 262-263.

<sup>10</sup> Legal experts and newspaper commentators also portrayed the unfortunate victim, Laura Foster, two ways. One was similar to Ann Melton’s positive image as the delicate, weaker sex, but in Foster’s case she was also presented as naïve and innocent. The contrasting view depicted her as lecherous and almost deserving of her death. In this view she was somehow made out to be Dula’s aggressor, the one who *led him* into a life of sin. Like Melton, they also commented on Laura’s looks and noted her beauty. Historian Daniel A. Cohen claims that the image of “the beautiful female murder victim” in American popular crime literature dated back to at least the early nineteenth-century. For more on “the beautiful female murder victim” see Daniel A. Cohen, “The Beautiful Female Murder Victim: Literary Genres and Courtship,” *Journal of Social History*, Vol. 31, Issue 2 (Winter 1997), 277-306.

<sup>11</sup> For a good definition of the “Femme Fatale” see Frankie Y. Bailey and Donna C. Hale, eds., *Blood on Her Hands: The Social Construction of Women, Sexuality, and Murder* (Belmont: Wadsworth/Thomson Learning,

perceptions of Ann on local, regional, and national levels because cultural beliefs about women's nature at the time did not allow for the possibility that a woman was capable of murder.<sup>12</sup> Ann's case further aligned with the broader pattern occurring in the nation's courtrooms over the issue of "unequal justice" in sentencing men and women accused of murder.<sup>13</sup>

In cases where a man and a woman were confederates in murder, whenever possible juries pinned the crime on the male and routinely ignored, and denied, the female's involvement. Scholar Ann Jones has noted that during this time, women, "dead to civil law, were in practice dead to the criminal law as well...the double standard of 'justice' [reinforced] the double standard of conventional morality."<sup>14</sup> Early in the criminal proceedings lawmakers demonstrated their reluctance to prosecute Ann by reducing her charge. In the original bill they charged Ann as having been "an accessory before the fact."<sup>15</sup> Just before the first trial began in October 1866,

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2004), 209. The "Femme Fatale" is listed as one of eleven classifications for women who kill, and is defined as the crime's instigator who generally does not involve herself with the actual killing, but gets others to do the act for her through manipulation. The individual who serves as the object of the Femme Fatale's manipulation is usually a person who is "attracted to/sexually involved/in love with" her. This person is described as being "under the erotic spell of the woman who persuades him that he is the only person who can help her out of her present crisis." Although the term femme fatale was not used in Melton's case she nonetheless serves as an early example of this classification.

<sup>12</sup> Women were expected, by nature, to be passive, more moral, nurturing, affectionate and gentle than men. See Carroll Smith-Rosenberg and Charles Rosenberg, "The Female Animal: Medical and Biological Views of Woman and Her Role in Nineteenth-Century America," *The Journal of American History* Vol. 60, No. 2 (Sept. 1973), 333-334; piety, purity, submissiveness and domesticity further characterized the ideal image of woman; Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly* Vol. 18, Issue 2, Part 1 (Summer 1966), 152.

<sup>13</sup> Ann Jones, *Women Who Kill* (New York: Holt, Rinehart, and Winston, 1980), 91.

<sup>14</sup> All the cases Jones includes involve women who participated as accomplices in the murder of their spouses. Although Melton did not kill her husband, these cases are similar in that both a man and a woman were alleged confederates in murder. Jones cited the case of Ann Baker, 1816 (Philadelphia), Elsie Whipple, 1827 (Albany, New York), Lucretia Chapman, June 1831 (Pennsylvania), Ann Simpson, 1850 (Fayetteville, North Carolina), Sarah Littles, 1857, (Rochester, New York), and Mrs. Wilson, 1863, (Harpwell, Maine). Much of the historiography detailing "crimes of passion" relates to spousal murder; a wide gap exists in the coverage of crimes of passion involving unmarried singles. The case of Ann Simpson in 1850 Fayetteville, North Carolina, for the murder of her husband, Alexander C. Simpson, is relevant to the Dula case for its location. Both murders occurred in the Southeast. Like Melton, the jury acquitted Simpson because they deemed her to be a "lady." The defense depicted Ann Simpson as a "weeping girl" too "giddy, and thoughtless, volatile, and indiscreet" to commit such a "foul and unnatural murder." Jones, *Women Who Kill*, 77-98 and 100.

<sup>15</sup> State of North Carolina v. Thomas Dula, No. 8922 (NC S. Ct. 1867), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/457/rec/17>, accessed May 2, 2014.



solicitor W.P. Caldwell entered an exception on the third count in the indictment, changing the charge to “accessory after the fact.”<sup>16</sup>

In the courtroom and in jail Ann dressed “tastefully,” responded in a “soft, gentle” voice and displayed the “manners and bearing of an accomplished lady.”<sup>17</sup> To a largely middle-class, male audience of lawyers, journalists, and jurors, Ann’s behavior confirmed what they believed to be self-evident: women were weak, delicate creatures who needed to be protected.<sup>18</sup>

Newspaper commentaries argued that despite Ann’s uncanny ability to charm and entice Dula and incite him to murder, it was Dula who committed the murder and pursued Ann. As *femme fatale* she could manipulate, finagle, and do everything short of committing murder.

The violence that characterized Ann Melton’s social interactions provides insight into how the lives of common whites, even women, could be framed at times by violence. It further shows how Ann was an active agent of her own life. Yet, who was this enigmatic woman and how did she become involved with murder—an act thought to be so *unnatural* to her sex? Since Ann left no diary of her thoughts and actions much of what can be gleaned about her early life and personality comes from trial testimonies, newspaper commentaries, and census records. A reconstructed account of Ann’s life is largely pieced together from what others have said about her. What emerges from these accounts is a woman who did most of her acting behind the scenes, but acted nonetheless.

Tucked away in the mountains of western North Carolina, the small town of Elkville lies in the southwestern portion of Wilkes County on the Yadkin River. The Yadkin River flows in a

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<sup>16</sup> Ibid.

<sup>17</sup> “The Death Penalty,” *Wilmington Journal*, May 8, 1868; Sharpe, “The Tom Dula Murder Case,” January 31, 1933.

<sup>18</sup> Roger Lane asserts that for most of the nineteenth century grand jurors and trial jurors were “all male, their names taken from tax lists, usually settled small businessmen and skilled workers representative of the active political community.” See Roger Lane, *Murder in America: a History* (Columbus: Ohio State University Press, 1997), 114.

southeasterly direction through the mountains and foothills and past the community of Elkville.<sup>19</sup>

In the late 1860s, the railway had not yet reached Wilkesboro, so merchants had to haul their goods by wagons from places like Fayetteville or Salisbury.<sup>20</sup> Transportation often proved tedious, especially when dirt roads gave way to muddy quagmires following a heavy rain.

Born sometime in 1843, Anne Melton grew up in this quaint setting. Ann was the second oldest child of Carlotta Foster Triplett. In 1850, thirty year old Carlotta and her children were living in the household of elderly couple, James Brown, 74, and his wife, Nancy, 69.<sup>21</sup> How Carlotta, or “Lotty” as she was known locally, came to live with the Browns is not exactly clear. Perhaps Lotty worked for the Browns as a live-in domestic servant, or was related to them in some way.<sup>22</sup> Sometime after Ann was born Lotty’s “husband” left and never returned.<sup>23</sup> Lotty might have never even married. If so, her situation was not an uncommon one. In her study of the infamous McCoy-Hatfield feud, Altina Waller noted the frequency with which Tug Valley residents, “many young men and women, met, romanced, and even had children without an

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<sup>19</sup> William S. Powell and Michael Hill, eds., “Elkville,” and “Yadkin River,” *The North Carolina Gazetteer* (Chapel Hill: University of North Carolina Press, 2010), <http://ncpedia.org/gazetteer/search/elkville/0> (accessed September 20, 2014).

<sup>20</sup> William Kenneth Boyd, R.D.W. Connor, and Joseph Gregoire de Roulhac Hamilton, eds., *History of North Carolina*, Vol. 4 (Chicago and New York: Lewis Publishing Co., 1919), 365, 390.

<sup>21</sup> U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 432\_649, 367A. Some sources speculate that the Browns were Carlotta Foster-Triplett’s in-laws. They speculate that James and Nancy had a daughter named Nancy who married Martin Triplett, and the two had a son named Francis. Unfortunately, neither West nor Fletcher cite where they obtained their sources. See John Foster West, *Lift Up Your Head Tom Dooley: the True Story of the Appalachian Murder that Inspired One of America’s Most Popular Ballads* (Asheboro: Down Home Press, 1993), 12-13, and John Edward Fletcher, *The True Story of Tom Dooley: From Western North Carolina Mystery to Folk Legend* (Charleston: The History Press, 2013), 82 and 132-133.

<sup>22</sup> Fletcher posits that Nancy Brown was Carlotta’s mother-in-law. See Fletcher, *The True Story of Tom Dooley*, 19.

<sup>23</sup> Previous writers have attempted to track down Carlotta’s spouse, believing his name to be Francis Triplett, son of Martin Triplett and Nancy Brown, but no documented evidence (census records, marriage bonds, wills) provides such a connection. They usually list him as Ann’s father. See Fletcher, *The True Story of Tom Dooley*, 19. A correspondent for *The Fayetteville News* offered an intriguing clue in its early coverage of the trials concerning Ann’s lineage. In the report, the correspondent related that Ann Melton was the “natural daughter of one of the most prominent citizens” of Wilkes, and cited her maiden name as Hendricks. See Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 13, 1866.

official wedding.”<sup>24</sup> Waller further observed how census schedules commonly revealed hundreds of cases of young, single women with children living in the households of relatives, and asserted that mountain residents did not view these situations as “a disgrace.”<sup>25</sup>

Indeed, not every woman who committed adultery, left her spouse, or bore children out of wedlock was ostracized. Laura Edwards cited Appalachian woman Sarah Guttery as an example. Although Guttery bore two children out of wedlock, her solid reputation for hard work, diligence to family duties, and positive relations among her neighbors garnered her much respect in the community. Edwards claimed that these attributes “outweighed her youthful sexual transgressions and two illegitimate children...”<sup>26</sup> The evidence suggests that mountain communities placed less emphasis on a woman’s sexual virtue and more on the values of hard work, attentiveness to familial obligations, and positive social relations as key components for their own, modified version of ideal womanhood. A member of the community who encouraged social harmony and contributed to its economic success was highly esteemed, regardless of sex.

The elderly Browns and the Fosters lived in a small farming community in the western part of Wilkes known as Reedy Branch, in a cabin on a ridge above Stony Fork.<sup>27</sup> Shortly after the murder case gained notoriety, the *New York Herald* sent a correspondent to report on the case. The correspondent noted that the community was divided into two “entirely separate and distinct classes,” the valley and the hill people. According to the correspondent, the valley people who occupied the fertile land along the Yadkin River were “educated and intelligent” while those

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<sup>24</sup> Altina L. Waller, *Feud: Hatfields, McCoys, and Social Change in Appalachia, 1860-1900* (Chapel Hill: University of North Carolina Press, 1988), 67.

<sup>25</sup> Waller, *Feud*, 67.

<sup>26</sup> Laura F. Edwards, *Scarlett Doesn’t Live Here Anymore: Southern Women in the Civil War Era* (Urbana and Chicago: University of Illinois Press, 2000), 41-44. See also Cecil-Fronsman, *Common Whites*, 148.

<sup>27</sup> West, *Lift Up Your Head Tom Dooley*, 12.

who resided on the mountain spurs and ridges were “ignorant, poor, and depraved.”<sup>28</sup> Ann Melton and her family allegedly belonged to the “class” known as the hill people.<sup>29</sup>

However, not all the hill residents were poor whites. Some owned and farmed their own lands as yeoman farmers. As yeoman, they aspired to one day enter the ranks of the planter class.<sup>30</sup> Their cultural beliefs, though they differed in some areas, would not have differed significantly from their more prosperous neighbors. Additionally, many valley and hill residents were often bound together by kinship ties. Lotty’s close neighbors, the Dula family, owned and farmed their lands, and were related to the prosperous Horton clan of Yadkin Valley.<sup>31</sup>

Without the financial assistance of a husband it can be assumed that Lotty Foster’s living conditions were poor indeed, especially considering the fact that she had three children to attend to. Traditionally, women who headed households earned less than their menfolk. In her study of southern women in the Civil War era, Laura Edwards has explained that “Wage work, like field work, revealed women’s economic standing.” Women from the poorest families—including those headed by widowed and unmarried women—worked for wages.<sup>32</sup>

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<sup>28</sup> *The New York Herald* article was reprinted under the same title from *The Wilmington Journal*, May 8, 1868, under “The Death Penalty.”

<sup>29</sup> John Edward Fletcher asserts that kinship ties dwarfed these differences. Fletcher, *The True Story of Tom Dooley*, 17.

<sup>30</sup> I use Laura Edwards’s definition of “yeoman farmer.” Edwards defined the yeoman farmer as a farmer who owned “sufficient land or tools to direct their own labor instead of working for someone else.” See Edwards, *Scarlett Doesn’t Live Here Anymore*, 33. I also rely on the work of Eugene Genovese. Genovese makes an important distinction between yeoman farmers of the upcountry and low-country South, asserting that upcountry yeoman farmers operated in a “quasi-autonomous social world” characterized by “a dual society/economy” in which class lines separating commercial from subsistence farmers were blurred. Genovese argues that the critical element separating them and comprising their unique social position lay in the geographic isolation “of their locality as a whole.” This quasi-autonomy allowed yeoman farmers in the up-country more control of local politics and the ability to fashion to their own liking a regional culture apart from the aristocracy. See Eugene D. Genovese, “Yeoman Farmers in a Slaveholder’s Democracy,” *Agricultural History* Vol. 49, No. 2 (Apr. 1975), 334-335.

<sup>31</sup> See Maurice C. York, ed., *The Many Faces of Fort Defiance: A Report Submitted to Fort Defiance, Inc.* (Fort Defiance: Fort Defiance Inc., 1979), 2-3. Davyd Foord Hood, “Dula-Horton Cemetery, Caldwell, North Carolina: Historic Background and Exploration/Settlement and Social History Contexts” National Register of Historic Places Registration Form (2002), National Park Service, Section 8, 6. Reverend I.W. Thomas, “Sketch of the Caldwell Dula Family from the Year 1709 to 1916,” *Lenoir-News Topic*, February 26, 1920.

<sup>32</sup> Edwards, *Scarlett Doesn’t Live Here Anymore*, 39.

On a solitary ridge in Reedy Branch, James Brown had eked out a living as a farmer, and he accrued \$1000 in real estate by 1850. For a hill resident, \$1000 was a decent amount of money. Brown owned 100 acres of land, half of it improved acreage, and the rest remained unimproved. His livestock holdings valued \$34 which was not much but enough to make ends meet.<sup>33</sup> Brown's holdings reveal his status in the yeomanry class.

In addition to possibly caring for the elderly Browns, Lotty employed herself as a seamstress. Her work as seamstress served as an example of what Wilma Dunaway views as work aimed specifically at the marketplace.<sup>34</sup> Lotty's seamstress work points to what must have been an intricate web of market connections in the early years of Elkville before the war. Other places in Southern Appalachia had similar extensive barter and market exchanges in their communities. In the Tug Valley region, for example, families operated as "productive economic units" and frequently shared tasks with extended kin, neighbors, and friends.<sup>35</sup> It further shows how women commonly produced for the market, and were not confined solely to domestic chores unrelated to profit making ventures outside the home. Lotty also cared for three children, all under the age of ten. Ann was six or seven years old, the middle child of three. Pinkney, her older brother, was eight, and Thomas was not yet one. Lotty could neither read nor write. Whether Pinkney and Ann were literate is unknown, but the census record indicates that they had been attending school.<sup>36</sup>

Growing up as an older child, Ann probably acted as a caregiver for her younger siblings. Lotty's status as a single mother meant that Ann was all the more likely to carry out the caregiver

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<sup>33</sup> *North Carolina 1850 Agricultural Census*, Vol. 6 (Westminster: Willow Bend Books, 2008), 130.

<sup>34</sup> Wilma A. Dunaway, *Women, Work and Family in the Antebellum Mountain South* (Cambridge: Cambridge University Press, 2008), 9.

<sup>35</sup> Waller, *Feud*, 23.

<sup>36</sup> U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 432\_649, 367A.

role. As soon as she was old enough, she would have assisted with other household chores as well. Martha Mastin, a fellow Wilkes Countian who was not much older than Ann, recalled how she had learned to spin and weave as a young girl.<sup>37</sup> An early traveler to the region noted how “young ladies” generally assisted in “spinning, weaving, and other home manufactures.”<sup>38</sup> Since Lotty employed herself as a seamstress one can assume she had also taught her daughter, Ann, the basics of the trade. It is also likely that all the children engaged in some type of farm labor as soon as they were old enough.

Missing from the records is Ann. Sometime in 1859 she married James Gabriel Melton, also of Wilkes County.<sup>39</sup> James was the son of Henry and Elizabeth Melton, yeoman farmers.<sup>40</sup> She was approximately 15 years old at the time of her marriage to James Melton. James would not have been much older, around 19 or 20.<sup>41</sup> The two had probably known each other their entire lives. Historian Bill Cecil-Fronsman has noted in his study of common-whites in North Carolina that the “pressures for marriage” coupled with an equal desire to begin setting up their own households led some women to marry quite young.<sup>42</sup>

Ann likely felt the pressure to wed as soon as she came of age. She might have even reasoned that marriage to James Melton was an opportunity to enter a household perhaps more stable than her current one afforded. James Melton fared better than other young men in the community because he had learned a valuable trade. He employed himself as a shoe cobbler,

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<sup>37</sup> Boyd, Connor, and de Roulhac Hamilton, eds., *History of North Carolina*, 390.

<sup>38</sup> Myrover, eds., “Notes and Items of Travel in Western North Carolina,” November 13, 1866.

<sup>39</sup> West, *Lift Up Your Head Tom Dooley*, 13; Fletcher, *The True Story of Tom Dooley*, 82; Brent H. Holcomb, *Compiled Marriages of Wilkes County, North Carolina, 1778-1868* (Baltimore: Genealogical Publications Company, 1993), 133.

<sup>40</sup> U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 432\_649, 343A.

<sup>41</sup> The 1850 census places James’s birthday around 1838, meaning he would have been around 19 years old at the time of his marriage to Ann. The 1870 census also lists his birthday at 1838. U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 593\_1165, 288A.

<sup>42</sup> Cecil-Fronsman, *Common Whites*, 143.

carpenter, and wagon maker.<sup>43</sup> James's steady employment might have additionally factored into Ann's decision to marry James.

Other women in Wilkes County had married for similar reasons. "This thing called property makes sum [sic] very unequal matches," wrote Charlotte Saintclair on July 11, 1858, in a letter to her relatives informing them of twenty-one year old cousin Sally's marriage to fifty-three year old Sidney Stokes, a man twice her age.<sup>44</sup> For common white women in this period "marriage meant transference from the father's to the husband's control.... [as] women [they] were all too aware that their security and status as full adults depended on finding a mate."<sup>45</sup> Ann's very livelihood rested on finding a spouse. Marrying James Melton was, for Ann, a logical decision.

James Melton also appeared to have garnered a solid reputation throughout the community as an honest, hard-working young man.<sup>46</sup> James's reputation would have bolstered Ann's. Unfortunately, the census of 1860 does not list James or Ann, but it can be assumed that they lived nearby, perhaps in a neighboring county, or with family members. James might have gone away to learn the cobbler's or wagon-maker's trade and took his new wife along with him. Wherever they lived in 1860, they did not reside there for long. On June 12, 1861, twenty-three year old James mustered into the North Carolina Company "C," 26th Infantry Regiment as a private. His service record indicates that he enlisted in Wilkes County, so they were living

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<sup>43</sup> Fletcher, *The True Story of Tom Dooley*, 81-82; U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History, microfilm roll 593\_1165, 288A.

<sup>44</sup> Julie Hubbard, "Letters give view of Wilkes life in 1800s" *Wilkes Journal-Patriot*, April 15, 2011, online edition, [http://www.journalpatriot.com/news/article\\_ea494dce-6789-11e0-88e6-0019bb30f31a.html?photo=2](http://www.journalpatriot.com/news/article_ea494dce-6789-11e0-88e6-0019bb30f31a.html?photo=2) (accessed October 25, 2014).

<sup>45</sup> Cecil-Fronsman, *Common Whites*, 141-142.

<sup>46</sup> Fletcher notes that James was "well liked and much respected in the community." Fletcher, *The True Story of Tom Dooley*, 77, 84. He also noted that James adored his wife Ann and "would 'fight anyone' who had anything 'bad' to say about Ann." Fletcher, *The True Story of Tom Dooley*, 160.

somewhere in Wilkes.<sup>47</sup> James's enlistment left Ann to care for their four month old daughter, Martha Jane, and manage the farm and business alone.<sup>48</sup> This time must have been a particularly challenging one in Ann's life. How well she performed these duties one can only speculate.

In a world in which male and female space often overlapped, a woman like Ann Melton could perform any task so long as it "furthered the good of her family and was acceptable to her husband."<sup>49</sup> Ann's responsibilities as a wife would not have varied much from the domestic chores she had engaged in her entire life. Cooking, cleaning, and childrearing would have been nothing new. The correspondent to the *Fayetteville Times* concluded that the "manners and customs of fifty years ago" still prevailed, and lauded the region's farmwives as paragons of "honest homely labor." "Their stout figures and rosy cheeks are pleasant to behold—kind, diligent, and cheerful, they never think or care for refined idleness, lackadaisical enjoyments, ill-health and stupidity of uppertendom [sic]," marveled the correspondent.<sup>50</sup>

Traditionally women produced for the home as well as for the market. Most of their duties related to the operation of the household. Men and boys cleared and plowed fields, fashioned tools, hunted animals, tended livestock and crops like corn and tobacco while women tended to the household and vegetable gardens. In some parts of Southern Appalachia gendered divisions of farm labor were flexible enough to permit women to hoe corn, herd cattle, and work

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<sup>47</sup> James G. Melton, Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of North Carolina, Affiliate Publication No. M270, National Archives, Washington, D.C.

<sup>48</sup> Martha Jane's age is estimated from census records; U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 593\_1165, 288A; U.S. Bureau of the Census, *Sixteenth Census of the United States 1940*, North Carolina, Elk Township, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll T627, roll 2988, 12B.

<sup>49</sup> Laurel Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750* (New York: Vintage Books, 1991), 9, and 37-39.

<sup>50</sup> Myrover, eds., "Notes and Items of Travel in Western North Carolina," November 13, 1866.



in the fields.<sup>51</sup> Fragmentary evidence from the trial transcripts suggests that common white women in Wilkes and Caldwell Counties in western North Carolina helped their menfolk work in the fields when they could. Pauline Foster, who worked as a hireling for James and Ann Melton in the spring of 1866, reported that on the day Laura Foster disappeared she had worked out in the field planting corn with the menfolk until three o'clock that afternoon.<sup>52</sup>

With her husband gone to fight in the war Ann must have done most, if not all, the farming herself. Running her husband's business would have been a novel experience, but one she inevitably learned over time. Historians of Southern Appalachia have studied the ways women coped with their new responsibilities on the home front during the war. In describing the wartime experience of North Carolinian Mary Bell, historian John Inscoe found that as the war drew on Bell became an "increasingly independent and self-confidant woman" in her efforts to cope with hardships at home without her husband.<sup>53</sup> Mary's wartime experience transformed her into a shrewd businesswoman.

Unlike the celebrated patriotic southern woman of legend, Mary Bell never voiced fervent devotion to "anything more than herself and her family."<sup>54</sup> Instead, she maintained a firm commitment to "limited and localized goals"—which entailed the basic desire to keep her "farm, family, and finances afloat" against the hardships of war.<sup>55</sup> Inscoe astutely pointed out that Mary Bell was not alone in harboring these beliefs; many women expressed the same

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<sup>51</sup> See Durwood Dunn, *Cades Cove: Life Death Southern Appalachian Community* (Knoxville: The University of Tennessee Press, 1988), 183-186.

<sup>52</sup> Pauline Foster's Testimony, North Carolina v. Thomas Dula, No. 8922.

<sup>53</sup> John C. Inscoe, "Coping in Confederate Appalachia: Portrait of a Mountain Woman and Her Community at War," in *Race, War, and Remembrance in the Appalachian South*, ed., John C. Inscoe (Lexington: The University Press of Kentucky, 2008), 155. Mary Bell was the wife of Alfred Bell, a dentist who moved to Franklin, North Carolina, on the eve of the Civil War.

<sup>54</sup> Inscoe, "Coping in Confederate Appalachia," 155.

<sup>55</sup> *Ibid.*, 165.

desires.<sup>56</sup> It is likely that Ann Melton might have viewed her situation in similar terms. Other Wilkes County women spent much of their time providing for their family and trying to make ends meet through all the chaos and disruption caused by war. Local woman Martha Mastin, for example, clothed her family in homespun, “spinning and weaving” the clothes herself.<sup>57</sup>

Bell’s story stood out because she succeeded in her wartime roles.<sup>58</sup> Although Mary Bell’s life differed significantly from Ann Melton’s in the fact that Bell lived in the southwestern portion of the state versus Melton’s residence in northwestern North Carolina, the two shared some similarities. Like Mary Bell of Macon County, North Carolina, Ann Melton had married young and had a young child to provide for. Admittedly, Ann probably spent more time than Mary performing physical labor like working in the cornfield, and chopping firewood, but both women focused their attentions largely on the local situation and dealt with the circumstances at hand. Wilma A. Dunaway has explained that nearly all rural women in antebellum Appalachia performed some type of nonagricultural labor from which they earned income.<sup>59</sup> The coming of war would have only increased this labor need.

The war economically devastated and drastically upset social relations in Wilkes County. The county, with its alluring mountain ranges, became an inevitable haven for deserters.

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<sup>56</sup> Ibid, 165. For more on the conflict between southern women’s patriotism and the commitment to the wellbeing of their families, see Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (New York: Vintage Books, 1997), 13-18.

<sup>57</sup> Boyd, Connor, and de Roulhac Hamilton, eds., *History of North Carolina*, 390.

<sup>58</sup> Faust, *Mothers of Invention*, 71-72. Civil War historian Drew Gilpin Faust took a less optimistic view of Mary Bell’s wartime experience. While acknowledging that Bell seemed to embrace her new roles, especially her role as slave owner, and initially viewed it as an opportunity for upward mobility, Faust claimed that Bell’s enthusiasm waned as the war progressed. Faust believed that Bell’s disillusionment as a slave manager arose from the legal structure in place regarding slave ownership. Bell did not hold full ownership, and because of the restrictions still in place, she never experienced complete independence. Faust and Inscocoe essentially differ on the degree the Civil War redefined notions of southern womanhood. Inscocoe asserted that although Mary Bell still continued to complain about the burdens she bore, as the war drew to an end her complaints were filled with “less rancor.” Inscocoe noted that by February 1864, Bell’s desire for her husband’s presence at home came not from her previous desires for him to return so that she could gladly give up her duties, but instead to show him how well she was managing the farm in his absence. The “sense of community” also aided Bell in her transition to independence. See Inscocoe, “Coping in Confederate Appalachia,” 161.

<sup>59</sup> Dunaway, *Women, Work and Family in the Antebellum Mountain South*, 9.

Hostilities increased as the war waged on. In the early part of 1864, *The North Carolina Standard* stated the abuses Wilkes citizens had endured from General Hodges's cavalry brigade in February. The editor, future governor William Holden, explained that the brigade's cavalry horses were in such poor condition they were "unfit for service." Holden argued that the brigade should be dismounted because they were "doing infinitely more harm than good."<sup>60</sup>

Two months later a Wilkes resident wrote, in a letter to the editor of *The Daily Progress*, that although Wilkes had been "skinned, gutted, quartered, and generally bereft of nearly all that is necessary to the sustenance of the human or brute creation," so had other counties in the region met the same fate. The Wilkes citizen went on to list a string of reprehensible abuses committed by impressment officers in the area, citing incidences where officers had taken the only work oxen of a widow woman and women whose husbands and sons had gone to fight in the war. They had driven off milch cattle "too poor to be eaten," and procured "all the corn and fodder people had."<sup>61</sup> By the middle of 1864 it was reported that a bevy of women from Wilkes County had joined the deserters and commenced raids on Confederate sympathizers.<sup>62</sup> Since Ann's husband James had enlisted in the Confederacy she might have been an easy target in some of these attacks.<sup>63</sup>

With her husband away she might have faced any number of threats, from food shortage, plundering, and house burning, to physical assault. Gordon McKinney has noted that by 1864,

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<sup>60</sup> William W. Holden, ed., "Outrages by Military," *The North Carolina Standard*, February 17, 1864.

<sup>61</sup> J. L. Pennington, ed., "Letter to the Editor," *The Daily Progress*, April 16, 1864.

<sup>62</sup> Inscoc and McKinney, *The Heart of Confederate Appalachia*, 191.

<sup>63</sup> Sometime between late March and early April 1865, Stoneman and his men came through Elkville. On April 6, 1865, *The Daily Confederate* reported with news from the *Charlotte Bulletin* that Stoneman and about three to five thousand of his men had captured Wilkesboro. See D. K. McRae, ed., "Stoneman," *The Daily Confederate*, April 6, 1865. A letter from Joseph Caldwell Norwood to Walter Waightstill Lenoir dated April 2, 1865, related that "swept through the country with 10,000 cavalry towards Wilkesboro, Salem, Salisbury, Greensboro, Hillsboro, and Raleigh," and reached Wilkesboro by nightfall, taking it "by surprise." Joseph Caldwell Norwood to Walter Waightstill Lenoir, April 2, 1865, in the Lenoir Family Papers, Southern Historical Collection, University of North Carolina at Chapel Hill.

and definitely by 1865, women in western North Carolina shifted their views of the war from one of support to opposition in favor of peace. Mountain society infrastructure crumbled under war's demands. As a result, women's opposition stemmed from their reaction to the demands of war on the home-front.<sup>64</sup> Whatever Ann's thoughts might have been, it is likely she experienced some degree of hardship. The world around her seemed to be rapidly falling apart.

Violence and depredations continued. Later that same year deserters killed "some four or five of the regular troops and two or three of the Home Guard" in Wilkes.<sup>65</sup> In October 1864, Raleigh's *The Daily Conservative* reported that squads from "every part of the Confederacy and some from the Yankee army" robbed a number of prominent Wilkes citizens in a sporadic series of raids. The attacks allegedly forced some citizens to flee their homes—others were murdered.<sup>66</sup> Perhaps Ann and her family were spared during this round since the robbers had supposedly targeted the more prominent residents of the county.

A few weeks later *The Semi-Weekly Standard* called the *Conservative* out for printing accounts from Wilkes County residents whom they believed exaggerated these events. Holden's *Standard* gleefully printed a statement from Michael Williams, a Wilkes resident, who vehemently denied the claims made earlier, specifically in regards to the incident claiming that deserters had raped two of his adolescent daughters. An indignant Williams replied that the statement was entirely false, and hoped the editors would publish the denial as widely as they had published "the slanders."<sup>67</sup> This particular incident reveals the way newspaper editors could bend a story to make it fit their political persuasions, and reveals how these sources should be

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<sup>64</sup> Gordon B. McKinney, "Women's Role in Civil War Western North Carolina," *The North Carolina Historical Review*, Vol. 69, No. 1 (January 1992), 37-38.

<sup>65</sup> J.J. Bruner, ed., "From the Confederate," *The Daily Watchman*, August 19, 1864.

<sup>66</sup> "To His Excellency, Z.B. Vance," *The Daily Conservative*, November 4, 1864.

<sup>67</sup> William W. Holden, ed., "Wilkes County," *The Semi-Weekly Standard*, November 22, 1864.

read with caution. How deplorable was the situation in Wilkes? It was probably somewhere in-between.

1865 ushered in more devastating losses. On April 1865, a massive and formidable band of 25,000 Union soldiers marched through the county, burning and looting private residences, barns, the woolen mills, and the Wilkesboro courthouse. Their wide swath of destruction left the area “almost a howling wilderness.”<sup>68</sup> John Crouch, a native Wilkes County resident, wrote 35 years after the incident a poignant description of the dismal situation that arose following the chaos: “The people were left in a desolate condition. Many families were left entirely without provisions with their houses and barns burned; the men were nearly all in the army, robbers abundant in the county, and it was with difficulty that starvation was averted.”<sup>69</sup> Two years later Wilkes’ residents were still feeling the effects of wartime losses.

A letter from Governor Jonathan Worth’s office from April 9, 1867, to Wilkes County resident Phineas T. Horton evinces both the war’s lingering effect and the total extent of the damage that had unfolded. Governor Worth had appointed Horton to oversee “the purchase of some corn for the destitute of Wilkes.”<sup>70</sup> The people of Wilkes were to receive 200 bushels and Horton was to distribute it to the needy.<sup>71</sup> One wonders how Ann Melton coped amid the loss. The war might have even hardened her, foreshadowing her possible involvement in the murder.

At some point, whether it occurred before she married James, during the war, or after, Ann grew to loathe the drudgery of house and farm work. After James returned from the war they hired Pauline Foster, a distant relative of Ann’s, to lodge with and work for them as a domestic servant. During the trial, Pauline Foster alluded to a quarrel she had with Ann a few

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<sup>68</sup> John Crouch, *Historical Sketches of Wilkes County* (Wilkesboro: The Chronicle Job Office, 1902), 93-94.

<sup>69</sup> *Ibid.*, 94.

<sup>70</sup> J.G. de Roulhac Hamilton, ed., *The Correspondence of Jonathan Worth* (Raleigh, Edwards & Broughton Printing Co., 1909), 932.

<sup>71</sup> *Ibid.*

days before Laura’s body had been discovered. According to Foster, they had once argued over housework: “we had quarreled that morning because she wanted me to milk the cows and get breakfast both.”<sup>72</sup> With Pauline staying as a live-in domestic servant, Ann seemed to milk the situation for its worth, and did the minimal amount of work she could, letting Pauline do the rest. The day before Laura Foster’s disappearance Ann had gotten out of bed late, and on the day Laura was discovered missing she had stayed in bed most of the day.<sup>73</sup>

Ann became displeased, if not irate, with Pauline when she decided to return to her home in Watauga County some weeks after suspicion that Laura Foster had met foul play began to reach a crescendo. Taylor Land, a wealthy neighbor, overheard Ann talking about Pauline’s departure, and reported that Ann “followed Pauline some distance to get her to come back.” Pauline went anyway. Ann and her brother, Sam Foster, went after Pauline—imploring her to come back. She did, because she needed the money.<sup>74</sup> Despite her evident mistreatment and abuse of Pauline, Ann did not want to lose her hired help. She had grown accustomed to the assistance.

It is plausible that Anne’s mother, Lotty, might have assisted her daughter when she could. Despite living nearby, Lotty had her household to manage. It appears that she checked on Ann occasionally. Lotty testified that once when she came to see her married daughter at home she had caught Ann in bed with Tom Dula, a neighbor. A naked and surprised Dula “jumped out

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<sup>72</sup> North Carolina v. Thomas Dula, No. 8922.

<sup>73</sup> Ibid. Pauline Foster testified that she did not get out of bed until after breakfast. Wilson Foster also stated that he had seen Ann Melton in bed around 8 o’clock that morning. Wilkes County Criminal Action Papers, Pauline Foster’s Testimony, North Carolina Digital Archives, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/354/rec/6> (accessed May 2, 2014). Hereafter cited as Wilkes County Criminal Action Papers; Summary by Judge W.M. Shipp, State of North Carolina v. Thomas Dula, No. 8923.

<sup>74</sup> Wilkes County Criminal Action Papers, 3-4, North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/354/rec/6> (accessed May 2, 2014).

and got under the bed.” Lotty did what any mother concerned for her child’s reputation would do—she ordered him out of the house.<sup>75</sup>

Or at least that is what she said she did. Lotty’s testimony paints a picture of Tom Dula as the pursuer, and Ann Melton as the pursued. Was this an attempt to mitigate Ann’s involvement by showing Dula as a trespasser, and prime instigator in the affair, and by association the principle suspect in the murder? As mother, Lotty would have had motive enough to shape her testimony in favor of her daughter. Perhaps she was concerned for her or her daughter’s reputation and wanted to portray Ann in a positive light. Quite possibly, too, the community’s sexual mores might have been relaxed enough that the revelation of the affair factored little in damaging Ann’s reputation.

If anything, Tom Dula’s sexual transgressions seemed to outweigh Ann’s because he had been the one to visit *her*.<sup>76</sup> He was the pursuer, she the object of pursuit. Even though Ann’s involvement was noted it was also drastically downplayed. Witnesses afforded her less agency than she otherwise might have had in reality. Lotty Foster noted that she had frequently seen Dula “go in the direction of James Melton’s night and day.”<sup>77</sup> No one ever testified to seeing Ann Melton travel in the direction of Mary Dula’s to see Tom. What was not said is just as important in this case.

Pauline Foster testified that since she had been hired to work for James and Ann Melton as a live-in domestic servant she also had noticed how Dula was present “most every day,” staying “sometimes at night.” She had “seen him in bed with Ann Melton” frequently. On the

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<sup>75</sup> North Carolina v. Thomas Dula, No. 8922. The date this event occurred does not make sense. Foster cited it as occurring two years before the war and after Ann was married to James, but Ann had not been married to James nearly as long.

<sup>76</sup> In early American communities, the practice where neighbors commonly intervened in cases where an extramarital affair was assumed continued well into the mid and late 19<sup>th</sup> century in some working-class and immigrant neighborhoods. For more on the relationship between deviancy and social control see John D’Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America* (New York: Harper and Row, 1988), 82.

<sup>77</sup> North Carolina v. Thomas Dula, No. 8922.

day of Laura Foster's disappearance it was Dula who had come to speak with Ann.<sup>78</sup> Pauline's credibility as a witness is a matter of speculation. At one point during the questioning, Pauline stated to the jury that on the day Laura disappeared Pauline "didn't go off the place that day."<sup>79</sup> This is a clear indication that she wanted to deflect suspicion away from herself.<sup>80</sup>

And suspicion against her there was. Pauline was initially a suspect in the murder and was arrested. Her name appeared in the original arrest warrant issued June 28, 1866.<sup>81</sup> After a hearing at Cowel's store in Elkhaville the following day, Pauline let it slip to George Washington Anderson and Deputy Jack Atkins that she "would swear a lie for Tom Dooley anytime."<sup>82</sup> A few weeks later she was arrested again, and this time placed in jail for a remark she alleged she had said in "jest" to Jack Atkins and Ben Ferguson. Pauline related that she had told them that she and Dula had murdered Foster.<sup>83</sup>

In jail she disclosed the statement about Ann's complicity in the murder and was released on the disclosure.<sup>84</sup> Her admission in court that she, too, had contracted a venereal disease suggests that her credibility was brought up at least once, if not more times. Pauline stated that she worked for the Meltons for money to buy medication to treat her disease.<sup>85</sup> She also denied

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Pauline Foster was from Watauga County, North Carolina. She came to Wilkes County in early March, 1866, to seek medical treatment for syphilis, a disease she had acquired in Watauga. She also came to visit her grandfather John "Jack" Dula in Caldwell County. Jack Dula was Tom's great uncle. This would have made Pauline and Tom second cousins. She was also a distant cousin of Laura's, and a cousin to Ann. Fletcher claimed that Pauline was fond of Dula "as a relative and friend." Fletcher, *The True Story of Tom Dooley*, 22-23, 91. Pauline had been hired to work that summer for James and Ann Melton as a live-in domestic servant to help pay for her medical treatments. See Fletcher, *The True Story of Tom Dooley*, 22, 23. Fletcher additionally cited that another motive for Pauline's seeking medical treatment to cure her disease came from her desire "to complete her own marriage bond" so she could be married to John Scott. Fletcher, *The True Story of Tom Dooley*, 120. See *North Carolina v. Thomas Dula*, No. 8922.

<sup>81</sup> Carter examined Melton, Foster, and Granville Dula on June 29, 1866, and judged that they were not guilty of the charges. Arrest Warrant, June 25, 1866, Pickens Carter, Justice of the Peace, Wilkes County Criminal Action Papers, 1866-1869.

<sup>82</sup> *North Carolina v. Thomas Dula*, No. 8922.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.



that she had told James Melton that she had killed Laura.<sup>86</sup> Washington Anderson testified that Pauline met Dula one night, “near the road,” and spent “the night with him in the woods.”<sup>87</sup> So Pauline and Dula slept together?

Pauline also disclosed that Ann maintained “great influence over Dula,” and provided an example by alluding to some ill-feeling Ann might have held against Mr. Griffin, a neighbor. According to Pauline, Ann had talked Tom into “going over to beat Mr. Griffin.”<sup>88</sup> She never specified what this argument was about, though. Later in the testimony Pauline added that Ann had “boasted that she could make Dula do anything—that she always kept anybody about her under her.”<sup>89</sup> The testimony presents Ann as the mastermind and Tom as her tool.

Pauline further divulged that Ann had gotten into an argument with Tom over another woman, a neighbor Caroline Barnes. Here Ann is portrayed as a jealous lover.<sup>90</sup> At another point in Pauline’s testimony she revealed that after Ann had found out that Tom had given her syphilis and that he had gotten it from Laura, Ann told Pauline that she was going to kill Laura and warned that if Pauline told anyone she would kill her as well.<sup>91</sup> Apparently Ann confided in Pauline a lot. Ann’s confessions to Pauline suggests that they were friendly enough to trust one another, or perhaps Ann saw how devoted Pauline was to Tom and reasoned she would not implicate Tom in the murder. Indeed, Pauline’s account actually pointed more suspicion on Ann than it did Tom.

Additionally, trial testimonies reveal that Ann did not attempt to keep her affair with Dula a secret, at least among her neighbors, and possibly even her husband James. Their reports

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<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Wilkes County Criminal Action Papers, 1.

<sup>89</sup> Ibid, 2.

<sup>90</sup> Ibid, 1

<sup>91</sup> Ibid.

indicate a community's relaxed sexual standards. Pauline Foster related that she had seen Tom Dula in bed with Ann frequently, adding that James did not sleep with his wife. Pauline explained that the single room housed three beds, and "the prisoner [Dula] would slip to bed with her after she had gone to bed, he would first lay down with James Melton."<sup>92</sup> The fact that there were three beds in one room indicates that it would have been easy for James to wake up at a late hour to discover his wife sleeping with Dula. They were evidently not trying too hard to conceal their affair from James.

Pauline further divulged to the court that she knew Ann had been sick and was treating her illness with "blue stone, blue mass, and caustic."<sup>93</sup> The remedies Ann used for her treatment affirmed that she had contracted syphilis, providing more proof to the jury that she had "round heels."<sup>94</sup> Ann had also purportedly confided to Pauline that Dula had given her "the Pock."<sup>95</sup> Again, it reveals that Ann might not have been trying to keep her involvement with Dula a secret. However, at the same time, it could be that Pauline made up the account in an attempt to shift the blame from herself.

The testimonies of James Isbell and Mrs. James Scott additionally confirm how widely known Ann's sexual activity was among neighbors. James Isbell, a wealthy landowner who lived nearby in neighboring Caldwell County, noted that it had been "generally reported that Ann Melton had engaged in illicit intercourse with others besides the prisoner."<sup>96</sup> Mrs. James Scott, another neighbor, claimed to have seen, at different times, Ann Melton sitting in Dula's lap.<sup>97</sup>

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<sup>92</sup> North Carolina v. Thomas Dula, No. 8922.

<sup>93</sup> Ibid.

<sup>94</sup> "Round heels" is a mountain folk term connoting sexual promiscuity. See West *Lift Up Your Head Tom Dooley*, 12.

<sup>95</sup> North Carolina v. Thomas Dula, No. 8922.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

Whether this was true or not, word had spread that Ann Melton was quite a sexually active woman outside her marriage.<sup>98</sup>

Other neighbors never directly stated that Ann was a loose woman but certainly hinted as much. Wilson Foster's testimony of Ann on the day of Laura's disappearance serves as an example. On the morning Laura Foster disappeared, Wilson Foster stated to the jury that during his search to find his daughter and his horse, he had stopped, around 8 o'clock that morning, at the Melton residence where he found Ann lying in bed with "her clothes off." One wonders at the relevancy of Wilson Foster's account of Ann in bed nude. How could Foster have made this revelation unless Ann lay in bed with nothing to cover her body? Was it an attempt by the middle-class prosecution to point out what they considered to be disreputable behavior, adding to their portrayal of Ann as a femme fatale? If the statement proves anything, it shows that Ann chose to stay in bed rather late instead of doing her chores on the farm in a busy month like May.

Like Wilson Foster, Washington Anderson, a neighbor, had visited the Meltons the morning of Laura's disappearance. Anderson noticed that while the rest of the household were eating breakfast Ann was in bed, sick—"her shoes were wet, dress not observed."<sup>99</sup> Did Anderson mean he had not observed the condition of the dress, which might have been wet like her shoes, or that he, too, had noted that Ann wore no dress? The reference to her wet shoes

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<sup>98</sup> In South Appalachia, as elsewhere, society viewed sexually assertive women with a mixture of fear and fascination. See Anthony Cavender and Steve Crowder, "White-Livered Widders and Bad-Blooded Men: Folk Illness and Sexual Disorder in Southern Appalachia," *Journal of the History of Sexuality*, Vol. 11, No. 4 (October 2002), 637-649. In Southern Appalachia, the folk term "white-livered widder" evoked the image of the fearsome and fascinating sexually aggressive woman of legend. An early source defined the "white-livered widder" as "a lively, buxom, good-looking woman" whose "inordinate sexual passion" had caused her to lose several of her husbands. Her insatiable passion had literally "drained" her spouse "of his vital essence," killing him. Ibid, 639; Ann Melton's actions mirrored the stories from the popular Davy Crockett Almanac about "wild" women of the backcountry who were as "untamed and sexually aggressive as men." Historian Victoria Bynum has pointed out that aggressive behavior transformed a woman into "a shrew, or worse, a whore who warranted physical discipline." See Victoria E. Bynum, "Mothers, Lovers, and Wives: Images of Poor White Women in Edward Isham's Autobiography," in *The Confessions of Edward Isham: A Poor White Life of the Old South*, eds., Charles C. Bolton and Scott P. Culclasure (Athens: University of Georgia press, 1998), 85-87.

<sup>99</sup> North Carolina v. Thomas Dula, No. 8922.

implies that she had left the house earlier that day or late the night before. Under cross-examination by the defense Anderson added that he believed the wet shoes beside the bed were “women’s shoes,” but he could not identify with certainty who owned them.<sup>100</sup>

Anderson’s response casted some doubt on how long Ann had been absent from the house. Wherever she had been it had exhausted her and made her “sick” enough that she decided to remain in bed instead of eat. It is important to note, however, that Washington Anderson was a good friend of Tom Dula and certainly would have had motive to provide a negative slant on Ann Melton. If Anderson’s testimony heaped suspicion on Ann, Pauline Foster’s did more.

Pauline testified that Ann returned to the house an hour before daybreak on Friday, May 25, and crawled into bed with her.<sup>101</sup> Where had she been? According to Pauline, Ann left the house after dinner the day before with a “canteen of liquor which had been filled” for Dula, and headed towards the Ridge Road. She stayed out the entire night, returning on Friday in the wee hours before dawn. Her “dress was wet and so were her shoes,” noted Pauline.<sup>102</sup> Washington Anderson’s testimony bolstered Pauline’s. Anderson explained that on the Thursday night before Laura went missing he had visited the Melton residence for about two hours and recalled that Ann was not there.<sup>103</sup> In addition to implicating Ann’s involvement in murder, these testimonies also suggest that she was not planning on leaving the house again anytime soon.

As a common white woman living in difficult times Ann Melton’s only recourse would have been in finding a man like James Melton to offer her some means of “protection.” It appears that James conformed to this standard. During the trials, the popular sentiment was that

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<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

James would “espouse her cause.”<sup>104</sup> And he did. Although no record of James’s testimony exists, Pauline Foster’s explanation to the jury that she did not admit to James that she had killed Laura Foster reveals that James testified that Pauline had said this to him. It was an effort on James’s part to deflect suspicion from his wife. Women had few legal rights and little formal power at this time. Victoria Bynum has argued that: “Poor women waged difficult struggles in this male-dominated world in which norms of masculine behavior undercut their own ability to gain personal fulfillment and a measure of prosperity...Male competition also offered women opportunities to escape unhappy situations they were otherwise powerless to change. Women’s ability to manipulate or instigate male struggles over “ownership” of them constituted their major sphere of power.”<sup>105</sup>

Ann Melton might have been exercising the little power she had by having an affair with Tom Dula. Under the English Common Law doctrine of “femme covert” married women were essentially “buried to the world.” A married woman lost what little rights she had: property rights, the right to contract and sue, and the right to have custody of her children.<sup>106</sup> Ann Melton lived in such a world.

On first glance it appears that James and Ann had an unconventional marriage. Pauline Foster testified that James did not sleep with his wife. However, another section in Foster’s testimony implied that he had recently slept with her. Foster reported that after Ann confided to her that she had syphilis, Ann stated that she would deceive Mr. Melton, who also had the

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<sup>104</sup> Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 13, 1866.

<sup>105</sup> Bynum, “Mothers, Lovers, and Wives: Images of Poor White Women in Edward Isham’s Autobiography,” 89-90.

<sup>106</sup> Jones, *Women Who Kill*, 71-74. See also Victoria E. Bynum, *Unruly Women: the Politics of Social and Sexual Control in the Old South* (Chapel Hill: University of North Carolina Press, 1992), 2-3. Bynum has studied extensively women in North Carolina. She contends that the North Carolina Supreme Court “routinely denied legal separations and divorces to women trapped in abusive, degrading marriages,” and that stiff penalties were meted out to sexually active unmarried women.

disease, into thinking he had given it to Ann.<sup>107</sup> If this report was true, it suggests that Ann was keeping her affair with Dula a secret from James and that her husband possibly had no inkling that his wife was having an affair.

Pauline's testimony describing how Dula would try to come to the Melton house when he knew James Melton was away, and on the occasion that Melton was there Dula would at first slip into bed with him, but later sleep with Ann confirms that both Tom Dula and Ann Melton were attempting to cover up their affair from James.<sup>108</sup> If their marriage was unconventional in the sense that they could openly carry on extramarital relationships why would Ann Melton have taken such pains to keep her trysts with Dula a secret? The fact that they took great care to hide their feelings for each other in front of James Melton revealed that they feared what would happen if he found out. At one point in her lengthy testimony, Pauline Foster informed the court that Ann had her sleep with Dula "on a blind" to ward off any suspicion that Ann Melton and Tom Dula were involved in an adulterous affair.<sup>109</sup>

What James Melton thought of their frequent house guest, Thomas Dula, is even harder to determine. Nothing in the evidence indicates he had any quarrel with Dula. Like Ann, he probably grew up with Dula. Before he fled to Tennessee, Dula stayed with the Meltons "every day or night." On most nights he slept in the same bed with James before going to bed with Ann.<sup>110</sup> The two must have known each other well.

The most illuminating evidence suggesting how James Melton regarded Thomas Dula comes from Pauline Foster's testimony: "Two or three days before their parting I heard James Melton say in the presence of the prisoner that it was reported about Hendricks that Dula had

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<sup>107</sup> Wilkes County Criminal Action Papers, 1.

<sup>108</sup> Wilkes County Criminal Action Papers, 1-2; North Carolina v. Thomas Dula, No. 8922.

<sup>109</sup> North Carolina v. Thomas Dula, No. 8922.

<sup>110</sup> Ibid; Wilkes County Criminal Action Papers, 1.

killed Laura Foster. Dula laughed and said, ‘they would have it to prove, and perhaps take a beating besides.’”<sup>111</sup> Apparently James Melton was friendly enough with Dula to warn him about the rumors the neighbors had been spreading concerning his alleged involvement in Laura Foster’s possible murder. James could also have been probing Dula for information, maybe even trying to get him to talk. They both had at least one thing in common: they loved the same woman.

That woman could lose her temper at times. About a week after Ann Melton allegedly showed Pauline Foster the grave of Laura Foster, a highly inebriated Foster let it slip to Ben Ferguson and Jack Atkins, the Wilkes County sheriff’s deputies, that she had helped Dula kill Laura Foster. After Melton had learned of Foster’s remarks to the deputies the two went over to the house of Mrs. James Scott, a neighbor, and a quarrel erupted between the two. Mrs. Scott testified that first Foster came to her house. In a few minutes an irate Ann Melton arrived and employing “very abusive language,” ordered Pauline Foster to go home.

At that point Melton “pushed her out of the door, drew a stick over her, threw her down, and choked her.”<sup>112</sup> During the fight Melton let out a damning statement implicating her own involvement in Laura Foster’s murder. She boasted that she and “her best friend” [Dula?] started out that morning [the morning of Laura’s disappearance] to “take revenge.” Melton returned twice to warn Mrs. Scott not to tell anyone anything that she said in her presence. The third and final time Melton visited Mrs. Scott she warned that Scott would follow her to Hell if she ever told.<sup>113</sup>

If Pauline Foster’s account of Ann Melton’s trip to Laura Foster’s grave is true, it exemplified how calculating and devious Melton could be. Soon after Dula was arrested and put

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<sup>111</sup> North Carolina v. Thomas Dula, No. 8922.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

in jail, Melton allegedly insisted to Pauline Foster that they visit Laura Foster's grave. Foster stated that Melton had wanted to see if "it looked suspicious." If it looked suspicious she was going to "cut her up, put her in a bag" and bury the body elsewhere. They walked by Lotty Foster's house, crossed Reedy Branch, traveled through an open field and onto a "secluded, thickety [sic]" ridge near an old log. Melton stopped at the log and gathered some leaves and placed them on a spot where the ground looked like it had been disturbed. This incident horrified Foster and although one hundred yards or less away from the shallow grave, she balked and refused to follow Melton the rest of the way.<sup>114</sup>

On the admission of Pauline Foster's confession to the whereabouts of Laura Foster's grave, Ann Melton and Tom Dula were arrested and confined to separate cells in the Wilkes County jail to await sentencing. Ann spent two years in the Wilkes and the Iredell County jails before being acquitted in the Wilkes County Superior Court.<sup>115</sup> As the murder trials of Tom Dula gained public attention she became a well-known figure and topic of discussion in households and public meeting places throughout the state. Regional and national newspapers expressed an incredible degree of ambivalence toward the woman "whose commands" allegedly brought Dula to the gallows. Major North Carolina newspapers reported on the case, yet a wide gap in the case's coverage was evident from the time the case began making headlines.<sup>116</sup>

*The Asheville News*, a major western North Carolina paper, made no reference to the murder during the height of the case's popularity. Rutherfordton, North Carolina's *The Rutherford Star* included only one article. The article contained a reprint from *The Wilmington*

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<sup>114</sup> Ibid.

<sup>115</sup> "Ann Melton Acquitted," originally printed in *The Statesville American* and reprinted from *The Wilmington Journal*, Wilmington, North Carolina, November 6, 1868.

<sup>116</sup> *The Fayetteville News, Fayetteville Observer, Carolina Watchman, Wilmington Journal, Wilmington Post, Semi-Weekly Raleigh Sentinel, The Western Democrat, Old North State, Statesville American, and The Rutherford Star* all reported on it.



*Journal* detailing Dula's execution in May 1868.<sup>117</sup> Perhaps western North Carolina newspapers wanted to avoid coverage that might have portrayed the western section as lawless for fear the negative press would drive away opportunity for immigration to the area and economic growth. The western counties had already taken a beating by the press during the war years as a haven for deserters.<sup>118</sup> In other areas the case had become a heightened topic of interest.

Newspapers in North Carolina's central and eastern counties reported on the case the most. Nearly every paper in Wilmington, North Carolina, followed the case. Wilmington's *Morning Star*, *Post*, *Journal*, and *Daily Dispatch* all contained articles and updates on it.<sup>119</sup> Competitive Raleigh newspapers *The Standard* and *The Sentinel* trailed closely behind Wilmington's lead.<sup>120</sup> The cities of Salisbury, Fayetteville, Greensboro, and Charlotte had at least one of their major newspapers include updates on the murder trials.<sup>121</sup>

On October 29, 1866, the *Carolina Watchman*, reporting on the first trial, described Ann Melton as "a married woman, young and beautiful," who maintained "great influence" over

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<sup>117</sup> J.B. Carpenter, ed., "Correspondence of the Wilmington Journal," *The Rutherford Star*, June 9, 1868.

<sup>118</sup> "Wilkes County," *The Daily Progress*, October 16, 1863; "Letter to the Editor," *The Daily Progress*, April 16, 1864.

<sup>119</sup> W.M. H. Bernard, ed., "North Carolina in a Nutshell," *The Wilmington Morning Star*, May 7, 1868; "North Carolina in a Nutshell," *The Wilmington Morning Star*, January 29, 1868; "Important Trial," *The Wilmington Post*, January 30, 1868; "The Dula Trial," *The Wilmington Post*, February 1, 1868; "State News," *The Wilmington Post*, May 7, 1868; "State News: Superior Court," *The Daily Dispatch*, October 18, 1866; "North Carolina News: Trial of Thomas Dula," *The Daily Dispatch*, October 26, 1866; "State News: Court of Oyer and Terminer," *Wilmington Journal*, Vol. 24, No. 52 February 7, 1868; "State News: Execution," *Wilmington Journal*, Vol. 24, No. 12, May 1, 1868; "Telegraphic Correspondence of the New York Herald," *Wilmington Journal*, May 8, 1868; "Our Iredell Correspondence," *Wilmington Journal*, May 15, 1868.

<sup>120</sup> "Trial of Thomas Dula for the Murder of Laura Foster," *The Tri-Weekly Standard*, October 27, 1866; "Trial of Thomas Dula for the Murder of Laura Foster," *The Weekly Standard*, October 31, 1866; "Correspondence of the Sentinel," *The Raleigh Sentinel*, October 18, 1866; "Supreme Court Opinions," *The Raleigh Sentinel*, February 20, 1867; "Correspondence of the Sentinel," *The Semi-Weekly Raleigh Sentinel*, October 20, 1866.

<sup>121</sup> "Trial of Thomas Dula for the Murder of Laura Foster," *Carolina Watchman*, October 29, 1866, Vol. 1, No. 34; "Telegraphic Correspondence of the New York Herald," *Carolina Watchman*, May 15, 1868; W.J. Yates, ed., "A Murder Trial," *The Western Democrat*, February 4, 1868; "Iredell Superior Court," *The Western Democrat*, October 30, 1866; "Correspondence of the Wilmington Journal," *The Western Democrat*, May 19, 1868; "Ann Melton Acquitted," *The Western Democrat*, November 10, 1868; Myrover, eds., "Notes and Items of Travel in Western North Carolina," *The Fayetteville News*, November 13, 1866; "Notes and Items of Travel in Western North Carolina," *The Fayetteville News*, November 20, 1866; "Superior Court," *The Greensboro Patriot*, October 19, 1866; "Items of State News," *The Greensboro Patriot*, October 25, 1867; "Iredell Superior Court," *The Greensboro Patriot*, April 24, 1868.

Dula.<sup>122</sup> A correspondent for *The Fayetteville News* echoed the sentiment of the *Carolina Watchman* in its assessment of Melton, citing that she “possessed a magnificent influence over those within her sphere.” The Fayetteville correspondent noted that Tom Dula—“her guilty lover”—remained “strongly infatuated, even now, with the woman whose commands, too faithfully executed, have brought his head under the shadow of the awful gallows-tree.”<sup>123</sup> A few days after Dula’s execution in May 1868, the *Wilmington Journal* additionally referenced the “great influence” Melton obtained over Dula and related how she had “forced him to the commission of the crime.”<sup>124</sup> Historically, the sexually autonomous female has been portrayed as “a dangerous female” who uses her sexuality to “seduce and destroy.”<sup>125</sup>

In one sentence *The Fayetteville News* wrote the most damning description of Ann Melton as an incorrigible criminal: “Mrs. Ann Melton was remanded to prison—her soul blackened with crime, her hands imbued with the blood of her near kins-woman—to await her trial at the next term of the Superior Court.”<sup>126</sup> The fact that her “soul”—her immortality—was now “blackened with crime” meant that she would forever be branded a deep-dyed criminal. In their reports of Ann as the quintessential femme fatale, *The Carolina Watchman*, *The Fayetteville News*, and the *Wilmington Journal* seemed to be early examples presenting female

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<sup>122</sup> John Joseph Bruner, ed., “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, October 29, 1866. *The Carolina Watchman* was established in 1832 by Hamilton C. Jones, an old lawyer and Whig leader in Salisbury, North Carolina. In 1850, J.J. Bruner took over as editor.

<sup>123</sup> Myrover, eds., “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 20, 1866.

<sup>124</sup> “The Death Penalty,” *Wilmington Journal*, May 8, 1868.

<sup>125</sup> Bailey and Hale, *Blood on Her Hands*, viii.

<sup>126</sup> “Notes and Items of Travel in Western North Carolina,” *The Fayetteville News*, November 20, 1866.

murderers/criminals as “the deadlier species.”<sup>127</sup> The deadlier species paradigm depicts women who kill as deadlier than their male counterparts who kill.<sup>128</sup>

*The Western Democrat* in Charlotte never included Ann in its October 30, 1866, report in the “state news” column. Instead it noted that Thomas Dula had been convicted of Laura Foster’s murder, “with whom he had been on terms of improper intimacy.”<sup>129</sup> Neither did *The Greensboro Times* include any reference to Ann Melton, choosing instead to detail Dula’s doomed sentence to hang on the gallows in the coming weeks.<sup>130</sup> Some only referred to her as “Mrs. Melton,” “a married woman,” “the other woman,” “the rival of the poor, betrayed girl,” the “jealous lover,” “a female accomplice,” and “the supposed confederate and accomplice of Dula.”<sup>131</sup> Similarly, Thomas C. Land’s poem, “The Murder of Laura Foster,” excluded mentioning Ann’s name, referring to her as a “vile guest.”<sup>132</sup> This could have been a way to add more to the mystery that was Ann Melton. By making her an elusive figure in the story newspapers fed into the popularity of constructing murder narratives with the gothic elements of “mystery” and “horror.”

After Dula’s execution, the last news to appear in the papers detailed Ann Melton’s acquittal. Most papers included a terse description from the *Statesville American*, noting simply that she had been acquitted. The brief summary was sympathetic in tone: “The unfortunate woman had suffered about two years imprisonment, and if guilty, she has been severely

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<sup>127</sup> Social scientists have identified “the deadlier species model” as one of six theories that explain women who kill. The model presents women as either the “gentler sex” or the “deadlier species.” See Bailey and Hale, *Blood on Her Hands*, iv.

<sup>128</sup> Ibid.

<sup>129</sup> “State News,” *The Western Democrat*, October 30, 1866.

<sup>130</sup> Jason W. Albright and Brothers, eds., “Local Squibs,” *The Greensboro Times*, April 23, 1868.

<sup>131</sup> See “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, October 29, 1866; “Correspondence of the Sentinel,” *The Raleigh Sentinel*, October 18, 1866.

<sup>132</sup> Henry M. Belden, and Arthur Palmer Hudson, eds., *The Frank C. Brown Collection of North Carolina Folklore* Vol. 2 (Durham: Duke University Press, 1952), 709.

punished, and the gallows would have added little to her punishment.”<sup>133</sup> Locally, Ann’s acquittal stemmed, in part, from some clout she had in the community.<sup>134</sup> *The Fayetteville News* noted that she was the child of Carlotta Foster and the “natural daughter” of a prominent Wilkes County resident, disclosing that her maiden name had been “Hendricks.”<sup>135</sup> If Ann was a close relative of the Hendricks family, then that would help explain their motive in spreading rumors about Dula.<sup>136</sup> Other newspapers further suggested that she was not a poor white. They either avoided mentioning her name and involvement in the case entirely, or they spoke of her as “Mrs. Melton.”<sup>137</sup>

Perhaps the highly publicized execution of Mary Surratt, one of the alleged accomplices in President Lincoln’s assassination in 1865, was still fresh on peoples’ minds as well. Surratt’s execution elicited a firestorm of controversy and revealed the reluctance people had nationwide for executing women.<sup>138</sup> It was Ann Melton’s incredible ability to act the part of a “true woman” during her confinement in jail and the times she entered the courtroom that played a crucial role in her acquittal. *The Wilmington Post* commented on Melton’s behavior, noting that she was “quite a neat and interesting person in her appearance” and in court, she bore herself “calmly,”

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<sup>133</sup> “Ann Melton Acquitted,” originally printed in *The Statesville American* and reprinted from *The Wilmington Journal*, November 6, 1868.

<sup>134</sup> It is not certain where exactly her support came from, but trial testimonies indicate that she had more support than her co-defendant, Tom Dula.

<sup>135</sup> See Myrover, eds., “Notes and Items of Travel in Western NC,” *The Fayetteville News*, Vol. 1, No. 32, November 13, 1866. During the trial, Pauline Foster testified that the Hendricks family lived nearby the Dula and the Melton families, and had also played a role in spreading rumors about Tom Dula’s guilt. Pauline Foster’s Testimony, *North Carolina v. Thomas Dula*, No. 8922, 33. Previous scholars have speculated that her maiden name was either Foster or Triplett, but none were able to conclusively determine the identity of her birth father. Fletcher, *The True Story of Tom Dooley*, 19.

<sup>136</sup> Being an outsider to the community, *The Fayetteville News* correspondent would have been less likely to suppress Ann’s family connections and more apt to present an accurate account.

<sup>137</sup> Jason W. Albright and Brothers, eds., “Local Squibs,” *The Greensboro Times*, April 23, 1868; “State News,” *The Western Democrat*, October 30, 1866; “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, October 29, 1866; “Correspondence of the Sentinel,” *The Raleigh Sentinel*, October 18, 1866.

<sup>138</sup> For more on the controversy surrounding the execution of Mary Surratt, see Kate Clifford Larsen, *The Assassins Accomplice: Mary Surratt and the Plot to Kill Abraham Lincoln* (New York: Basic Books, 2008).

and appeared to take “great interest in the proceedings.”<sup>139</sup> *The Wilmington Journal* included in a reprint of the *New York Herald’s* account of Dula’s May 1, 1868, execution in Statesville, a description of Melton mirroring what other reports said of her: “though living in the midst of depravity and ignorance she has the manners and bearing of an accomplished lady, and all the natural powers that should grace a high born beauty.”<sup>140</sup>

Appearance mattered. Ann Melton knew how to dress and what to say. Nearly every newspaper focused on some aspect of her physical appearance and sexuality. Whether the press coverage and the trial lawyers presented her as a meek and delicate lady deserving of sympathy, or a sexually alluring femme fatale, she maintained the image of a woman, not a deviant outcast. John Sharpe’s 1933 article in the Statesville *Landmark* detailing the Tom Dula murder case offers a telling example of what lay ahead.

Sharpe’s eyewitness report of how she behaved while in custody revealed how well she played to the sympathies of middle-class lawyers, jurors, and newspapermen. He noted that Ann created:

a favorable impression, and made a domestic and disarming picture as she sat knitting in the fireside in the woman’s ward of the old county jail, situated just back of the three small stores on the corner of Broad and Cooper streets. She was a brunette about 25 years of age, petite and pretty, with brown eyes and hair worn becomingly. Short on education but with a woman’s intuition and a voice soft, gentle, low; dressed tastefully considering the circumstances, and with manners for ornaments.<sup>141</sup>

Yet underneath all the charm, Sharpe argued that she possessed “only outward advantages.”

These outward advantages were a façade. He likened her to “a flower without fragrance” and “a tree without fruit.”<sup>142</sup> Later news coverage would not be as sympathetic toward Ann.

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<sup>139</sup> “State News: Important Trial,” *The Wilmington Post*, January 30, 1868.

<sup>140</sup> “The Death Penalty,” *The Wilmington Journal*, May 8, 1868.

<sup>141</sup> Sharpe, “The Tom Dula Murder Case,” *The Landmark*, January 31, 1933.

<sup>142</sup> *Ibid.*

## CHAPTER 4

### “NO EYE HAD SEEN HIM, NO EAR HAD HEARD HIM, THE SECRET WAS HIS OWN”<sup>1</sup>: NORTH CAROLINA CAPITALIZES ON THE MURDER CASE AND CONSTRUCTS IT AS “MYSTERY” TO MAKE A PROFIT

From the moment it became public news, the murder of Laura Foster gripped the entire nation. Newspaper commentators underscored the “mystery” they believed was inherent in the case at the outset. “This tragedy is involved in great mystery, and there is a popular and strong belief, that notwithstanding Dula’s confession, he did have one or two accomplices,” noted *The Wilmington Morning Star* a few days following the execution.<sup>2</sup> *The Fayetteville News* described it as “one of the most thrilling trials that ever took place in the State,” and related that “an eager multitude” of people attended the courthouse proceedings and listened “with breathless attention to the evidence.”<sup>3</sup> The reporter from *The New York Herald* concurred, citing that “the most intense interest was manifested in the trial.”<sup>4</sup>

In the beginning, newspapers reserved their harshest judgments for Tom Dula, characterizing him as a desperado who had operated in a den of immorality and crime even before the murder. The initial press coverage of the case seldom referenced Ann Melton’s involvement. The few news references to Melton typically presented her in one of two ways: as a woman frail, weak, and passive who deserved sympathy for being pulled into an unfortunate tragedy, or as a femme fatale who had manipulated her lover into murdering her rival because she was not physically capable of carrying out the deed herself. Over time, and especially by the 1950s, views of Dula and Melton reversed. Dula became a hero of sorts for his Confederate

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<sup>1</sup> “Letter to the Editor: the Tom Dula Murder Case,” *The Statesville Record-Landmark*, January 31, 1933.

<sup>2</sup> W.M. H. Bernard, ed., “North Carolina in a Nutshell,” *The Wilmington Morning Star*, May 7, 1868.

<sup>3</sup> “Important Trial,” *The Fayetteville News*, February 4, 1868.

<sup>4</sup> “The Death Penalty,” *The New York Herald*, May 2, 1868.

military service. Some concluded that Dula was wholly innocent of the crime and had been duped by the cold, calculating Ann Melton. Tom Dula had become Ann Melton's victim.

As it became fictionalized in ballads, movies, novels, and plays, the story has taken on a life of its own. The manner in which the views shifted underscores both the case's enduring hold on the American imagination and the evolving construction of gender. Shifts in Dula's and Melton's images reflected what American society has most feared at certain times. The murder case acted as a public forum on judging what constitutes "normal" behavior. This case resonated like it did precisely because middle-class journalists shaped it to mirror whatever the social anxieties were at the time.

Ann Melton's mostly neutral image in the press ended shortly after acquittal. In fact, the sympathy afforded Ann by the newspapers did not last into the next century. On February 17, 1916, *The Union Republican* brought up the "old murder case" again. The newspaper referenced Ann Melton as "the Lady Macbeth."<sup>5</sup> Lady Macbeth was a fictional character in William Shakespeare's play, *Macbeth*, who goaded her husband into killing King Duncan. Shakespeare portrayed her as "a strong, rational, and calculating" woman driven by bloodlust in order to achieve power.<sup>6</sup>

By transforming Melton into the Lady Macbeth the commentator presented her as the cultural archetype of the dangerous woman.<sup>7</sup> Why had Ann Melton's image become more negative? The answer can be attributed to shifting gender norms. In 1916, the image of the "New Woman" supplanted the Victorian ideal of "true womanhood." The New Woman participated

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<sup>5</sup> "An Old Murder Case," *The Union Republican*, February 17, 1916.

<sup>6</sup> "Lady Macbeth," *Encyclopedia Britannica*, <http://www.britannica.com/EBchecked/topic/353779/Lady-Macbeth> (accessed February 4, 2015); Bailey and Hale, *Blood on Her Hands*, 42-45.

<sup>7</sup> Literary critics have typically identified Lady Macbeth as more "monstrous" than her husband because it was she who nagged him into following through on their plan to murder the king. Critics have pointed how she displayed "masculine" traits and have further described her as being "the dramatic most vivid manifestation of the witch as dangerous familiar and her witchcraft as 'malice domestic'...an invasion of the household and its daily life." See Bailey and Hale, *Blood on Her Hands*, 42-45.

more actively in public life than her mother and grandmother had before her. She earned a wage, sought an education, embraced individualism, and spent a great deal of time doing community service.<sup>8</sup> An increasingly industrialized economy provided women the opportunity to enter the workforce in unprecedented numbers, making their presence in public life more visible than previous generations. The outbreak of World War I only fueled women's claims for enfranchisement.<sup>9</sup>

Ann Melton's involvement in murder and the public response to it offers clues to societal concerns relating to all women, their status, and their roles in society. According to historian Ann-Louise Shapiro, discussion of "female criminality" functioned as "a code" for discussion of broader societal norms.<sup>10</sup> Society's response to women like Melton serves as just one of many examples of social responses to female behavior—albeit an extreme one. Labeling Melton Lady Macbeth shows just how far her image had changed since the murder trial. She was becoming more evil, and seen by the then current generation as having had more agency in her role in the murder.

The paper's subtitle, "The Woman Acquitted," hints at the injustice of Dula hanging for the crime and Melton going free. *The Statesville Record and Landmark* underscored the fact that Dula and Melton acted on their own accord, meaning it was no one's fault but their own that they had made the wrong choices and ended up accused of murder. John Sharpe, the author of the letter to the editor, went on to detail how human agency involved three possibilities in life one could select: balance, evolution, and degeneracy. Balance was the hardest to achieve. "We either aspire to a higher type of life or we drift in the world current impelled by a downward and

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<sup>8</sup> Ellen Carol DuBois and Lynn Duménil, *Through Women's Eyes: An American History*, second edition (Boston and New York: Bedford St. Martin's, 2009), 355-356.

<sup>9</sup> DuBois and Duménil, *Through Women's Eyes*, 356, 469, 481.

<sup>10</sup> Ann-Louise Shapiro, *Breaking the Codes: Female Criminality in Fin-de-Siecle Paris* (Stanford: Stanford University Press, 1996), 4.



irresistible force until we reach the vortex of time, when we are thrown out as deadwood upon the shore of eternity,” wrote Sharpe.<sup>11</sup>

Sharpe believed Dula and Melton served as prime examples of people who chose a life of degeneracy. He recalled that in his gallows speech Dula gave “good advice to the young people, and said that his downfall was due to ‘women, wine, and fiddling.’”<sup>12</sup> Evidently, Sharpe did not want to pass up the chance to lecture on morality like others before him had done. He also pointed out the earlier reference to Melton as Lady Macbeth. Sharpe believed Melton was not the principal, but might have been “the instigator,” and if so “her heart must have been preyed on by a torment that it dare not acknowledge to God or man.”<sup>13</sup> He did not mince words when it came to his view of Dula’s guilt either. In describing Dula’s final moments he referred to Dula as an “object, whose gyrations at the end of a rope was but the fulfillment of God’s law, made and provided.”<sup>14</sup> In Sharpe’s eyes Dula was no longer a human being but “an object.”

Thomas C. Land, a school teacher and local poet who lived in Stony Fork, wrote a poem about the murder shortly after it was made known to the public.<sup>15</sup> The poem, “The Murder of Laura Foster,” described Dula as a “fickle lover” who murdered Laura with the aid of a “vile

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<sup>11</sup> John M. Sharpe, “The Tom Dula Murder Case,” *The Statesville Record and Landmark*, January 31, 1933.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Thomas C. Land’s family lived as middling farmers and were relatively well off compared to their neighbors. In 1850, Land was 22, and living with his parents, 65 year old farmer Thomas Sr., and Jane, 56. Thomas Sr.’s farm valued at approximately \$2000. See U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Wilkes County, Lewis Fork Township, Population Schedule, North Carolina Division of Archives and History. microfilm roll M432, 356B, online database, <http://www.ancestry.com>; the 1860 lists the total value of the farm at \$2500. Thomas C. Land, 31, still lived with his parents, and found employment as a school teacher. He had also accumulated \$50 in real estate and \$100 in personal real estate. See, U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M653, 115, online database, <http://www.ancestry.com>; during the Civil War Land served in the Confederacy and fought in many major battles. He also traveled extensively. After the war Land moved to Oregon and worked as a prospector for a while, but eventually moved back to his native Wilkes where he lived out the rest of his years. See James Larkin Pearson, *Poet’s Progress: The Life and Times of James Larkin Pearson* (Wilkesboro: Wilkesboro Community College, 2005), 167-173.

guest.”<sup>16</sup> Land’s usage of “vile guest” to describe Ann Melton confirms his negative view of her. He portrayed Laura as a naïve and trusting “child” who “fancied all mankind was true” and whose “youthful heart no sorrow knew.”<sup>17</sup> The poem affirmed that Laura met both “her groom and his vile guest” at the Bates’ place, but never clearly stated who killed her.

Instead the killer remains ambiguous, though the assumption is that it was her lover, even if Dula’s name was never mentioned: “She leaned her head [on her lover] to take some rest, but soon poor Laura felt a smart, a deadly dagger pierced her heart.”<sup>18</sup> In the burial scene Land related that Dula had an accomplice: “This murder done, they her conceal, and vowed they’d never reveal.”<sup>19</sup> The implication is that the accomplice was present at the murder, if he or she did not aid in it. In this way, Land perpetuated the mystery of “Who done it?”<sup>20</sup>

“The Murder of Laura Foster” set the stage for the popular “Ballad of Tom Dooley.” The ballad pointedly suggested that it was Tom who killed Laura, and only him, avoiding any reference to an accomplice. Tom Dula took all the credit for the murder in this account. Although it clearly casts him as the murderer its tone is almost sympathetic, instructing the murderer to visibly express remorse by hanging down his head to cry—or cry because he knows he is “bound to die” for what he has done.<sup>21</sup> An outward expression of emotion would prove his humanity and lessen the moral distance between him as the murderer and the rest of society.<sup>22</sup> Additionally, a third ballad, “Tom Dula’s Lament,” focused wholly on Dula as the murderer, and

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<sup>16</sup> Henry M. Belden and Arthur Palmer Hudson, eds., *The Frank C. Brown Collection of North Carolina Folklore* Vol. 2 (Durham: Duke University Press, 1952), 708-709.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, 709.

<sup>19</sup> *Ibid.*

<sup>20</sup> Fletcher explains that Thomas C. Land wrote the poem around the time of the first trial, and had it written by 1867. Fletcher, *The True Story of Tom Dooley*, 138.

<sup>21</sup> Belden and Hudson, eds., *The Frank C. Brown Collection*, 711-713.

<sup>22</sup> According to news coverage reporting on Dula’s execution he showed little, if any, emotion. *The New York Herald* reported that Dula exhibited “a shocking indifference to the hereafter” and that he seemed to want to show that he could “die ‘game’ with an awful crime resting upon his soul.”

alluded to how his “life of sin” led him to murder.<sup>23</sup> Like the previous ballads, it never discussed the venereal disease as a motive. Rather, it stressed Laura Foster’s innocence and purity. The central point of the ballad was Dula’s “lament,” which again portrayed Dula as being remorseful over his actions. These latter ballads surfaced sometime after Land’s poem in 1868 and before 1947.<sup>24</sup> Another version collected by Mellinger Henry in July 1930 from a Mrs. Franklin of Avery County, North Carolina, added another stanza explaining that Tom Dula’s mother had warned him beforehand that “drinking and the women would be [his] ruin at last.”<sup>25</sup>

All the early ballads circumvented discussing Ann Melton’s possible role in the murder and instead laid the blame squarely on Tom. The ballads indicated that Tom’s betrayal was nearly as bad as the murder. Thomas Land wrote that Laura Foster thought “her lover kind and true,” believing Dula would protect her. She rested her head “confidingly upon his breast” before he committed the ultimate betrayal yet—murder. Land’s depiction of Laura as a fully trusting, innocent child made the betrayal seem all the worse.<sup>26</sup> In the next to last stanza his use of the attacker as “some ruthless friend” reiterated how this case exemplified the ultimate betrayal.<sup>27</sup>

The theme of betrayal was perhaps related to a longstanding social fear of deception and fraud that had originated early in the nineteenth century in the urban North from the effects of industrialization.<sup>28</sup> Thomas Land, being from a moderately wealthy family, would likely have been associated with the broader market economy and more aware of the growing mass

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<sup>23</sup> This version claims that Dula had played this song on his banjo on the day of his execution under the gallows, but no evidence substantiates the claim.

<sup>24</sup> Belden and Hudson, eds., *The Frank C. Brown Collection*, 713-714.

<sup>25</sup> Mellinger E. Henry, “Still More Ballads and Folk-Songs from the Southern Highlands,” *The Journal of American Folklore*, Vol. 45, No. 175 (Jan-Mar., 1932), 60-62.

<sup>26</sup> Most accounts agree that Laura Foster was not the sanitized version portrayed by contemporary newspapers. She was sexually promiscuous. See Manly Wade Wellman, *Dead and Gone: Classic Crimes of North Carolina* (Chapel Hill: University of North Carolina Press, 1954), 173-4; Frances H. Casstevens, *Death in North Carolina’s Piedmont* (Charleston: The History Press, 2006), 28. Casstevens claims that Vance presented Laura as a woman “of loose morals.” Fletcher, *The True Story of Tom Dooley*, 92, 164.

<sup>27</sup> Belden and Hudson, eds., *The Frank C. Brown Collection*, 708-710.

<sup>28</sup> As industrialization spread, social and physical mobility increased. Class boundaries become more fluid. Mobility made certain types of fraud, swindling, and deception easier.

consumer culture that was taking shape throughout the country. It is likely that his awareness had alerted him to the social anxieties about deception that had emerged from an increasingly mobile society. After the war, and perhaps even before, he traveled extensively, so it is possible that he might have picked up on some of the dominant cultural threads from his travels.

“Tom Dula’s Lament” similarly emphasized the betrayal: “poor Laura loved me well, she was both fond and true; how deep her love for me I never really knew.”<sup>29</sup> The point of including Laura’s fervent devotion for and trust in Dula was to emphasize the extent of Dula’s betrayal. The ballad depicts Tom Dula as a confidence man in the sense that he won the innocent, or “gullible,” Laura’s confidence but jilted her because he had no intentions of being true to her to begin with. Men who seduced and betrayed their lovers acted as confidence men.

By the mid-nineteenth century stories abounded of young, mostly middle class men, who simply grew tired of the excessive attention their women gave them and left them, without conscience, to pursue other women. Nineteenth-century moral crusaders and other social commentators labeled these women “despoiled maidens” because they had been easily led astray by despicable “rakes.”<sup>30</sup> By the middle of the nineteenth century, industrialization’s expansion bred an ideal environment for the increase in social and geographic mobility. If someone grew tired of living in one place or established a lousy reputation at home, he or she could pack up their belongings and move elsewhere and carve out a new identity for themselves rather easily. Advances in transportation and a rising culture of mass consumerism made mobility more accessible to the masses. The increase in mobility provided a way for confidence men to thrive at their unscrupulous schemes. Now they could slip from place to place and milk social ambiguity

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<sup>29</sup> Belden, and Hudson, eds., *The Frank C. Brown Collection*, 713.

<sup>30</sup> Jones, *Women Who Kill*, 142-145.

for its worth without fear of being exposed as a fraud.<sup>31</sup> Law professor Lawrence M. Friedman has argued that as a result of these changes, “confidence rackets positively blossomed in the nineteenth century.”<sup>32</sup>

In appealing to a largely nineteenth-century middle-class audience, newspapers reporting on Dula’s trials in 1866 and 1868 might have purposefully explained the murder as a story of betrayal in which Dula acted the betrayer. The middle-class press’s depiction of Laura as a trusting, innocent child aligns with other stories at the time describing “despoiled maidens.”<sup>33</sup> In the eyes of the press the story was one of seduction and betrayal, dangers they saw as inherent in an increasingly mobile society. Years later Tom’s image as a seducer had not changed much. Manly Wade Wellman, the author of *Dead and Gone: Classic Crimes of North Carolina*, played up Tom’s role as seducer, saying that he had “moved gracefully,” and “paid smiling compliments” to women all with an “appearance and talent well calculated to stimulate feminine interest.”<sup>34</sup> Wellman labeled him “the Lothario of the laurel thickets” for his natural ability to charm women. According to Wellman, Laura Foster was but another of Tom’s “conquests.”<sup>35</sup>

“Tom Dula’s Lament” also contained a passage alluding to Dula’s desire for Ann Melton to “kiss [him] goodbye,” showing how he truly felt about Laura. Where did his regret stem, from the murder, or the end to his “life of sin?” Ambiguity is important in playing up the mystery. The

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<sup>31</sup> Lawrence M. Friedman, *Crime and Punishment in American History* (New York: BasicBooks, 1993), 196.

<sup>32</sup> *Ibid*, 195. Cultural historian James W. Cook has noted that during much of the nineteenth century, from 1830-1900, a period he refers to as “the Age of Barnum,” heightened social anxieties about fraud and imposture sparked a wide range of “cultural antidotes”: etiquette manuals, and urban guidebooks. Successful showmen like P.T. Barnum played to Americans’ obsessions with fraud in practicing “artful deception” in entertainment. See James W. Cook, *The Arts of Deception: Playing with Fraud in the Age of Barnum* (Cambridge: Harvard University Press, 2001), 13-27. Nineteenth century Americans were obsessed with exposing fraud. The focus on Tom Dula’s betrayal of Laura seems to be catering to a middle-class audience’s social anxieties pertaining to fraud and deception. It would certainly have struck a chord with these readers.

<sup>33</sup> Belden and Hudson, eds., *The Frank C. Brown Collection*, 708-710; Hamilton C. Jones, ed., “Trial of Thomas Dula for the Murder of Laura Foster,” *Carolina Watchman*, October 29, 1866.

<sup>34</sup> Wellman, *Dead and Gone*, 173.

<sup>35</sup> *Ibid*, 173, 174.

secret is Dula's lament: what was the source of it? The ballad concluded with the horrifying imagery of Dula "hanging on a white-oak tree," effectively silencing the only person who knew the answer to this mystery.<sup>36</sup>

In a letter written April 24, 1948, Mrs. Orene West Burrell, of Lenoir, North Carolina, a descendant of Laura Foster, wrote to her brother, John Foster West, that Laura was a cousin to their Grandpa "Harve." According to Mrs. Burrell Tom was Laura's fiancé. After Tom started seeing another woman [Burrell could not recall the other woman's name], he and the other woman hatched a plan to "lure Laura off and kill her."<sup>37</sup> There was no mention of the venereal disease as a motive. Mrs. Burrell, whose account was second or third-hand, related that Tom and Laura went horseback riding somewhere in Happy Valley when "the other woman stepped out and stabbed her in the side."<sup>38</sup>

Burrell added that during the trial Melton "packed on Tom," but he "never did tell she did it."<sup>39</sup> Her account depicted Tom as somewhat of a gentleman and a martyr who nobly defended Melton despite the fact that she had betrayed him. In addition to being a Lady Macbeth, Ann Melton was now the murderer, and Tom Dula, the accomplice. The roles had reversed. This account was one of the first to put the murder weapon directly in Ann Melton's hands.

The shift in Ann Melton's image from a "Lady Macbeth" who acted as the mastermind behind murder to the portrayal of her as a cold-blooded killer who wielded the weapon herself attests to the changes taking place at the time. In 1948, when Burrell wrote the letter to her brother, John, Americans had just weathered a devastating war. Despite the economic boom and the marked rise in affluence that came in its wake, returning veterans struggled to reintegrate

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<sup>36</sup> Belden, and Hudson, eds., *The Frank C. Brown Collection*, 713-714.

<sup>37</sup> *Ibid.*, 703-706.

<sup>38</sup> *Ibid.* This was unlikely. No evidence directly linked Ann Melton to the murder.

<sup>39</sup> *Ibid.*

themselves back into society. Many of them suffered from war shock. Advice columns urged women to leave the workforce and “return to a docile domesticity to placate their wounded men.”<sup>40</sup> Various experts and other social commentators explained that returning vets needed the support and the compassion of women to get them back on track.<sup>41</sup> Such advice reinforced rigid gender roles, so women who deviated from the norm were even more likely to be depicted in harsher, polarizing terms. The most dangerous and threatening women therefore had more agency, and the greater the agency, the more dangerous the woman became.

Burrell explained that even Vance, Tom’s lead defense attorney, thought he was “shielding a woman, who really committed the murder.”<sup>42</sup> She went on to relate that years later, when Melton was on her death-bed, she allegedly confessed.<sup>43</sup> Burrell’s description of the deathbed scene makes Melton out to be a witch: “you could hear meat frying and see black cats running up and down the walls of her room she was in when she was dying.”<sup>44</sup> The account evinces Ann Melton’s failure to be accepted by the community after the trials had ended. Although she escaped the hangman’s noose, her neighbors must have shunned her for the rest of her life.

Another supposed first-hand account, from an elderly man in Wilkesboro in the early 1950s, explained that he thought Ann Melton’s beauty had saved her from hanging. The same man expressed that his belief that she was guilty, “I knowed hit. [sic] Ever’body knowed hit, [sic] and Tom Dula could a-proved hit, but he loved her...[if] they’d a-been ary womern on the jury she’d a got first degree. Men couldn’t look at that womern [sic] and keep their heads.”<sup>45</sup>

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<sup>40</sup> Michael Kimmel, *Manhood in America: a Cultural History* (New York: Free Press, 1996), 147-148.

<sup>41</sup> *Ibid.*

<sup>42</sup> Belden, and Hudson, eds., *The Frank C. Brown Collection*, 703-706. I have not found another source that confirms that Vance alleged that Tom was shielding a woman. This is the only one.

<sup>43</sup> Burrell’s account was not first hand and Melton had died long before Burrell was born.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*, 706.

Like Burrell's account, this account suggests that Melton and Dula received unequal treatment in the courtroom. What is even more intriguing is the comment alleging that female jurors—a jury of her peers—would have decided on a guilty verdict. The statement aligns with earlier observations that Tom might have been “shielding a woman,” and thus acting the role of the chivalrous gentleman in protecting Ann from punishment.

On January 12, 1950, an article from *The Statesville Record and Landmark* continued the growing trend of casting doubt on Ann Melton's innocence. Ann Melton “guilty or not, was acquitted,” noted the paper, “but her lover was sentenced to death by hanging.”<sup>46</sup> The wording indicated that Ann's verdict had been questioned. The same account cited the case as a “triangle affair” involving Dula, his sweetheart “pretty Laura Foster,” and his paramour Ann Melton, “beautiful and notorious woman.”<sup>47</sup> According to *The Record and Landmark*, the motive had been Ann's jealousy of Laura, so she “persuaded” Dula to kill her.

In *Dead and Gone: Classic Crimes of North Carolina* (1954) author Manly Wade Wellman wrote that although Ann had her admirers and suitors, she remained “ugly to a surpassing degree.”<sup>48</sup> Wellman asserted that it was part of journalistic convention to present women involved in major crimes as “breathlessly lovely.” He added that Ann had been “publicly compared to the great exemplar of her avocation, Lady Macbeth.”<sup>49</sup> Clearly, the image of Lady Macbeth continued to follow her. Wellman also observed that Ann possessed “a fine natural mind” in addition to “land and money.”<sup>50</sup>

This account further posited more of what lead defense attorney Zebulon Vance allegedly thought about the murder. In this version, Vance enters the scene gallantly riding his horse into

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<sup>46</sup> “It Happened in Iredell,” *The Statesville Record and Landmark*, January 12, 1950.

<sup>47</sup> *Ibid.*

<sup>48</sup> Wellman, *Dead and Gone*, ix.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*, 175.



Wilkesboro for the fall court session: “a striking figure, burning-eyed and fierce-moustached, who was immediately recognized and loudly cheered from both sides of the street.”<sup>51</sup> Wellman wrote that Vance earnestly expressed the opinion that only Ann killed Laura and that Tom, “his client and friend was sacrificing his life for her.”<sup>52</sup> Since Wellman clearly depicted Vance as a hero in this version of the murder narrative, Vance’s opinion would have carried significant weight. If Vance believed Ann killed Laura then it must be true. This positive image of Vance probably resonated with people in the early 1950s because it lionized a war veteran.

As for his thoughts on Dula he claimed that after the war he had returned home “with no great appetite for working.”<sup>53</sup> Had the war affected Dula’s ability to blend in to civilian society? Wellman certainly hinted as much. Wellman’s emphasis on Dula’s work habits, or lack thereof as a possible sign of his difficulty readjusting to civilian life could be associated with broader issues in 1940s and 1950s America. Following World War II, numbers of shell-shocked veterans attempted to reintegrate into civilian life. Some succeeded and some did not in their efforts to adjust.<sup>54</sup> Wellman offered this portrayal of Dula at a time when Americans had become fully aware of the issues WWII veterans faced. The account presents Dula in a somewhat sympathetic light probably for this reason.

In 1958, at the height of the Kingston Trio’s popular recording of “Tom Dooley,” *The Statesville Record and Landmark* claimed that the ballad actually originated in Statesville instead of Wilkes County.<sup>55</sup> The Kingston Trio’s hit version of Tom Dooley has been credited with

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<sup>51</sup> Ibid, 179.

<sup>52</sup> Ibid, 182.

<sup>53</sup> Ibid, 175.

<sup>54</sup> Arthur F. Redding, *Turncoats, Traitors, and Fellow Travelers: Culture and Politics of the Early Cold War* (Jackson: University of Mississippi Press, 2008), 82.

<sup>55</sup> Douglas Eisele, “90 Years after Laura Foster’s Murder,” *The Statesville Record and Landmark*, October 31, 1958. The Kingston Trio got their version of the song from folksinger Frank Noah Proffitt, an East Tennessean who lived the last years of his life in Watauga County, North Carolina. See Anne Warner and Frank Warner, “Frank Noah Proffitt,” *The Journal of American Folklore*, Vol. 81, No. 321 (Jul – Sept. 1968), 259-260; Fletcher, *The True*

helping to bring a nascent folk revival into worldwide renown.<sup>56</sup> “Tom Dooley’s” origins extend as far back as Thomas Land’s 1867 “The Murder of Laura Foster.” After Land’s poem, various versions entered popular folklore; at some point someone set the poem to music, and the ballad evolved from there.<sup>57</sup>

Similar to the local origins of Land’s poem the early balladeers had cultural roots to the mountains and foothills of western North Carolina and Eastern Tennessee. In 1929, Appalachian natives Gilliam Banmon Grayson and Henry Whitter recorded the first version of Tom Dooley. Grayson was the nephew of the same Major James Grayson who had aided in Dula’s capture, arrest, and transferal back to Wilkes County to stand trial for the murder in 1866. In 1940, East Tennessee folksinger Frank Noah Proffitt recorded yet another version—the same version that became the inspiration for The Kingston Trio. Frank Warner, a friend of Proffitt’s and fellow folk song collector, recorded Proffitt’s version in 1940.<sup>58</sup> Like Grayson, Proffitt claimed a personal

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*Story of Tom Dooley*, 143. Fletcher notes that an earlier recording by Grayson and Whitter in 1929 preceded Proffitt’s version by ten years. Grayson was Gilliam Banmon Grayson, a resident from Laurel Bloomery, Tennessee, who had been born in Ashe County, North Carolina. Grayson was a musician. In 1927, he teamed with Warrensville, North Carolina, native Henry Whitter. Grayson and Whitter cut the first record for “Tom Dooley” sometime between 1928 and 1929. Grayson was also the nephew of Major James Grayson who had apprehended Dula at his farm in Tennessee in 1866. See Tony Russell, *Country Music Originals: The Legends and the Lost* (Oxford: Oxford University Press, 2007), 105-7. Jens Lund and R. Serge Denisoff wrote that the Kingston Trio was initially founded as a “pop-calypto group” who had taken up with the “brief calypso fad” made popular by Henry Belafonte in 1957. Their successful rearrangement of the “Tom Dula” ballad aided in setting the stage for the 1960s “commercial folk boom.” Lund and Denisoff claimed that the ballad’s success did not cause the folk boom, but certainly helped it along. A conflict emerged between two factions in the folklore genre; “the purists” were advocates of traditional music’s romanticized ideal who strongly criticized “the popularizers.” The popularizers were “faddish” groups like The Kingston Trio who had commercialized the genre as one big piece of “hand-clapping entertainment.” See Jens Lund and R. Serge Denisoff, “The Folk Music Revival and the Counter Culture: Contributions and Contradictions,” *The Journal of American Folklore*, Vol. 84, No. 334 (Oct. - Dec., 1971), 396-397.

<sup>56</sup> Fletcher, *The True Story of Tom Dooley*, 143; Lund and Denisoff, “The Folk Music Revival and the Counter Culture,” 396-397.

<sup>57</sup> Belden and Hudson, eds., *The Frank C. Brown Collection*, pp. 708-710; Pearson, *Poet’s Progress*, 167-173.

<sup>58</sup> Warner and Warner, “Frank Noah Proffitt,” 259-260; Russell, *Country Music Originals*, 105-7; Fletcher, *The True Story of Tom Dooley*, 143-4. A nasty legal battle over the song’s copyright followed in the wake of the Kingston Trio’s success; see Fletcher, *The True Story of Tom Dooley*, 152-3.

connection and offered that his grandmother, a Wilkes County resident, had been acquainted with Tom Dula and Laura Foster.<sup>59</sup>

Deep Gap, North Carolina, native Doc Watson also recorded a version of Tom Dooley in 1964. Watson maintained that Dula was not the killer.<sup>60</sup> He also alleged that his grandmother knew Ann Melton and attended her at her deathbed.<sup>61</sup> The emphasis on the personal connections folksingers had to the story seemed to be early attempts at framing the story as part of Southern Appalachia's "heritage."<sup>62</sup> This was one of the many ways the story was beginning to take a life of its own.

*The Statesville Record and Landmark* tried to capitalize on the tourism the legend was currently bringing in its claim that the ballad had originated in Statesville and not Wilkesboro or Elkville. The paper depicted Laura Foster as "a charming Wilkes County girl of 18," Ann Melton as "a beautiful, well-to-do young woman," and Dula as "a handsome, banjo-picking youth in his early twenties."<sup>63</sup> In addition to these three, two other characters were introduced: Pauline Foster and the fictitious Bob Cummings. Rather than a love triangle, *The Statesville Record and Landmark* labeled it "a pentagon affair."<sup>64</sup> *The Record and Landmark* also noted

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<sup>59</sup> Fletcher explains that he could not find an Adeline Perdue, the name of Proffitt's grandmother, in his research of Wilkes County census records from 1860 to 1880. Fletcher, *The True Story of Tom Dooley*, 147.

<sup>60</sup> Don Tyler, *American History Through Music: Music of the Postwar Era* (Westport: Greenwood Press, 2008), 84.

<sup>61</sup> Robert V. Wells, *Life Flows on in Endless Song: Folk Songs and American History* (Champaign: University of Illinois Press, 2009), 2-3.

<sup>62</sup> Historian Robert Weir defines "heritage" as a subcategory of collectivized memory—a form of memorialization that "rests as much on symbolism, imagination, myth, and imposed meaning as upon historical facts." Heritage entails consciously deciding what is and what is not worthy of noting. Heritage, like memory, asserts Weir, is personalized, and tends to be "ideologically driven, biased," and selective. See Robert Weir, "Bewitched and Bewildered: Salem Witches, Empty Factories, and Tourist Dollars," *Historical Journal of Massachusetts*, Vol. 40, (Summer 2012), 182.

<sup>63</sup> Eisele, "90 Years after Laura Foster's Murder," October 31, 1958.

<sup>64</sup> *Ibid.*

Dula's war service as a positive attribute, writing that "he was a brave enlistee in the Civil War," who had "returned home after Gettysburg to the Happy Valley section of Wilkes."<sup>65</sup>

Another source related that he had "fought hard and frequently and well, and he was never wounded."<sup>66</sup> South Carolina's *Florence Morning News* presented Tom as a celebrated war hero. "Tom Dula may have killed Laura Foster, but he was brave in war," the paper cited. This observation nearly seemed to excuse his role in the killing, suggesting that his war service represented the real Dula. Duty to his country—despite the fact that the Confederacy was never officially recognized as a country—outweighed the murder charge. The *Florence Morning News* reported that the Kingston Trio's success in popularizing the ballad had sparked renewed interest in the Civil War soldier.<sup>67</sup>

Thirty five members from Iredell County, North Carolina's American Legion post wanted to relocate and restore Dula's grave and "mark it in a manner befitting American soldiers."<sup>68</sup> J. Pierce Van Hoy, commander of the North Iredell American Legion, explained that the restoration of Dula's grave would serve "as a reminder that thousands of soldiers lie in unmarked graves."<sup>69</sup> All thirty five American legion members expressed doubt that he had committed the murder, believing he had taken "the rap" for it because he loved Ann Melton. They laid the blame on Melton. "The tragedy," asserted Van Hoy, was that Dula's grave lay "covered in briars and vines out of view of even rabbit hunters."<sup>70</sup> Van Hoy claimed that their

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<sup>65</sup> Ibid.

<sup>66</sup> Wellman, *Dead and Gone*, 172.

<sup>67</sup> "Tom Dula's Honeysuckled Grave May be Restored in North Carolina," *Florence Morning News*, December 4, 1958; Florence, South Carolina, was located in the heart of the Confederacy during the Civil War. Considering Florence's history and location it is not surprising that the *Florence Morning News* contained a positive description of a former Confederate soldier charged with murder.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

organization did not “in any way condone an evil act he may have performed,” but they did want to acknowledge Dula’s honorable war service.<sup>71</sup>

The response from the American legion reveals the extent people, at least in this particular area, were willing to celebrate dead war heroes. The fact that a group of townspeople who lived about an hour away from Elkville wanted to commemorate Dula’s war service illustrates their devotion to keeping alive the memory of the war as part of their history. They were heroes no matter what.<sup>72</sup> Dula’s Confederate service record might also have played a role in the decision to memorialize him. Tied to an era of containment, obsession with normality, the nascent phase of the Civil Rights movement, and women’s dramatic increase and visibility in the workforce, honoring Confederate veterans like Dula had become, by the late 1950s, a subtle, and sometimes not so subtle, means for some southern born whites to express their disapproval of these changes in society.<sup>73</sup>

Tom Dula’s status as a southern white male and a Confederate war veteran would have made him more sympathetic in the eyes of those who wished to return to a time when white men still acted as masters of their own households and Jim Crow laws dictated race relations. Too, his status as an American soldier would have gotten the attention of those who wanted to emphasize

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<sup>71</sup> Ibid.

<sup>72</sup> About fifty miles separates Elkville (Wilkes County’s present-day community of Ferguson) from Statesville, Iredell County, North Carolina; *The Statesville Record and Landmark* also noted Tom Dula’s “honorable” service in the war. See Harry Gatton, “Investigation of Confederate Records Shows Tom Dula’s Civil War Service Honorable,” *The Statesville Record and Landmark*, January 10, 1959.

<sup>73</sup> Historian Eric Foner, like many historians, asserts that the modern Civil Rights movement began during World War II; the atrocities committed during the war forcefully brought human rights to the forefront of discussion; “a new black militancy” emerged and many began to take issue with American racial practices, viewing these practices as outdated and eerily similar to Adolf Hitler’s “theory of a master race.” By the mid-1950s, the federal government began to support Civil Rights, and launched a full assault on the Jim Crow South. See Eric Foner, ed., *Give Me Liberty!: An American History* Vol. 2, second edition (New York: W. W. Norton and Company, 2009), 853-908. From the 1890s onward women’s involvement in public life grew. In 1900, 18.3% of the American labor force was women; by 1920, that number was 21.4%. WWI only bolstered women’s drive for enfranchisement. WWII provided new job opportunities for women; military service also offered black men and women higher expectations, setting the stage for radical change in race relations. See Ellen Carol DuBois and Lynn Dumenil, *Through Women’s Eyes: An American History*, second edition (Boston and New York: Bedford St. Martin’s, 2009), 355-610.

American patriotism because they bought into the perceived Communist threat. The shift in Tom Dula's image from depraved murderer to celebrated war hero emerged from the broader debates about Civil Rights, Cold War politics, and shifting gender norms in the 1950s. Criminal justice professors Frankie Y. Bailey and Donna C. Hale contend that the tendency to employ violence historically has been largely a male pursuit; as a result, men have been "given more leeway in the killing of others" and often portrayed as heroes. Even male outlaws have been depicted as "good badmen."<sup>74</sup> The positive depiction of Tom Dula as a celebrated war hero despite his murder charge confirms Bailey and Hale's assertion.

Only one newspaper presented Dula in less than flattering terms. *The Albuquerque Tribune* lambasted Tom Dula as a "two-timer"—"a heel, gold-plated." *The Tribune* acknowledged the existence of a love triangle, but wished to dispel the myth of Dula as a martyr, hero, and "mixed-up mountaineer who murdered his faithless girlfriend."<sup>75</sup> Instead the paper wanted to portray him as they believed he truly was: a liar and a cheat. *The Tribune* held the opinion that Dula had acted as an immoral "two-timer."<sup>76</sup>

The fact that Dula had ended his chances of marriage with Laura meant that he had eschewed a life of responsibility. This depiction of Dula as irresponsible reflects 1950s social views of men who failed to live up to the ideal standard of masculinity. Cold War society stressed conformity. Strict adherence to prescribed gender roles was one of the by-products of conformity. At this time, social commentators lauded marriage as a sign of "'normal' heterosexual masculinity" because it showed responsibility. Marriage could additionally have been perceived as yet another show of conformity. Historian Arthur F. Redding asserted that men

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<sup>74</sup> Frankie Y. Bailey and Donna C. Hale, *Blood on Her Hands: The Social Construction of Women, Sexuality, and Murder* (Belmont: Wadsworth/Thomason Learning, 2004), iv.

<sup>75</sup> Vance Trimble, ed., "Two-timed his Gal," *The Albuquerque Tribune*, December 11, 1958.

<sup>76</sup> *Ibid.*

who succumbed to their passions were viewed as men who “could easily be duped by seductive women who worked for the communists.”<sup>77</sup> It was imperative then for men to be constantly vigilant and maintain self-restraint. In this view, Dula was not an ideal man because he had shirked responsibility and restraint—two characteristics that came to define the ideal man in Cold War America.

Furthermore, the basis for *The Tribune*'s motive to call Dula out as a “two-timer” allegedly lay in their belief that the ballad had twisted the facts by helping to depict Dula in a positive light. This account reveals how Dula's image was changing from the wretched murderer to the celebrated war hero and martyr for love. Although the paper presented an opposing view, it still confirmed Dula's status change in its revelation that another, more popular, view existed. *The Tribune*'s negative portrayal of Dula could also have been a response or possibly a form of backlash to the folk music revival that was taking place. Conflict emerged between folk singers between advocates who wanted the style to resemble the romanticized, traditional ideal and groups who took advantage of the fad as a profit maker and viewed it as “hand-clapping entertainment” intended for popular consumption.<sup>78</sup> Perhaps *The Tribune* saw this ballad version as one that symbolized the commercial approach and left out all the “true” fact.

Additionally, *The Tribune* asserted that Ann and Tom “hatched the plot” to kill Laura, but never explained who wielded the murder weapon. The only explanation was that Laura “had been knifed in the left breast.”<sup>79</sup> Of Ann's guilt or innocence, *The Tribune* noted that after her acquittal “she lived and died a wretched outcast.”<sup>80</sup> They also referenced the purported deathbed scene where Ann “threshed” wildly about as witnesses heard meat frying and saw black cats

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<sup>77</sup> Redding, *Turncoats, Traitors, and Fellow Travelers*, 79-80.

<sup>78</sup> See Lund and Denisoff, “The Folk Music Revival and the Counter Culture,” 396-397.

<sup>79</sup> Trimble, ed., “Two-timed his Gal,” *The Albuquerque Tribune*, December 11, 1958.

<sup>80</sup> *Ibid.*

climbing the walls of her room.<sup>81</sup> *The Tribune* took the view of other newspapers in its assertion that Melton was truly a bad woman who deserved no sympathy.

That same year the *Nevada State Journal* reported on Kingston Trio's successful hit "Tom Dooley," calling it "the most popular disk now on the market in the United States."<sup>82</sup> The *Journal* took a more positive view of Dula: "a handsome young banjo-picker." The paper went on to describe him as "a happy-go-lucky sort of fellow who earned a reputation for bravery fighting for the Confederacy in the Civil War."<sup>83</sup> Again, the case was presented as a love triangle gone sour. The paper presented Ann Melton as "a beautiful married woman, a well-to-do Wilkes County socialite."<sup>84</sup> However it left out any mention of Melton as an accomplice. Tom Dula was not the only suspect. According to the *Journal*, two men in addition to Dula numbered among the suspects, both local men: Jack Keaton and Bob Cummings, a school teacher.<sup>85</sup> Including the names of Laura's supposed other suitors casted doubt on Dula as a prime suspect, and thus inferred that he might not have been the one who killed Laura after all; it further casted doubt on Melton as well. The purpose of adding these characters made the story even more convoluted, and heightened its drama and sordidness.

By the end of 1958, as a testament to Kingston Trio's hit song, *Life* magazine included a brief article on Tom Dula, "the real-life reprobate." *Life* described Dula as "a Blue Ridge Mountain Folk hero" who was "devoted to the jug, averse to the plow, and a constant delight to the ladies."<sup>86</sup> As a result of the band's success, Wilkes County residents started "retouching" his

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<sup>81</sup> Ibid.

<sup>82</sup> "Hang Down Your Head," *Nevada State Journal*, December 13, 1958.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid. None of this information was correct, of course; neither were included in the original arrest warrant. They were probably embellishments.

<sup>86</sup> Henry R. Luce, ed., "Hanged Man in Hit Tune," *Life*, Vol. 45, No. 24, December 15, 1958, 81.



reputation “to match his new eminence.”<sup>87</sup> This article indicated that shortly after the song became a success some enterprising individuals from Wilkes County saw the tourism attracting potential and began constructing Dula as a hero. Yet, the renewed sympathy for Dula elicited by the popular song extended beyond Wilkes and had, by this time, spread throughout the nation.<sup>88</sup>

In 1959, the lyrics to The Kingston Trio’s “Tom Dooley” could be heard in the opening of the movie “The Legend of Tom Dooley.” The film got its inspiration from the popular song. Michael Landon starred as Dooley.<sup>89</sup> Movie theaters throughout North Carolina and the surrounding area were quick to advertise the movie’s impending release. The *News-Record* from Marshall, North Carolina, told its readers that the movie would be shown at the Madison Drive-in Theatre, August 16-17, 1959. The paper noted that the ballad’s lyrics effectively conveyed “the sadness and the despair” Dula felt before his execution and briefly related how, over the years, stories had been written about him, and a monument built for him.<sup>90</sup>

The story of “The Legend of Tom Dooley” goes that three Confederate soldiers kill two Union soldiers in a stagecoach attack without knowing that the Civil War is over. Dooley is one of the Confederate soldiers who lead the attack. Because the killing occurred after the war ended, the act becomes murder. The three Confederate soldiers head south to flee, but Dooley travels north to meet up with Laura, his sweetheart, with the intention of marrying her so that he can bring her with him. He marries his sweetheart. They make an escape, but Charlie Grayson, a lawman and a former suitor of Laura, trails close behind them.

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> “The Legend of Tom Dooley: Review Summary,” <http://www.nytimes.com/movies/movie/99255/The-Legend-of-Tom-Dooley/overview> (accessed February 10, 2015); “The Legend of Tom Dooley,” <http://www.tvguide.com/movies/the-legend-of-tom-dooley/review/104095/>, (accessed February 12, 2015).

<sup>90</sup> “The Legend of Tom Dooley to be Shown Here,” *The News-Record*, August 13, 1959.

Grayson's dogged pursuit of Dooley soon pays off and ends in Dooley being captured and placed in jail. A hasty trial follows, resulting in Dooley's conviction. He is sentenced to be hanged the following morning but manages to escape. Laura and Dooley reunite, but Grayson finds them. A fight between Dooley and Grayson ensues. Laura is accidentally stabbed with a knife. She dies. Dooley is captured again, and this time executed.<sup>91</sup>

The film's only resemblance to the murder case is the use of Tom Dooley's name, his experience as a Confederate soldier, and his romantic involvement with a girl named Laura. "The Legend of Tom Dooley" was a western film that depicted Dula as a soldier-cowboy. The portrayal of Dula as a cowboy figure evinces American society's obsession with the cowboy as a cultural hero. The cowboy embodies an ideal paradigm of masculinity. Michael Kimmel has related that the cowboy has often been depicted as "fierce and brave, willing to venture into unknown territory and tame it for its less than masculine inhabitants."<sup>92</sup> The film is largely sympathetic to Dula's plight, and presents him as a lovesick soldier whose tragic fate becomes sealed when he decides to go north to find his sweetheart. Similar to earlier press coverage of the case it points out where Dula's troubles began: when he got mixed up with a woman. In this version a love triangle exists, but it is between Laura and her two suitors. The story excludes any mention of sordidness, instead playing up the romance.<sup>93</sup>

Eight years passed until the story of the murder case surfaced again. In late 1967, *The Daily Times News* in Burlington, North Carolina, included a brief column updating its readers on the tourism Dula's grave had brought to Wilkes County. *The Daily Times News* related that "the

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<sup>91</sup> "The Legend of Tom Dooley: Review Summary," <http://www.nytimes.com/movies/movie/99255/The-Legend-of-Tom-Dooley/overview> (accessed February 10, 2015); "The Legend of Tom Dooley," <http://www.tvguide.com/movies/the-legend-of-tom-dooley-104095/review/> (accessed February 12, 2015).

<sup>92</sup> Michael S. Kimmel, *The History of Men: Essays in the History of American and British Masculinities* (Albany: State University of New York Press, 2005), 94.

<sup>93</sup> *Ibid.*

curious” still visited his grave, and that “vandals” continued to “chip away at his gravestone.”<sup>94</sup> Whether it was a conscious effort or not the newspaper’s account of vandalism possibly boosted tourism in Wilkes. It further gave credit to “the song-maker” for making Dula out to be a hero. The paper added that “many folks” in Wilkes County doubted Dula’s guilt, and put the blame of convicting Dula on the Statesville jury because they had the last word in deciding his fate.<sup>95</sup> The fact that the paper laid blame on Statesville over Dula’s native Wilkes County implies that if he were tried in his home community he might have been acquitted, but strangers in Statesville decided on a different outcome. This statement suggests that justice on the local level was perceived as perhaps a more trusted route.

In September 1976, the murder case emerged in yet another art form: the ballet. Bennington Vermont’s *Bennington Banner* informed its readers that they could “see the Dooley legend performed as a ballet—one which says maybe Tom didn’t wield the knife after all. Maybe it was the ‘other woman.’”<sup>96</sup> The “Tom Dula” ballet used Appalachian folk music “to mirror Tom’s feelings” throughout the story, from his capture to his hanging, and described Dula as being “very debonair,” “living off the land,” and able to “get any woman he could.”<sup>97</sup> Dula’s troubles began when he met “two pretty women:” Laura Foster, “happy and gay like a wild colt,” and “sophisticated” Ann Melton. This version of the story suggests that the local people did not think he was guilty of the crime. It also depicted Ann Melton as an unmarried woman whose suitor, a fictional Sheriff Grayson, arrests Dula for the murder out of jealousy.<sup>98</sup>

By July 1985, Wilkes County native Edith Ferguson Carter decided to open a museum in Wilkes dedicated to the Dula legend. Carter, who lived not far from Dula’s old home place, grew

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<sup>94</sup> “Curious Still Visit Dula Grave,” *The Daily Times News*, September 20, 1967.

<sup>95</sup> *Ibid.*

<sup>96</sup> “New Ballet: Tom Dula,” *Bennington Banner*, September 2, 1976.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

up hearing “the romantic tale of the love triangle that resulted in the murder of beautiful Laura Foster.”<sup>99</sup> From the stories Carter had heard growing up she had pictured Dula as a “curly-haired, handsome mountain man” who had simply got mixed up in a terrible situation. She excluded any reference to Ann Melton’s involvement in the murder.<sup>100</sup> Carter’s museum represented how Caldwell and Wilkes County residents were using the story as a tourism attraction to bring money to their community. The murder case was becoming a way for some to make money. Dula continued to be the central figure in these later accounts.

Laura Foster, the victim of this unfortunate and tragic affair, received scant attention that paled in comparison to the attention given Ann Melton, and especially to Tom Dula. When she did receive attention news reporters and journalists typically presented her in one of two ways, both similar to the way they had depicted Ann. One portrayed her as a wholly innocent victim seduced and betrayed by her suitor. In this portrayal Laura had no agency. In other instances news coverage presented Laura as immoral and as depraved as the murderers had been. Laura occupied no middle ground in the popular imagination.

Manly Wade Wellman’s account added that “blue-eyed and chestnut haired” Laura possessed a hot-blooded temperament. Although a “flighty damsel,” she settled her affections on Tom, “and nobody else.”<sup>101</sup> Laura did not receive much attention until the late 1980s, when Caldwell County police recovered Laura’s missing tombstone. Laura’s original tombstone had been made of marble. The marble stone made it ideal for vandals to chip off pieces of it as souvenirs. After police recovered the stone a group of Caldwell County residents initiated a fundraising campaign to replace it with a larger granite marker that would be harder for vandals

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<sup>99</sup> “Dooley Legend Inspires Woman to Start Museum,” *Boca-Raton News*, July 28, 1985.

<sup>100</sup> *Ibid.*

<sup>101</sup> Wellman, *Dead and Gone*, 173-174.

to remove. According to Caldwell County resident Rhon Winkler, the “really galling” thing about the stone was that it “had Tom Dooley’s name on it,” and it was Laura’s tombstone!<sup>102</sup>

In 1992, Caldwell and Wilkes County leaders finally chose to dedicate a two foot high concrete, historical marker to the “woman whose murder gave rise to the legend of Tom Dooley and was popularized in a Kingston Trio song.”<sup>103</sup> Although she was acknowledged to be the victim in the legend, the account clearly evinces the lead role of Dula in the story. Laura was the passive victim. Similar to the stories before it, this account rehashed much of what had already been told: the story involved an “ill-fated love affair,” no one knows for sure who killed her, and speculations abound about Ann Melton being the real murderer and Tom Dooley chivalrously taking the heat for a crime he did not commit.<sup>104</sup>

“Was he really guilty? Was it Tom Dula who ‘met her on the mountain...stabbed her with my knife’ or was the murder committed by a jealous former love?” asked *The Daily News* in a July 1998 write-up alleging to be “The Real Story of Tom Dooley.”<sup>105</sup> The *Daily News* article was typical of all the other news commentaries on the murder case—they all claimed to have “the real story.” Many of them played up the “Whodunit?” angle as well. Ken Welborne, publisher of North Wilkesboro’s *The Record*, seized the opportunity to turn the story into an instant profit maker. In 2001, two years into his newspaper business, Welborne began using the Tom Dula story “as a way to promote his upstart weekly” and “lure readers” from his competitor, the *Wilkes Journal-Patriot*. Welborne’s paper ran 10 articles on Dula and launched a campaign to have him “posthumously pardoned, with T-shirts, banners and a petition.”<sup>106</sup>

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<sup>102</sup> “Police Recover Tombstone of Tom Dooley’s Victim,” *Wilmington Morning Star*, March 11, 1987.

<sup>103</sup> “Marker Tells Legend of Tom Dooley,” *Times-News*, Vol. 115, No. 138, May 17, 1992.

<sup>104</sup> *Ibid.*

<sup>105</sup> “The Real Story of Tom Dooley,” *Daily News*, July 24, 1998.

<sup>106</sup> Irwin Speizer, “Tom Dooley Hangs Down His Headlines,” *Regional Business News*, Vol. 21, Issue 10, October 2001.

Welborne related that since he started the Tom Dula campaign *The Record's* circulation rose 10%. John Hubbard, the publisher of *Wilkes Journal-Patriot*, countered that despite Welborne's effort to depict Dula with a positive slant, Dula was still "a man of dubious character" who had "a reputation for running with a rough crowd."<sup>107</sup> Hubbard's comment implied that running a story about Dula was lowbrow and distasteful. The articles Welborne published about the murder case contained little new information, but masterfully underscored the story as "a gruesome mystery...that had never been solved."<sup>108</sup> Each article contained a second or third hand eyewitness account purporting to be from a trusted source.<sup>109</sup>

One of *The Record's* earliest articles announced that Wilkes County resident Karen Wheeling Sloop Reynolds had just written an original play, "Tom Dooley: A Wilkes County Legend." The first performance was scheduled to begin in the next few months. Sloop's version of the story described the love triangle between Dula, Foster, and Melton, and suggested that Ann Melton had been "Laura's true killer," not Dula. Rather, Tom had informed Ann that he had planned to marry Laura. The news enraged her, so she killed Laura in a jealous rage.<sup>110</sup>

This particular version depicted Tom Dula as wanting to do the right thing and marry his pregnant girlfriend. His decision to marry Laura suggested that he would also sever ties with Ann, which meant an end to his philandering and the beginning of his living an honorable family life. The play described Dula as a mixed-up country boy who had his share of faults, but wanted

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<sup>107</sup> Ibid.

<sup>108</sup> Jerry Lankford, ed., "Tom Dooley: Sex, Murder and Harsh Justice," *The Record*, Internet Edition #81, <http://www.therecordofwilkes.com/rec20010530/main.htm> (accessed September 15, 2014).

<sup>109</sup> Ibid; Jerry Lankford, ed., "Ann Melton Killed Her," *The Record*, Internet Edition #86, <http://www.therecordofwilkes.com/rec20010704/main.htm> (accessed September 15, 2014); Jerry Lankford, ed., "A life with Dooley's legend," *The Record*, June 26, 2002, <http://www.therecordofwilkes.com/rec20020626/main.htm> (accessed September 15, 2014).

<sup>110</sup> Lankford, ed., "Tom Dooley: Sex, Murder and Harsh Justice," *The Record*, May 30, 2001, Internet Edition #81, <http://www.therecordofwilkes.com/rec20010530/main.htm> (accessed September 15, 2014).

to make amends.<sup>111</sup> Tom's reformation redeemed him in the eyes of many. The playwright purposely left "the question of guilt open-ended."<sup>112</sup>

The next article, the one dated July 4, 2001, explained clearly in the title who killed Laura: "Ann Melton Killed Her."<sup>113</sup> Eighty-three year old Edith Eller Laws allegedly heard a first-hand account in the 1940s from her former neighbor, James Pinkney Scott, attesting to Ann's guilt.<sup>114</sup> If the account related to Laws is true, that means about 70 years had passed since the murder. James P. Scott would have been quite elderly by then, and might or might not have had trouble remembering early events. Additionally, a significant amount of time had elapsed between the time Laws heard the story from Scott and retold it in an interview with *The Record*. The account should be read with caution for this reason.

James Pinkney was the son of James and Cecilia (or Celia) Scott, residents of Elkville, and neighbors to the Dula and the Melton families. The fight between Pauline and Ann took place at the Scott residence, in the presence of Celia who later testified during the trials.<sup>115</sup> The article speculated that James Pinkney Scott would have been twelve when these events occurred, but census records, if accurate, reveal that he was much younger, about four or five.<sup>116</sup> James P.

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<sup>111</sup> Ibid.

<sup>112</sup> "Tom Dooley Takes Stage in North Wilkesboro," *News and Record*, July 9, 2004.

<sup>113</sup> Jerry Lankford, ed., "Ann Melton Killed Her," *The Record*, Internet Edition 86, July 4, 2001, <http://www.therecordofwilkes.com/rec20010704/main.htm> (accessed September 15, 2014).

<sup>114</sup> Ibid.

<sup>115</sup> The 1870 population census for Wilkes County, North Carolina, reveals that the Scott family lived in Elkville. "James P." is listed as an 8 year old boy living in his parents' household. James P's birthdate is estimated to be around 1862. This means he would have been about 4 or 5 years old when he witnessed the fight between Melton and Foster at his parents' home. See U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 593\_1165, 287A, online database, <http://www.ancestry.com>; Testimony of Mrs. James Scott, North Carolina v. Thomas Dula, No. 8922, 39-40; the 1940 census for Wilkes County confirms that a James P. Scott resided in the Lewis Fork district of Wilkes County; he was 77 years old, and 1863 was his estimated birthdate. Edward M. Laws, a carpenter, lived in the same district with his children; he might have been related to Edith Eller Laws; See U.S. Bureau of the Census, *Sixteenth Census of the United States 1940*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll T627\_2988, 2B.

<sup>116</sup> See U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll 593\_1165, 287A, online database, <http://www.ancestry.com>; U.S. Bureau of the Census, *Sixteenth Census of the United States 1940*, North

Scott told Laws that he had heard from Pauline Foster after her release from jail that Pauline and Ann were present during the murder as well. They waited on the ridge for the two lovers to make an appearance. Tom had just pulled Laura close to him in a lover's embrace when Ann "pulled out a dagger and stabbed her in the chest," instantly killing her.<sup>117</sup>

Laura and Tom were victims of a woman scorned. Years after Tom's execution and Ann's acquittal for the murder folks in Elkville remained "leery of Melton," fearing that she was a witch.<sup>118</sup> The article closed with Edith Laws offering her opinion that Melton "should have been punished right along with him."<sup>119</sup> The images of Tom and Ann had changed considerably over the years. Now Tom was being portrayed as wholly innocent of the murder and Ann as the vengeful witch who not only planned the murder but also committed it with her own hands.

On July 7, 2002, the *Winston-Salem Journal* informed its readers that "Tom Dooley: A Wilkes County Legend" would run performances later that month. The *Journal* advertised the Dula case as "one of North Carolina's 'unsolved mysteries,'" and added that the play combined "fact and folklore."<sup>120</sup> The *Journal* further cited the widely held belief "that the wrong man paid for the crime," but never stated whether the actual perpetrator was Ann Melton. Still, it coincided with similar news coverage in its reference to Dula possibly being innocent and its perpetuation of the "whodunit?" question.

"It seems strange that a story about a trip to the gallows could breath [sic] new economic and cultural life into a community," wrote the *Winston-Salem Journal* a year after "Tom Dooley:

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Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll T627\_2988, 2B.

<sup>117</sup> Jerry Lankford, ed., "Ann Melton Killed Her," *The Record*, Internet Edition 86, July 4, 2001, <http://www.therecordofwilkes.com/rec20010704/main.htm> (accessed September 15, 2014).

<sup>118</sup> Ibid. Laws stated that Scott claimed he had been present during the fight that took place between Melton and Foster at his parents' home. Scott was doing chores for his mother, Celia, when he witnessed the "savage beating Melton meted to Pauline."

<sup>119</sup> Ibid.

<sup>120</sup> "Wilkes Troupe will Present Play about Tom Dooley Story," *Winston-Salem Journal*, July 7, 2002.



A Wilkes County Legend” began production.<sup>121</sup> *The Journal* noted outright that the murder had become a major tourist attraction, yet it was not strange compared to what other communities had utilized as tourist attractions. Since 1972, the Witch Dungeon Museum in Salem, Massachusetts, opened as a tourist destination and marketed their reenactment of accused witch Sarah Good’s trial and a dungeon tour as must-see attractions. The Salem community has also advertised the witchcraft trials and executions as unique.<sup>122</sup> On a regional perspective, the nearby mountain city of Asheville, North Carolina, had emerged as a popular tourist destination much earlier, in the 1920s. Historian Richard D. Starnes has argued that tourism performed a key role in Asheville’s New South urban development. The railroad’s arrival and the rising consumer culture helped transform Asheville into the “Gateway of the Mountains.”<sup>123</sup>

By 2003, the play entered its third season in North Wilkesboro, and had become a fixture in the community. In addition to the local audience, the play had attracted a high volume of out of town visitors as well. Popular opinion maintained that Dula had been wrongfully convicted and that Melton killed Foster out of jealousy and had Dula aid in disposing the body.<sup>124</sup> By the fourth season it had become a tradition for the Wilkes Playmakers to act out the sensationalized “tale of murder, heartbreak, and betrayal.”<sup>125</sup>

From the early 2000s to the present-day the city and county leaders of Wilkes County, North Carolina, have made a serious effort to use the murder case as a major tourist attraction to boost their economy. The county has even had some federal assistance as well in making this a reality. In addition to having a museum and a homegrown play dedicated to the story the

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<sup>121</sup> Jim Sparks, “Scripting Tourism Growth,” *Winston-Salem Journal*, July 13, 2003.

<sup>122</sup> Weir, “Bewitched and Bewildered,” 182, 195.

<sup>123</sup> Richard D. Starnes, “A Conspicuous Example of What is Termed the New South: Tourism and Urban Development in Asheville, North Carolina, 1880-1925,” *The North Carolina Historical Review*, Vol. 80, No. 1 (January 2003), 52-53.

<sup>124</sup> Jim Sparks, “Scripting Tourism Growth,” *Winston-Salem Journal*, July 13, 2003.

<sup>125</sup> “Tom Dooley Takes Center Stage in Wilkesboro,” *The News and Record*, July 9, 2004.

counties of Wilkes and Caldwell now boast a Tom Dooley historical tour. W. Kerr Scott's Reservoir visitor center has a \$12 tour packet with map, written directions, and CD, detailing the historic driving tour. "You be the investigator," implores the CD's narrator. The U.S. Army Corps of Engineers, operators of the reservoir, created the tour as a way to promote the area's rich history.<sup>126</sup>

In 2011, the publication of historical novelist Sharyn McCrumb's *The Ballad of Tom Dooley* added another creative rendition of the murder narrative. McCrumb narrated the story through two characters—Zebulon Baird Vance and Pauline Foster. McCrumb's views of Tom Dula and Ann Melton align largely with what previous writers have done. On the first page she made it clear what she thought of Dula, writing that he was "a man who died bravely, doing perhaps the only noble thing he ever achieved in his brutal, useless life."<sup>127</sup> On this angle McCrumb followed the long tradition of questioning Dula's guilty verdict.

She presented Ann as "a vain and selfish ditch rose, who rightfully feared for her own life."<sup>128</sup> As a "hell-bent beauty," she exhibited an excessive degree of "pride," "sloth" and "willfulness."<sup>129</sup> Although McCrumb depicted Ann as a narcissist who became involved in an extramarital affair with "an amiable ne'er-do-well," she further noted that she was also the story's "beautiful heroine."<sup>130</sup> This account marked the first time anyone referred to Ann as a heroine. Heroine holds a positive connotation.

As for Laura Foster, McCrumb took a somewhat traditional view of her as well. She portrayed her as "an unchaste tenant farmer's daughter."<sup>131</sup> Her promiscuity mostly defined her

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<sup>126</sup> Bill Cissna, "Getaway: Hit North Carolina Hills for Tom Dooley," *Atlanta-Journal Constitution*, September 13, 2006.

<sup>127</sup> Sharyn McCrumb, *The Ballad of Tom Dooley: A Ballad Novel* (New York: St. Martin's Press, 2011), 1.

<sup>128</sup> McCrumb, *The Ballad of Tom Dooley*, 1.

<sup>129</sup> *Ibid*, 11.

<sup>130</sup> *Ibid*, 305.

<sup>131</sup> *Ibid*, 298.

in this account. McCrumb admitted that she wanted to eschew traditional portrayals of Laura as “dewy heroine.” Indeed, none of the female characters were likable. McCrumb’s Vance declared that “no good woman [spoke] for the doomed man.”<sup>132</sup>

The most wretched woman of all in this narrative was Pauline Foster. Plain-faced, “needle-thin” Pauline behaved contemptuously as a “raddled slut who delighted in the destruction she wrought single-handed” on everyone around her.<sup>133</sup> Pauline went from minor to major character and played the role of villain whose “malice and discontent caused the deaths of Laura Foster and Tom Dula.”<sup>134</sup> McCrumb depicted her as “a loose woman” who had employed herself as a prostitute during the Civil War to survive the hardships brought on by the war. She went further in her depiction and alleged that Pauline was a sociopath devoid of feeling.<sup>135</sup> In this account villain status was transferred from Ann to Pauline, but the villain was still a manipulative woman.

The significance of McCrumb’s ballad novel to evolving depictions of the murder case rests partly in the book’s promotion as “a mountain tragedy.” The publishers and the author underscored the story’s Appalachian roots and sold it as “an Appalachian Wuthering Heights.”<sup>136</sup> This advertising strategy placed the narrative as a tale unique to this region, and mirrored attempts by North Carolina’s tourist industry to characterize the story as part of the area’s heritage. The book’s jacket cover is equally revealing: the background is a photograph of the actual location where the murder occurred. In the foreground is an illustration of the murdered woman, Laura Foster, with her back turned facing the mountain scenery ahead of her.

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<sup>132</sup> Ibid, 1, 301.

<sup>133</sup> Ibid, 1-10.

<sup>134</sup> Ibid, 310.

<sup>135</sup> Ibid, 11-14, 305.

<sup>136</sup> “The Ballad of Tom Dooley,” [http://www.sharynmccrumb.com/prod\\_dooley.asp?ProductID=19](http://www.sharynmccrumb.com/prod_dooley.asp?ProductID=19) (accessed March 30, 2015).

Readers are left to imagine how Laura might have looked. Instead the focus is directed to the authentic mountain scenery. The background's realism diverts attention from the illustrated drawing. This set-up shows the blending between reality and fiction, and serves as an apt example of how the story has evolved and taken on a life of its own. Although the principle characters have been presented in an array of forms they continue—perhaps more now than before, on account of tourism's allure—to remain a mystery.

## CHAPTER 5

### CONCLUSION

Tom Dula and Ann Melton were different than most common white folk. They lived as white trash who occupied the social margins of respectable nineteenth-century western North Carolina. Although Tom grew up in a respectable yeoman household with both parents, loss and struggle characterized much of his short life. Hardship came in the form of death of family members, persistent debt and economic instability, personal disputes, war, sickness and disease. Being raised by a single mother with little means of financial support, the same would have held true for Ann.

In 1854, the death of Thomas Dula Sr. signaled what appeared to be the beginning of Dula's troubles.<sup>1</sup> For several years his father's death left the family in a near indigent condition. The family was forced to give up much of their land and property to pay off the debt Tom Sr. owed Elkville general store merchants Josiah and Calvin Cowles.<sup>2</sup> Four years later the Dula family became embroiled in yet another legal dispute with Cowles. Tom and his friend George Washington Anderson had accumulated debt that totaled one hundred and twenty six dollars to Cowles.<sup>3</sup>

The two would have been in their early teens, around ages fourteen and fifteen.<sup>4</sup> Tom and Wash shared an interesting thing in common. Both their fathers were deceased, and both young

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<sup>1</sup> Thomas P. Dula, Wilkes County, North Carolina, Probate Record, 1855, North Carolina Estate Files, 1663-1979, State Archives, Raleigh; FHL microfilm 002317515. <https://familysearch.org/pal:/MM9.1.1/QJDF-C5JG> (accessed January 5, 2015).

<sup>2</sup> Ibid; Calvin J. Cowles Papers, 1773-1941, Southern Historical Collection, Collection 03808, Vol. 84: Notebook, Estate of T. P. Dula, 1858, Wilson Library, University of North Carolina-Chapel Hill.

<sup>3</sup> See Calvin J. Cowles, North Carolina Estate Files, 1663-1979, <https://familysearch.org/pal:/MM9.3.1/TH-1951-35569-1230-49?cc=1911121&wc=93PV-MJX:1066701902,183222301,1066723022> (accessed January 8, 2015).

<sup>4</sup> At least three other individuals shared the name Thomas Dula at this time and there was another George W. Anderson. It is also worth noting that the year the two were issued warrants for their arrest was the same year Cowles entered into his account book information detailing the complete inventory of Thomas P. Dula's estate. See

men lived in households headed by their mothers. As a result of their fathers deaths each household weathered a great deal of financial hardship. While it might not have been them, they certainly had a motive for wanting to borrow money. If the two incidents correlate it would indicate that Dula was unable to pay his end of the debt. Indeed, most disputes arose out of the personal and informal nature of debt.

In 1860, Mary Dula, Tom's mother, owned personal property valued at a meager one \$125.<sup>5</sup> If Tom stood to inherit anything, those chances by now were slim indeed. Then war came. Tom inevitably witnessed more loss and death, and even violence. At times he might have behaved in a violent manner toward others. Evidence suggests that he did.<sup>6</sup>

In 1866, he lived at home with his mother and sister and owned no land or property. It appears Tom spent little, if any, effort financially supporting his family and trying to recover their loss in fortunes (what little they had) from the war. Rather, he exhibited a rebellious independence in his disdain for work, his conspicuous womanizing and pursuit of other leisure activities, drinking, and fighting. Trial testimony revealed that community members were fully cognizant of his habits. His marginal status in the community ultimately worked against him when it came time for his trial.<sup>7</sup>

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Calvin J. Cowles Papers, 1773-1941, Southern Historical Collection, Collection 03808, Vol. 84: Notebook, Estate of T. P. Dula, 1858, Wilson Library, University of North Carolina-Chapel Hill; The 1850 census reveals that two George Anderson's lived in the vicinity. One of them was a 13 year old boy named George who resided with his family in Wilkes. He was identified as "mulatto." The other went by "Washington Anderson" and resided in Caldwell County with his mother Sally. He was 6 years old. By 1858 their ages would have been about 21 and 14; See the 1850 census for Wilkes and Caldwell Counties, North Carolina, as two of the other Thomas Dulas lived in Caldwell County.

<sup>5</sup> U.S. Bureau of the Census, *Eighth Census of the United States 1860*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M653\_918, 168.

<sup>6</sup> See Correspondence of the Wilmington Journal, *The Rutherford Star*, June 9, 1868; "The Death Penalty," *The New York Herald*, May 2, 1868.

<sup>7</sup> State of North Carolina v. Thomas Dula, No. 8923 (NC S. Ct. 1868), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/512/rec/1>, accessed May 2, 2014.

Wilkes County, North Carolina, was still recovering from the Civil War's hardships when the murder of Laura Foster occurred. In an effort to return back to the normal operations of daily living, local leaders established leadership positions and status they held before the war.<sup>8</sup> They often turned to the local courts to exercise their authority and were generally successful in their endeavors. When they were not successful they used other measures like intimidation to reassert their power.<sup>9</sup> Tom's conviction exemplifies the power local political leaders like James Isbell, and Josiah and Calvin J. Cowles wielded in order to maintain the status quo.

The murder of Laura Foster was probably the last hope in what appeared to be Tom's deteriorating social reputation. He was found guilty not as much for taking someone's life as it underscored how he had undercut the legitimacy of local authority. That was the larger threat Dula posed to the community. The murder of Laura Foster symbolized the last in a string of incidences that left him at odds with neighbors and community leaders.

As for Ann, she experienced her share of struggle as well, but at least made an effort at exhibiting outward respectability. She married and started a family young. Her decision to marry young was possibly a logical step to move out of a household plagued with financial instability and distress. Evidence reveals James Melton, the man she chose to marry, was industrious and

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<sup>8</sup> Although Cowles was removed of his duties as Wilkesboro postmaster during the Civil War he made a comeback in 1868 with his election to serve as a delegate to the North Carolina Constitutional Convention. See Calvin Josiah Cowles, <http://ncpedia.org/biography/cowles-calvin-josiah> (accessed March 15, 2015). James Isbell served two terms in the North Carolina General Assembly between 1864 and 1865. See R.D.W. Conner, ed., *A Manual of North Carolina* (Raleigh: E.M. Uzzell and Co., 1913), 529.

<sup>9</sup> See *Cowles and Wilcox v. Thomas W. Carter*, 39 NC 82, 83; *J. and C.J. Cowles v. Anderson Dula*, 52 NC 224, 225 (NC S. Ct. 1859); *Thomas P. Dula*, Wilkes County, North Carolina, Probate Record, 1855, North Carolina Estate Files, 1663-1979, State Archives, Raleigh; FHL microfilm 002317515. <https://familysearch.org/pal:MM9.1.1/QJDF-C5JG> (accessed January 5, 2015); *Calvin J. Cowles Papers, 1773-1941*, Southern Historical Collection, Collection 03808, Vol. 84: Notebook, Estate of T. P. Dula, 1858, Wilson Library, University of North Carolina-Chapel Hill; *Sarah Horton v. W.W. White and others*, 84, NC 297, 298 (NC S. Ct. 1881); *North Carolina v. Thomas Dula*, No. 8923 (NC S. Ct. 1868), North Carolina Digital Collections, <http://digital.ncdcr.gov/cdm/compoundobject/collection/p16062coll3/id/512/rec/1>, accessed May 2, 2014

worked hard to support his family.<sup>10</sup> James offered Ann economic security. Ann's selection of marriage partner illustrates how well she recognized her situation and acted as an active agent in her life. Clearly, Ann had married up in social status. If she was indeed so enamored with Tom, why had she chosen James? She was evidently perceptive enough to realize that Tom offered her nothing as a husband but the very struggle she apparently sought to escape.

Public reactions to Ann's involvement and acquittal in Laura Foster's murder illuminate the ways in which nineteenth-century American postwar society grappled with the disruption the war had caused in all facets of life, especially gender roles. Now that war had ended how were socially prescribed gender conventions to function? Ann appeared to be on trial not as much for her possible role as an accomplice in murder, but for her gender—whether or not she had transgressed her roles. Press coverage and legal experts offered opposing images of her. Both underscored her physical appearance. One characterized her as an ideal model of womanhood who behaved in a ladylike fashion with sophistication, manners, and passivity. The other image categorized her as a cold and manipulative woman who had used her sexuality to incite her lover to murder. In this image she was clearly dangerous and highly sexualized, something akin to Eve the temptress.

Ann nevertheless escaped conviction and secured an acquittal because she had clout in her community whereas Tom had none, and she acted the part of the ideal woman during her confinement in jail and at trial. The characterization of Ann as a weak-willed and frail woman allowed her to re-enter Elkhville society. The process transformed her from a potential threat – the

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<sup>10</sup>Ibid; West, *Lift Up Your Head Tom Dooley*, 13; Fletcher, *The True Story of Tom Dooley*, 82; Brent H. Holcomb, *Compiled Marriages of Wilkes County, North Carolina, 1778-1868* (Baltimore: Genealogical Publications Company, 1993), 133; See U.S. Bureau of the Census, *Seventh Census of the United States 1850*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M432\_649, 343A; U.S. Bureau of the Census, *Ninth Census of the United States 1870*, North Carolina, Wilkes County, Population Schedule, North Carolina Division of Archives and History. microfilm roll M593\_1165, 288A.



femme fatale – to a woman who possessed not the slightest capability to murder. It was far better to deny that a woman was capable of such violence than to concede that such things could happen. The fact that the murder occurred shortly after the Civil War inevitably added to the public’s urge to suppress social anxiety at such a fragile time where tensions were just beginning to cool. Additionally, her case fit broader patterns occurring in the nation’s courtrooms over the issue of “unequal justice” in sentencing men and women accused of murder. Women in most cases went free while men were punished.<sup>11</sup>

Instead of remaining static, public perceptions of Ann and Tom evolved over time to reveal shifting social concerns relating to gender. Tom was at first presented to the public as a violent desperado who had clearly been the one who wielded the murder weapon. Newspaper accounts seemed sure of his guilt. Ann was initially depicted as either the “the other woman” who had aided, abetted—and manipulated—Tom into killing Laura, the model lady who, of course, had no hand in the deed, and passively and patiently waited for the ordeal to be over, or they omitted any reference to her at all in yet another effort to deny that a woman was possible of committing such a gruesome act.

With time views of the two had nearly reversed. Now Tom was a wholly innocent man who had been wrongly accused. He was also a celebrated war hero of legend and a noble and courageous gentleman who honorably saved Ann from the gallows. Ann was no longer viewed as innocent, and certainly not ladylike. Later press coverage gave her more agency in the murder—to the point of suggesting that she had lost some of her feminine traits by acting as a Lady Macbeth who had transgressed gender boundaries and acted more like a man. Tom and Laura had become victims of a manipulative woman scorned. Images of the two became more polarized and shifted to reflect what society has most feared at certain times.

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<sup>11</sup> See Ann Jones, *Women Who Kill* (New York: Holt, Rinehart, and Winston, 1980), 77-98, and 100.

The murder case illustrated fissures in nineteenth-century American society over postwar anxieties concerning gender and sexual disorder. If anything, the murder case is significant for its location in Southern Appalachia because it serves as ripe and fruitful ground for showing how different locations in the South connected to wider cultural threads in American society. Its significance lies in how it offers a glimpse, albeit an atypical one, into the elusive world of common and no so common whites in nineteenth-century western North Carolina. This murder case shared more commonality with American culture than anything specifically Appalachian although it occurred in the Appalachian mountain South. Only recently has the case been described as thoroughly Appalachian and the motive for this portrayal lies in tourist dollars. The Dula murder case bolsters the assertion Appalachian scholars have made that Appalachia is not as isolated a locale as it has been portrayed. This is not an Appalachian story, but a wholly American one because it resonates deeply with national social anxieties about gender roles, justice, and power.

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