

A HISTORICAL NOVEL BASED ON A TRUE STORY BY

Duel Stone

**THE
UN-HANGABLE
MAN**

DIVINE DELIVERANCE: MIRACLE ON THE GALLOWS



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The UN-HANGABLE MAN

Inspired by a true story
by
Duel Stone

**An innocent, young man sentenced to hang vows
to outlive all jury members.**

What are the ODDS? IMPOSSIBLE!

BENJAMIN JAMES MCSWAIN battles good and evil as he struggles with impossible odds to prove himself a man and his innocence of the conspired plot against him, by friends, for the murder of his next door neighbor, JASON COLE, the son of the richest man in the county. Ben will die before he breaks the blood oath of secrecy he pledged at Devil's Bend, Mississippi, in 1893. The legendary events: the murder, the conspiracy, the trial, the conviction, the hanging, the miracle on the gallows, the jailbreak, imprisonment, the pardon, the deathbed confession, the exoneration, the legislative compensation, and the personal goal to outlive the twelve-man jury propel *The Unhangable Man* to be an inspirational and unforgettable story.

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Dedication

This book is dedicated to a distant relative, Mr. William Isaac Purvis, and also to the multitudes that have been wrongfully prosecuted by our less than perfect but best in the world judicial and political systems.

Acknowledgments

Many thanks go to my family and friends who gave their support and lent their talents in helping to make this book possible. Special thanks go to the following: Mr. Leonard L. Slade, Sr., and the Lamar County Historical Society, the Will Purvis family members for allowing the use of *The True Life Story of Will Purvis* by Frances Williams Griffith as told by Will Purvis, the Mississippi State Department of Archives and History, Margrit Loomis, Assistant Professor of English at the University of Louisiana at Monroe, and my special proofreaders, Coyne Connell Miller, III, and his wife, one of my two beautiful daughters, Brandae R. Miller. Words cannot express how much I appreciate my sister, Juanita Stewart, for her dedication and the countless hours she sacrificed reading, proofing, and editing, for my sake.

Preface

The purpose of this historical novel is to preserve for posterity the amazing life story of a famous relative in my mother's side of the family. This man's spectacular life is one of the most profound and unbelievable in the history of America and possibly the world. The astonishing saga of Benjamin James McSwain has been documented in accounts by witnesses and recorded facts.

THE UN-HANGABLE MAN is an exciting tale of a man whom friends conspired against by planting evidence pointing to him as the killer; accused, charged and convicted of a murder he did not commit; sentenced to be hanged, not once but twice; hanged and miraculously saved. He prophetically told the twelve men of the jury who condemned him they would all die before he would . . . with their boots on. He escaped from jail to avoid the second hanging date, later surrendered to the authorities and governor, and then spent more than four years in jail and the penitentiary. Twenty-four years after the crime, a conspirator revealed the name of the real murderer in a deathbed confession and McSwain was given a full pardon, presented five thousand dollars in compensation, and received an apology by the state of Mississippi for the erroneous conviction and the great wrong done him.

This fact-filled story depicts the occasional fallibility and injustice of the courts, the fear of the supernatural, assassination, perjury, jailbreak, election of a governor solely to pardon a prisoner, and the workings of that band of men called White Caps who conducted a reign of terror in Mississippi after the Ku Klux Klan had laid aside their ghostly robes. Included within the book are the momentous events leading up to the assassination, the trial testimonies, the verdict, the sentence, the execution, the miracle on the gallows, and the trying times that followed for the innocent man, Benjamin James McSwain. Neither time nor expense was spared by the author to gather the information connected to this interesting story that began more than one hundred years ago, in 1893, in Marion County, Mississippi. Because Marion County

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was divided into two different counties in 1904, the location of the story is present-day Lamar County.

The most enjoyable thing about my research was the willingness and assistance many wonderful people have given to make this book possible. Reader's Digest Association, the Associated Press and the Mississippi newspapers have graciously allowed me to reprint an array of news feature articles as an appendix about the life and times of William Isaac Purvis, the person on whom this historical novel is based. The Mississippi State Department of Archives and History and The Lamar County Historical Society kindly opened their Subject Files to me with permission to reprint and publish the information surrounding this fantastic story including the use of the booklet entitled *The True Life Story of Will Purvis* by Frances Williams Griffith as told by Will Purvis.

THE UN-HANGABLE MAN reflects a man's simple faith in God and his proclaiming the truth of his innocence, with five thousand onlookers watching the noose put around his neck. The incredible and unexpected outcome of this man's remarkable story is undeniably uplifting and something to behold. The legendary message is to avoid evil company at all cost, lest one pay the price, in full, for the deceitful and malicious actions committed by another person.

All characters, other than John L. Sullivan and Jake Kilrain, in this historical novel are fictitious, and any resemblances to actual persons, living or dead, are strictly accidental and coincidental. Certain events have been added and fictionalized for dramatic effects and entertainment purposes.

All scriptures are taken from the King James Version of the Bible.

It is truly my desire that you receive as much pleasure, interest and knowledge reading as me while researching and writing THE UN-HANGABLE MAN.

Duel Stone

1

Benjamin James McSwain . . .
Columbia, Mississippi, October 1, 1938

THE SIREN ON THE NEW, 1938 CADILLAC ambulance could scarcely be heard over the blaring train whistle warning the 1920s and 1930s automobiles that were scurrying across the railroad tracks on Main Street. A Model and T Model Ford cars were still popular in the south long after the depression. The small four cylinder motors were crisp and clear sounding. The lights on the ambulance signaled them to pull over and stop. An aoooga horn and a regular horn were blowing during the commotion. No one noticed the old weather-beaten poster that remained hanging crooked on a telephone pole of FDR FOR PRESIDENT 1936. The only movement, other than the passing ambulance, was the turning of a striped barber shop logo pole located on the corner.

Everyone on the streets in the small town wondered who was in the ambulance and what had happened. Little did they know he was the most famous citizen in the state of Mississippi. He was handsome, sixty-six-year-old Benjamin James McSwain who was dying of pneumonia and gradually sinking into a coma.

AT COLUMBIA GENERAL HOSPITAL, Dr. Drake, and nurse, Dot Hill, both in their forties, were reviewing Ben's chart and prescribing the proper medications when Bonnie and Jack, Ben's sixty-six-year-old wife and his sixty-five-year-old friend, knocked lightly and entered the room. With a hopeless look, Dr. Drake said to Bonnie, "Mrs. McSwain, the only thing left is to keep him as comfortable as possible."

Bonnie smiled and nodded in agreement. "I understand."

Suddenly, Ben sat up opening his eyes widely in a deep stare and pointed toward the blank wall. Wild-eyed, smiling and in a loud southern drawl stated, "**I can see all twelve of them lying dead . . . under their cold slabs . . . with their boots on!**" Immediately, Ben envisioned the two flashbacks that haunted him since he was nineteen years old. One was his dad quoting his favorite verse of Scripture and the

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other was the black dog and white dog fighting to the death. This time the white dog was winning, about to kill the black dog. Then Ben, with a contented look, laid down and mumbled, "Now I can die happy!"

Everyone in the room, including the doctor, was shocked at Ben's announcement. They were prohibited from responding for at least a minute because of the four long blasts from the loud whistle of the train leaving the depot downtown near the hospital. Jack walked over, looked Ben close in the eyes then sternly remarked, "Ben, one of them is still alive!"

Ben broke his stare at the wall, became fully awake and focused his eyes into Jack's. In a dazed, sober look he asked, "What are you telling me, Jack?"

He repeated loudly, "Mr. Cooksey is still alive. I saw him today!"

Ben angrily replied, "They lied to me! They told me he had been run over and killed with his boots on." Looking disgusted and determined, Ben added, "I was willing to die, but I'm not going to until he does. Jack, you go tell Mr. Cooksey I am getting well and I'm thinking about him all the time." He reached and pulled Jack close to him and asked, "Will you do that for me?"

Jack smiled and nodded. "Sure, Ben! You can count on it!"

Smiling back, "I really appreciate it." Then confidently commanded, "Don't forget to tell him I'm thinking about him with my notebook list of names in my hand and they have all been marked off except his!"

The nurse walked over and interrupted sternly, "All right you two! That's enough! Mr. McSwain needs to get some rest now."

Ben pleaded, "I'm okay! I feel much better now! Getting better by the minute!" Now fully awake and argumentative, "I don't need any more rest! All I've had is rest for the past ten days!"

The doctor opened the door and the nurse motioned for Bonnie and Jack to leave. She said, "Good! Because I need to clean you up. They can come back at two o'clock this afternoon and again at seven tonight. Okay?"

Dr. Drake agreed. "That sounds like the right prescription to me, Mr. McSwain."

Bonnie blew Ben a kiss from across the room. Jack waved and said silently with his lips that he will see him later. The doctor, Bonnie and Jack left the room. Ben requested, "Nurse, will you please get me a glass of water?"

"Of course!"

Nurse Hill poured a glass of water from the pitcher on the table then handed it to Ben. He gulped the water in three or four big swallows. As he tilted his head back to drink she curiously inquired, "I don't suppose your conversation with Jack had anything to do with that rope scar around your neck, did it?"

"It sure did! That old black dog and white dog mess."

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"Black dog and white dog?"

"Yeah, the flesh and the Spirit, Satan and the Lord, good and evil . . . clapping for the devil stuff."

"Huh! It's none of my business, but I bet it is interesting."

"Oh! It is interesting, all right."

"Do you feel well enough to tell me what happened while I clean you and the room?"

Ben anxiously interrupted, "I sure do! It's an opportunity to witness for the Lord." He slowly tilted his head back and to one side as he declared, "This rope burn happened because I was clapping for the devil by rejecting the Lord's call to be a preacher, because of the Cole Brothers and because I swore a blood oath of secrecy at Devil's Bend way back in 1893."

"A blood oath at Devil's Bend?"

In a once upon a time voice Ben moaned, "I was only nineteen years old and I wanted to show the world I was a real man."

Nurse Hill straightened the room and listened intently to Ben as he revealed his unusual life story to her. Ben slowly turned his head and stared out of the window into the beautiful blue morning sky. His life flashed before him. He remembered being a child in elementary school through receiving the invitation from Congress to go to the State Capitol Building in Jackson, Mississippi at forty-seven years old. Ben told nurse Hill he was born in Jasper County, Mississippi, on September 27, 1872, and reared on a small cotton farm. He attended school in Wayne County finishing most of his elementary education.

In 1884 the McSwain family moved to Devil's Bend, Mississippi, in Marion County. It was a quiet, neighborly community on the banks of the Pearl River, twelve miles northwest of Columbia, Mississippi. Schools were sparse. It was common for students to walk great distances or lodge with someone close to school. In order to attend, Ben lived with an aunt and uncle in the small town of Columbia during the school session until he finished high school. The schools had more than one grade in each classroom, and students had to finish the eleventh grade to graduate.

Ben's father, Will McSwain, had contracted with a man and purchased a one hundred and twenty acre farm costing eight bales of cotton weighing five hundred pounds each. Cotton sold for around ten cents per pound equaling about fifty dollars per bale. Eight bales yielded approximately four hundred dollars. Adjoining the McSwain farm was the Cole brothers' property.

2

The Cole brothers . . .
Devil's Bend, Mississippi, May 1893

THE COLE FAMILY OWNED LARGE TRACTS OF LAND. Clayton and Kitty Cole had five children, all boys--Jason, Tatum (Tate), Kit, Clay and Carlton. Jason and Tate, the older two, were partners in property and farming. The other three sons, too young to be on their own, remained at home attending school.

Jason and Tate were close neighbors to the McSwains. Because they owned all the land surrounding the McSwain farm, they wanted to purchase it. They tried several times to no avail. Tate was twenty-eight with a thin physique and hollow, deep-set hazel eyes that seemed to be peering through knotholes from behind a wooden fence. He had blond, straight, limp hair with a part down the middle. His lanky torso implied he had a serious disease, but he did not. Jason, thirty years old, was a fireplug of a man. He had a round, red, puffy face, noticeable brown eyes, dark brown, wavy hair with shiny, reddish highlights running on top of each wave. He was the greedy leader of the pair who demanded his way. He could do anything he wanted. At an early age, Jason had bullied Tate to follow his desires because he was two years older.

Their wealthy father, Clayton, had emphasized that they are leaders and stand up for themselves. Because of the stress he endured of being the older Cole brother, Jason would lose himself by overindulging in food and giving orders. He wanted to show his father that everyone would know the Cole brothers.

BEN MCSWAIN VERBALLY RECALLED the first time Jason and Tate approached his father to purchase the McSwain farm. They were finely dressed and rode their horses into the McSwain yard. Being overly nice Jason greeted, "Hello, Ben! Good morning, Mr. McSwain!"

"Hi, Jason! Morning, Tate!" expressed Ben.

"Morning, boys!" Will said in a low calm voice.

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"Mr. McSwain, we were wondering if you might like to sell us your land if we made the price right?" inquired Jason.

"No, Son!" Will sternly replied. "The Lord gave me this property and I intend to stay right here until I go meet Him in Heaven. You own all the land around us. How much land is enough?"

Laughing and looking over at Ben, Tate uttered aloud in a cocky manner, "Just a little bit more, Mr. McSwain."

Argumentatively preaching, Will responded, "Well, you should be content with what you have, the Lord says."

"Yes, Sir! We know you're right and we are, but we really would like to have it if you ever want to sell it." Jason pleaded, "If you ever do, we would be much obliged if you would let us have the first option to buy it, Mr. McSwain."

Will sarcastically replied, "Well, if I ever do, I will. I need to get back to work now, if you don't mind."

"Oh! Yes, Sir! We'll see you later, Ben! Good day, Sir!"

"Okay, Jason! See you, Tate!" answered Ben.

Will quietly added, "Good day to you, too."

3

Total recall . . .

BEN RECALLED there had been many unexplained happenings in his life. No one would have ever known exactly what might have happened if Daren Glass had not come forward and confessed in 1917.

Suddenly, Ben vividly remembered life before the turn of the century. He blurted out, "My! My! What a time that was! There were no automobiles, just horses and wagons. In our section of the country, there were no electricity, no electric lights, no telephones, and no roads to speak of, just trails through the woods. Oh! And I almost forgot to add the entertainment, moving pictures. Boy! How times and things have changed. Since the turn of the century, we have most of those good things for living easier, but we've also had World War I."

Southern Mississippi was home to Ben McSwain. Everyone called him Ben but to his mother and father he was Benjamin. Only in situations urgent or distressing did he hear Benjamin James. The oldest, Ben was followed by brother George and sister Addie. Ben's father, Will, and his mother, Margie, lived with their three children in the house they treasured most on the one hundred and twenty acres. They now called it the Old Home Place. It was large and comfortable with a front and back porch. A five-foot wide breeze way separated the bedroom side from the kitchen, dining and living room side of the house.

After attending high school in Columbia, Ben returned home in 1893 to assist his father in general farm labor. There was always plenty of work to be done around the planting and harvesting season. Ben was a handsome young man with stunning blue eyes, dark wavy hair, and an olive complexion. His teeth glistened and were as white as snow-capped mountains. His smile was infectious. Five feet, ten inches tall and weighing one hundred and sixty pounds, he had a muscular build that women loved and men envied. He was a neat, clean, very particular individual. He was naive, humble, well mannered, kindhearted, but head strong, and determined. He was perplexed about the physical and spiritual worlds. Ben dressed in khaki shirts and pants and wore glasses. He had the nervous habit of taking his glasses off or out of his shirt pocket and unconsciously cleaning the lenses with his handkerchief when he was thinking or under any sort of pressure.

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Fond memories of the Old Home Place flooded his mind as he continued to tell his story to nurse Hill. There had not been much money, but there had always been very much to eat. To break the monotony of the hard work on the farm, the entire family eagerly anticipated attending church socials, barn dances, candy pulls, sugar cane chewing parties, horse races, wrestling matches, and hunting and fishing. These pleasant thoughts were etched upon Ben's soul attributing to the person he had become.

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