DEATH OF A KLANSMAN

by Rogelio F. Muñoz

The Stein building located in downtown Uvalde, Texas was the scene of the murder of prominent Uvalde citizen Levi Old. Old’s life ended on a Sunday morning, on July 22, 1924 when he was shot four times by a .45 caliber handgun, fired by the hand of cattleman Fred McKinzie. The official death certificate on file in the Uvalde County clerk’s office states the cause of death as “gunshot wound of head” and lists contributory cause as “politics”. (1)

Levi Old was a prominent Uvalde lawyer, a former Texas Ranger and former District Attorney of the 38th Judicial District of Texas (1). He was also a charter member of the Uvalde Chapter No. 279 of the Ku Klux Klan (2).

Fred McKinzie was a member of a prominent Wilson County ranching family. He was the son of J. B. McKinzie who was a wealthy ranchman and stock dealer from Floresville, Texas. At the time of the shooting, McKenzie lived on the outskirts of Uvalde with his wife and seven children. He was a well-known bootlegger and was recognized in the community as a leader of the anti-Klan faction. (14)

The Stein Building as it is known today was built in 1890, and at the time of the murder was the First National Bank Building. At the time of the incident a portion of the building was rented to a Grady Mahaffey who rented the downstairs front office for his abstract and real estate business.

It was the morning after the Saturday primary election of 1924, and the election returns were being posted at the National Bank building as they were being received over the telephone and Old was at the abstract office copying down the returns. Harry Hornby, who was the editor and publisher of The Uvalde Leader-News and whose office was across the street, had stopped by to speak to Old, and as he left, he met Fred McKenzie and two of his friends heading toward the bank building. (3) Soon after he heard the rapid shots of a .45 pistol and as he turned to look, he saw “men in the building jumped thru the windows or jumped out of the doors and disappeared”. (4) Fred Mckenzie was soon arrested and was placed in the Uvalde County jail. As a precaution, because of fear of unrest in the community, two Texas rangers were sent to Uvalde to assist local law enforcement in the case. (9)
The funeral for Levi Old was held on the Monday after he was killed. Church services were held at the Methodist Church in Uvalde. The ceremony at the Uvalde City Cemetery was conducted by the local Klan organization and consisted of an elaborate ritual as dictated by the by-laws of the Klan organization:

“To Thee, Oh God! We call to Thee – True to our Oath, oh, help us be! We’ve pledged our love, our blood, our all: Oh, give us grace that we not fall.” (After this, all Klansmen will slowly form a hollow square about the coffin, and there silently kneel for about 30 seconds. While the other Klansmen are kneeling, the bearer of the Regalia of the departed will quietly step forward and place Regalia on top of casket. Then the bearer of Regalia will kneel at his place, with the other Klansmen, and the Kludd will immediately offer prayer.)

The Kludd: “God of all, author of all good – receive the soul of our departed fellow-Klansman, that he may not have lived a Klansman’s life in vain. Amen!” (All repeat after him in unison – “Amen!”)

At the signal from the Exalted Cyclops, all Klansmen will arise and will form in line and silently move to their disbanding place.

A floral offering by the Klan should be made – it is suggested the floral offering have the letters K.K.K.K. on it, either in ribbon or worked in, in flowers.

A sealed communication should be sent the grieved ones – resolutions of sympathy by the Klan, or otherwise, as ordered by the Exalted Cyclops.”

(2) His grave is marked by a simple marker that reads: L. OLD, 1879-1924. Next to him is the grave of a child, Olga May Old who died June 8, 1913.

Uvalde, like many communities in Texas, witnessed the creation of a local Klan Chapter after the Klan began organizing in Texas in September of 1920. (5)

In Uvalde, on June 1, 1923, the Uvalde Leader-News reported: “all doubts as to the Ku Klux Klan having an organization at Uvalde were dispelled last Sunday night when 13 hooded knights marched down the aisle of First Baptist Church of Uvalde. In doing so they wrote, “we Uvalde Klan, in recognition of the services of Rev. C. F. Andrews for the cause and in furtherance of the cause, and in the name of our blessed savior who died on Calvary that we might have ever lasting life, hereby donate the sum of $100.00 toward assisting in building a Baptist Church in Uvalde.” (7)

In 1924, they established their headquarters on a plot of land east of town that Levi Old had sold to the Klan, and in March of that year they dedicated their new meeting hall where they prominently displayed a lighted cross which could be seen on the road to San Antonio. (3)

The Klan in Texas engaged in a wave of brutality which saw hooded regulators take the law into their own hands to punish moral transgressors and others
whose conduct was in some way objectionable to the Klan (5). The Klan leadership realized that it could not implement its goals if it did not put the “right Men” in public office. Their program included the rigid enforcement of the laws against prohibition, gambling and any form of vice. They promoted laws to outlaw Catholic schools, prohibit Catholics from teaching in public schools and the strict limitation of “undesirable foreign immigration”. (5)

In Sabinal, Texas, old-timers remember a prominent sign that warned blacks that they should never “Let the Sun Set on You in Sabinal”, and others of German descent remember being warned that they were forbidden to speak German in their Lutheran Church. (6)

Harry Hornby, owner and publisher of the Uvalde Leader-News, was another target of the Klan and even had a cross burned in his yard. (3) He later wrote:

“I never want to go through another period as that in the twenties, when the KKK was active. I can see very plainly the wisdom of the founders of our great government in giving freedom of religion and freedom of speech. Surely when people are allowed to disguise themselves to hide their identity, they will do things that they would not do otherwise.” (4)

Uvalde’s most famous native son, John Nance Garner, before he became Vice President of the United States, was not immune from attack from the Klan. Klansman, “hooded and gowned”, burned a fiery cross in front of his home probably as a result of his opposition to prohibition. Garner was well known as a person who enjoyed his liquor. He would famously state “it’s time to strike a blow for liberty” when he wanted to have his favorite whiskey. He told a friend “I didn’t believe in prohibition. But I will enforce the law until we get it off the books. You know I got a cellar full to last the rest of my life.” He had stated his opposition to the Klan by denouncing it as “an organization which had no place in American life”. The Klan actively campaigned against him, and although he lost Uvalde County, he still managed to win his congressional district. (7)(8)

By 1924 citizens began to publicly denounce the activities of the Klan. On January 15, 1924, one W.H. Roach published a passionate statement in the Uvalde Leader News against what the Klan stood for. He wrote:

“To the citizens of Uvalde County who believe in and stand upon the Constitution and laws of our great country:

I would advise you to beware of a wolf in sheep’s clothing that parades up and down the highways of our great and free country, calling themselves 100 percent American, and who insist on covering their faces and meeting behind closed doors to keep their identity concealed.

That, friends, is the wolf in sheep’s clothing, an organization known as the Ku Klux Klan.” (9)
The election of July 1924 also signaled the decline of the Ku Klux Klan in Uvalde County as it did statewide. The anti-Klan ticket won every contested office with the exception of the Office of the County Treasurer. (9)

It was in this atmosphere of conflict between the Klan and the Anti-Klan factions that the murder of Levi Old occurred. Levi Old was without a doubt a successful attorney in Uvalde, Texas. His father was at one time a district judge of Roy Beans Court. (16) He had received his legal education studying in the law office of former Vice-President John Nance Garner and served as the District Attorney for the 38th Judicial District of Texas from 1902 to 1904. He was also the attorney for The State Bank of Barksdale, Texas; First State Bank of Sabinal, Texas; Sabinal National Bank; Uvalde Cedar Co. and The Buick Co. of Uvalde, Texas. (1) At the time of his death, he was survived by his wife and a seven year old son Levie Old, who later went on to serve in the United States Navy in World War II and became a successful attorney in Brownwood, Texas. He was licensed in 1937, 13 years after his father's death and he practiced law until he died in 1981 at the age of 66. (16)

On the other hand, Fred McKenzie was a notorious bootlegger, according to Uvalde County District Court records. At the time of the murder, McKenzie had four pending felony cases. (10)

On September 22, 1924 the Honorable R. H. Barney, Judge of the 38th District Court, empaneled a grand jury to consider the case against Fred McKinzie. Present at the empaneling were L. J. Brucks, District Attorney; Matt Burney, District Clerk; and G.H. Johnson, Sherriff of Uvalde County. (10)

The grand jury empaneled consisted of the following persons: A.B. Mayhew, H. Ray, W. A. Miller, E. Kraut, T. M. Woodley, Hubert Peters, J.S. Corzine, Joe Smyth, Clint Meyers, Walter Schawe, Bob M. Davenport, and Emel Shudde. A.B. Mayhew was appointed as the foreman. (10)

The empaneling of the grand jury was not without controversy. A man named Elmer Puccini had been named as a potential grand juror for the case, but he was challenged by the attorneys for Fred McKinzie on the grounds that he was the Cyclops (head of a local Klan) of the Uvalde Chapter.

At the hearing held, Mr. Puccini admitted that he was “the Cyclops and that he had been present at a meeting when the prosecution had been discussed, and also that he had been with a party when the measurements in the building where the tragedy occurred had been taken, and had discussed the case with the lawyer for the prosecution.” (9)

After the hearing, Judge Barney ruled that Mr. Puccini had been active in aiding the private prosecutor in the case and therefore the challenge of Mr. McKinzie's lawyer was sustained. The Court further stated that active participation in the prosecution of a cause to be investigated by the grand jury disqualifies that person, regardless of membership in any organization.
The defense team objected to other members, who were also members of the local Klan, but the judge denied these challenges. (9)

On September 24, 1924 the grand jury returned an indictment that Fred McKinzie “did unlawfully, with malice aforethought, kill Levi Old, by then and there shooting him, the said Levi Old, with a pistol”. (10)

Fred McKinzie was released on a twenty-thousand-dollar surety bond. The sureties on the bond were Geo E. Brashear, W.A. Allen, F.T. Kincaid, and Lee Schwartz. (10) F.T. Kincaid and Lee Schwartz were prominent members of the Uvalde Community.

Schwartz’s father “Louis Schwartz (1840-1924), a native of Alsace-Lorraine, came to the United States in 1866. He later moved to Uvalde and sold dry goods and medicines, using a wagon to serve the surrounding area. In 1878 he established a mercantile store in a frame structure near the corner of Main and Camp streets. About 1900 he moved the operation to a new building at this site. After his death in 1924 the store was operated by his sons Lee and Jake Schwartz. The business remained an important Uvalde commercial enterprise until it closed in 1960.” A prominent Uvalde building bears the Schwartz name. (12)

Frank T. Kincaid was a member of a pioneer ranching family. His father was W.D. Billy Kincaid, who went up the cattle trails in the 19th century and became a prominent Uvalde rancher. (13) The Kincaid Hotel is a prominent Uvalde landmark.

The case was set for arraignment on September 30, 1924 and the defendant Fred McKinzie entered a plea of Not Guilty in open court. The Court then took up the issue of a change of venue in the case and decided to move the case to San Antonio on its own motion. On its ruling, the Court stated that “it appearing to the Court that a trial alike fair and impartial to the accused and to the State cannot be had in this county because of widespread publicity and notoriety that have been given to the facts of this case throughout said Uvalde County, generally and to some extent in the counties adjoining, rendering it wholly impossible that a fair and impartial jury for the trial of this cause can be obtained in said Uvalde County.” (10)

Apparently, the Judge’s decision to move the case to San Antonio came after the lawyers in the case could not come to an agreement as to where the case should be tried. The Uvalde Leader-News reported that although “the change of venue motion is not compelled to be influenced by lack of accommodation of the smaller places, it is well known that there are few counties in Judge Barney’s district that could accommodate very satisfactorily the number of witnesses and attorneys that would be in a case of this importance”. (9)

Lack of railroad services was an important factor on the change of venue motion. The newspaper noted that Kendall and Kerr Counties could only be accessed through San Antonio, and that Bandera, Real, and Zavala Counties, also in the 38th Judicial District, had no railroad services. (9)
The trial began in the middle of December, 1924 with the selection of the jury, which took three days before a jury was finally empaneled. It ended up in the 94th District Court of Bexar County with Judge McCrory presiding. He advised all parties to expect night sessions in order to complete the trial before the Christmas holidays. (14)

Both sides were well represented, with McKinzie being represented by George M. Thurmond and C.C. Belcher of Del Rio, and C.B. Fenley of Uvalde. The lead attorney for the defense was George M. Thurmond; he was a member of a prominent Del Rio family of legislators and jurists. He was first elected to the House of Representatives while he was in Law School at the University of Texas. His son Roger H. Turmond also served in the legislature and was also the District Judge of the 63rd Judge in Del Rio Texas. His grandson George M. Thurmond also served in the Legislature and succeeded his father to the bench of the 63rd Judicial District where he served until his retirement in 2000. (15) The prosecution was handled by District Attorney L.J. Brucks of Hondo, County Attorney W.D. Love of Uvalde and Judge W.C. Douglas of San Antonio, and Lud Williams of Waco as private prosecutors. The District Attorney of Bexar County also assisted the prosecution. (14)

As is usual in a case where the facts are against the defendant, the defense made the Ku Klux Klan the issue in the case. “The quarrel between Old and McKinzie was shown to have grown from the campaign at which the Ku Klux Klan was an issue. The evidence was brought out that there were two tickets in the field, one of which was known as the Anti-Klan ticket. Ku Klux witnesses declared that the Klan was not an issue, but that the other side made it one. Old was proved to have been a member of the Klan, and was recognized as their campaign leader, McKinzie was anti-Klansman and was alleged by the other side to have been “the daddy of the anti-Klan ticket”. (14)

It was developed that Old had planned to contest the election in Uvalde County on the grounds that Klan supervisors were denied entrance to the polls in many precincts. The morning of the killing, Old had left home and walked to town in the company of a friend named Evans, “as they reached the Mahaffey offices, Old expressed a desire to copy some of the returns and entered the building. When found by officers, he still held clutched in his hand the pencil and paper he had been using.” (14)

McKinzie claimed self-defense and testified that he had been warned by numerous persons that Old intended to kill him, and that Old had frequently attacked him in his numerous political speeches, that he met Old at the Mahaffey building, and that when Old saw him he whirled and rushed toward him with a gun at which time he drew his own gun and fired. No pistol was ever found on Old, but the defense claimed it had been removed by one of Old’s friends. (14)

Mrs. Old, widow of the victim, testified that her husband had only two pistols, and both were at home at the time of the killing.
Both sides produced witnesses that stated that Fred McKinzie and Levi Old had reputation as dangerous and violent men and that both had reputation of being peaceable and law-abiding citizens.

In closing, the defense made much of the fact that nearly all of the state’s witnesses were members of the Ku Klux Klan.

The Jury started deliberation at 6:20 p.m. on December 23, 1924 and returned a verdict of not guilty at 8:30 p.m. (14)

A review of the newspaper accounts of the events of that day leads to the conclusion that the killing of Levi Old at the hands of Fred McKinzie was not justified. When Deputy Proc Webb rushed to the scene and found Levi Old as he lay dead, he saw that all he had in his hand was the paper and pencil he was using to write down the election returns.

The reason the defense team was able to get a verdict of not guilty is because they were successful in actually putting the Ku Klux Klan on trial and the Klan could not withstand the exposure that a public trial would bring.

The Klan hated Jews, Catholics, Blacks, Foreigners, bootleggers, and anyone they considered “Un-American”. They sought to impose their own moral values on the community at large and they did it with threats, intimidation, violence, and outright terrorism. They did it with impunity, hiding behind hooded robes and many times with the protection of local law enforcement who were usually members of or sympathetic to the Klan.

In the end, it was the actions of the Ku Klux Klan that caused the murder of one of their most prominent members to go unpunished.

The last remaining members may have tried to redeem themselves from their violent and destructive past when in 1941 the original trustees of the land that housed the Klan headquarters sold a small portion of the property to Uvalde County, and then in 1946 donated the remaining eight acres to the county to build the Uvalde Memorial Hospital, and the proceeds from the sale of the Klan building went to the hospital campaign fund. (3)

Endnotes

1 Rogelio F. Munoz is a practicing attorney of over 40 years and is a former District Attorney for the 38th Judicial District of Texas. The American Bar, a biographical directory of contemporary lawyers of the United States.

2 Klan roster of Uvalde Klan Chapter No. 279 from Briscoe Center for American History. University of Texas at Austin, Professor Juan O. Sanchez Collection.

3 National Register of Historic Places Registration Form, February 12, 2014 by Susan Anderson.