



Madison County Genealogical Society



Madison County Genealogical Society
P.O. Box 1031, Norfolk, NE 68702-1031
mcgs@telebeep.com

www.rootsweb.ancestry.com/~nemcgs/ www.nesgs.org/~mcgs

Warren Cemetery (sometimes called Howard Cemetery)
Northwest of Meadow Grove, Northeast of Tilden
(established 1876 by T. N. Terry)

Douglas R. Terry
1952 -
(Flat brass military marker)

Jeanne F. Terry
1922 - 1977

Paul D. Terry
1915 - 1993
1st Sgt. 123 Inf. Reg. Co. A.

Clara Terry
June 3, 1899 - Nov. 28, 1983

Fred Terry
Tec 5 U. S. Army
WWII - 266th Field Arty Batt.
Lovingly known as Fritz
May 3, 1912 - Oct. 28, 1993

Maxine H. Terry
wife of Fred (Fritz) Terry
Aug. 28, 1914 - Mar. 19, 1993

All 3 Erskine children on one marker
Secure in Jesus love

Allan C. Erskine
Aged 10 years, 2 mos. 5 days
Died July 9, 1889

Stella M.
Daughter of R. J. & Etta Erskine
Died June 22, 1889
Aged 3 years, 9 mos. & 3 days

Willie S.
Son of J. A. & M. J. Erskine
Died June 28, 1889
Aged 6 years, 1 mo. 18 days

Rhoades or Rhodes, Lea
Died May 31, 1881
aged 25 years, 7 mos, 14 days
stone is very worn and broken

Issac N. Ives
Age 2 mos. 1 day
Died January 2, 1885
Little marker I. N. I

Sylvia Ives
Age 6 mos. 21 days
Died November 7, 1888
Little marker S. I

Ives
Children of W. H. & E. Ives
Suffer little children to come unto me.

William H. Ives
1853 - 1915
Wagonmaster
Black Hills Trail

One large marker with:
Children of E. C. & Bessie Danes

Gladys E.
Jan. 27, 1909-May 19, 1909
Baby
January 5, 1901
Merlin V.
April 4, 1902-Dec. 21, 1902
Austin L.
Feb. 10, 1907 - Sept. 7, 1908

Additional markers with
Merlin
Austin
Gladys
Baby
and 4 more markers with no names
These are probably all head and foot markers for the four children, rather
than additional graves.

Freddie C.
son of B. H. Lantie Baker
Died Jan. 12, 1890
Aged 4 mos. & 3 days

Base of a marker with an inscription that is unreadable. Rest of the marker is missing.

William J.
son of Willaim and Kate Downey
Died June 24, 1887
Aged 15 mos. 9 days
A little flower of love
that blossomed, but to die
transplanted up? above
to bloom with God on high.

Nicholas Downey
Born March 20, 1884
Died May 9, 1892
A precious one from us has gone
a voice we loved is stilled
a place is vacant in our home
which can never be filled.

George W. Downey
Died April 23, 1886
Aged 24 years
Remember friends
as you pass by,
as you are now
so once was I;
as I am now,
so you must be,
prepare for death
and follow me.

Foot marker G.W.D.

Mary wife of W. H. Duncan
Died Feb. 21, 1899
Age 51 years 10 mos. 8 days
Mother, thou hast from us flown
to the regions far above
We to thee erect this stone
consecrated by our love.

William H.
son of W. H. & M. Duncan
died Sept. 30, 1887
Aged 1 mo. 14 days

DUNCAN
William H. Duncan
Jan. 18, 1908
Aged 68 years 3 mos. 8 days.

Next graves fenced together.
Grace Higbee Colegrove
1888-1916

Tyler Higbee
July 10, 1841 - Jan. 26, 1926

Ella
wife of T. Higbee
Died April 10, 1893
Aged 37 years 8 mos. 7 days

Cyrus M. Higbee
Born Sept. 18, 1872
Died July 21, 1901
Last of fenced area

Footer stone labeled E. G.
Main stone broken & unreadable

Harold LeRoy Lewis
Born Aug. 23, 1914
Died Feb. 23, 1915
Darling we miss thee.

Infant son of Earl & Stella Lewis
Died Sept. 5, 1915

A marker base broken - most of stone missing - nothing left to read

Stella Warrick
Died Feb. 2, 1901
4 years 3 mos. 3 days

Murders and Frontier Justice: John A. Erskine vs. The Downeys

By Charlton Ryan

In the early days of northeastern Nebraska, settlers came together for barn raisings, lent their time for harvesting sick neighbors' fields, and helped each other with the hard jobs. And, usually, the workers were satisfied, but one particular evening, men who had come together to form a work crew returned home appalled and disturbed.

It so happened that the one-room Duncan schoolhouse in Pierce County needed to be moved from Fred Markley's place over to the adjoining property of Nicholas Downey; consequently, men who had children in the school and a few community-minded neighbors got together on April 10th, 1886, to put the little building on skids and slide it over to the new site.

Since the schoolhouse sat in the area where Madison, Antelope, and Pierce Counties intersect, the volunteers came from all three counties and knew each other as neighbors. At times they read about each other in the local papers. For instance, in the May 12th issue of the *Burnett Blade* from the year before, they could have read:

Ed Downey's well is down to 72 feet, but no water. He says he'll dig on to China.

Melvin Downey has a very sick child.

George Downey is breaking ground for Fred Markley.

Jacob Hoepfinger has out a large crop and is praying for fair weather.

John Bell has his brother working for him.

Miss Moore is successfully teaching the Duncan school with good attendance.

But the news about these folks and other settlers in the area began to take on a spiteful tone after John A. Erskine hit George Downey. What follows is an account of that event and its aftermath. The facts have been gleaned from courthouse records, censuses, cemeteries, and newspapers in Antelope, Madison, and Pierce Counties. A time line indicating the particular day events occurred runs along the left margin.

April 1886

- 10 The Duncan Schoolhouse on the Markley place was moved onto Nicholas Downey's property, but during the process, John A. Erskine struck George Downey with an axe.
- 11 George's father, Nicholas Downey, got a warrant issued against Erskine charging him with assault and intent to kill.
- 12 As a result, the Madison County sheriff arrested Erskine and took him to Burnett.
- 13 People crammed Burnett's Kierstead's Hall hoping to see the hearing for Erskine, as attorneys Ben White for his prosecution and Alex Athey for his defense squared off before Justice Memminger. They watched and listened as ten men present at the schoolhouse that night gave testimonies:
 - I. According to **Samuel Baker**, he went with George Downey on April 10th over to John Bell's home where Bell's girls, Stella and Emma, begged them to stay for supper as their father was over helping to move their schoolhouse. They went ahead and ate. John Bell arrived later, ate, and took a few swigs from Samuel's bottle.
Later, as Samuel and George rode away, they could hear men still at the schoolhouse, so they went over and found John Erskine, Jacob Hoepfinger, Ed Lea, Johnnie and William Duncan, Sheridan Whitcraft, and John Johnson working there by lantern light. George, 24, began scuffling with 44-year-old Jacob

Hoepfinger, a married man with six children, then scuffled about with 46-year-old Bill Duncan. Then a voice yelled that the levers (or pries, as the men called them) were ready to be manned, George and Samuel began to lift one, but their pry slipped and they fell across it. An altercation began over what had happened.

Erskine put his hand on George's shoulder and told him, "Now, go home." George retorted, "You don't know me." Erskine then shoved George, admonishing him to go away, and George again repeated, "You don't know me," as he raised his fists to fight. Erskine said he wasn't a fighting man, and George replied, "I ain't either." Then Erskine walked away a few steps, reached down, and picked up an axe, raised it, and threatened to strike George with it. George just stood there saying nothing. Erskine then struck Downey up side the head with the axe, and he fell instantly, bleeding profusely. Some of the men began taking him to Bell's house intending to get him to a doctor somehow.

Under cross examination, Samuel Baker recounted that he had not seen George demand the teetotaling Erskine take a drink from his bottle nor seen that George thrust the bottle under Erskine's nose demanding, "Damn you. If you won't drink, you've got to take a smell."

II. John Bell testified he had arrived back at the schoolhouse a little after George and Samuel did. Bell swore he didn't know if George and Samuel had been drinking or not, but that Samuel did offer him a drink from a half pint bottle he pulled from his pocket.

III. William H. Duncan, told the courtroom that George had jumped on the end of that pry before it slipped, and that George had said, "Well, let her come," after being threatened with the axe. He recalled George was "under the influence of liquor" and that he had seen George put the bottle up in Erskine's face.

IV. Johnnie Duncan gave testimony which agreed with his father's.

V. Dr. Eddy said he had seen George last Saturday night for a "wound on left side of cranium about three and one half inches long by 3/4 inch wide."

VI. Jacob Hoepfinger related that George had struck him and given him the "blue eye," and added that George had a bad reputation for "fighting and getting drunk."

VII. Sheridan Whitcraft said he left the scene for fear a quarrel was about to break out because George and Samuel were drunk.

VIII. Edward Lea testified he saw George strike Hoepfinger in the face and also saw George thrust the bottle in Erskine's face. He said, too' that George had a revolver and tried to get it out of his pocket after being struck by the axe.

IX. John Johnson, swore he heard George and Samuel plotting to make Erskine drink or "lick him anyhow if he don't."

X. Finally, the accused, **John A. Erskine**, recounted that he was attempting to raise a pry when George pushed the bottle in his mouth, that George was set on fighting him, and that after telling George twice to stand back or he'd hit him, George attempted to get in a blow with his right hand. As for the axe blow, Erskine testified, "I just tapped him to keep him off."

16 Erskine's hearing proceeded into the night. Judge Memminger placed him under an \$800 bond to await District Court action. Ed Lea and N. L. Phillips made the bond for him.

23 George Downey has been "sinking several times," and Drs. Eddy, Jackson, and Alden from Pierce operated to remove pieces of bone from his brain, but George died a few hours after the operation.

25 Rev. Brown of Pierce County conducted George Downey's funeral at the home of

John Bell. Pall bearers were Will Harlow, Frank Burnham, Sam Baker, Thomas Bell, Fred Salts, and Charley Pratt. His burial was in Northside Cemetery.

?27 Friends and relatives of George Downey requested that Dr. Tanner of Battle Creek hold an inquest to determine what really killed George. Dr. Tanner impaneled a jury of G. A. Luikart, C. E. Burnham, Frank Henderson, J. H. Kierstead, Andrew Minkler, and Henry Carmody. They exhumed, examined, and reburied George's body. Afterwards, the *Burnett Blade* reported the panel's conclusion: "George Downey came to his death from the effect of a blow made by an axe or other blunt weapon in the hands of John Erskine, inflicted in the course of a quarrel."

June 1886

3 At midnight, a firebug entered the recently-moved Duncan schoolhouse and set it ablaze. The Duncans saw it just before it burned to the ground.

7 Miss Moore moved her students into a tent to continue their classes.

?21 George Downey's father appeared before Justice M. F. Brown of Warren in County demanding a warrant for the murderer of his son. Constable Scott then arrested John A. Erskine, whose subsequent bond of \$1500 was furnished by G. W. Honeysett, M. L. Howard, and L. W. Miller.

July 1886

?13 J. A. Erskine arrived in Burnett showing people the white crystals he found in his well bucket. Upon examination, they appeared to be strychnine. People disagreed as to whether or not the Downeys were to blame or if Erskine was after sympathy. Feelings were becoming intense over the situation, and the *Burnett Blade* boldly stated, "...any person found engaged in any such business as poisoning wells or burning school houses will not be likely to die of old age."

?15 Erskine began digging a new well, enclosing it to prevent any tampering.

26 As Erskine and his hired man, Rightmire, drove a wagon up the side of a small ravine, two shots rang out from a rifle fired by a figure hidden in tall weeds. Erskine was hit twice, fell back into the wagon. Rightmire drove the horses hard toward Charley Pratt's house, blood dripping from the wagon box. The shooting took place near the field Erskine had rented in Pierce County-over near the Downey's place. Earlier that day, George Downey's brother, Melvin, had been seen attempting to buy a shotgun from D. W. Whitney. Unnamed persons say Mel had been drinking and that he left town only an hour or so before Erskine was shot.

August 1886

6 Erskine, having been shot in the back, is fortunate to be alive. One bullet came out the front of his chest, and the other, deflected by a bone, went completely through his right arm. He was able to sit up, however, and take a few steps. Mel Downey, on the other hand, continued to maintain his innocence, saying he could account for his whereabouts at the time of the shooting.

7 Melvin Downey appeared at the offices of the *Bumett Blade* complaining about reports being sent out about him. He was very upset and said he knew nothing other than what the public was saying about Erskine's having been shot.

27 It was reported that Mel's brother, Ed Downey, "outraged" the 11-year-old daughter of his neighbor, Henry Rose.

Word got about that the Downeys will probably be arrested, and "Evidence is said to be forthcoming to fasten the shooting on the old man."

Sheriffs Heath and Davis, along with Deputy Box, traveled under cover of darkness to the home of Frank Eberly, near the Downeys.

28 Before dawn, the officers of the law arrested the entire Downey family, Nicholas; his

wife, Matilda; their daughter, Emma; and their three remaining sons, William, Melvin, and Ed, taking them to Pierce under guard.

- 31 The prosecuting attorney issued subpoenas for: John A. Erskine, Henry Rose, Mrs. Wm. Downey, Washington Russell, D. W. Whitney, W. M. Brown and wife, Thomas and Frank Eberly, Ed Lea, Mrs. Fred Markley, C. A. Garvery and wife, Levi Leighman and wife, Elisha Collins, and Charles Pratt. The defense attorney issued subpoenas for: L. D. Loudermils, Jacob Bausman and wife, Fred Salts, A. V. Ruby, Alien Hobkins, James Shaw, Frank Lee, Charles Rottenberg and wife, Sam Melvin, Scott Provin, Thomas Bell, and William Mills.

A letter sent to the *Burnett Blade* about the trial reported that, "Henry Rose testified that [Nicholas] Downey had said to him he wanted to 'permit Erskine to live until after his trial and then shoot him.'" And that "Old Mrs. Downey is insane-trying the insanity dodge probably."

September 1886

- 2 Nicholas Downey was held in lieu of a \$2000 bond. The rest of the Downey family was bound over to keep the peace. Nicholas did not have the money to make his bond.
- 13 Matilda Downey said she hid herself in a draw and waited for Erskine to come back from his field so she could shoot him. At first, nobody believed her. Gradually, however, the authorities learned from her mutterings and from what Nicholas then admitted, that Matilda left home while Nicholas was gone with the wagon to pick up a barrel of water. When he returned, she was gone; but Nicholas had hurt himself getting the water barrel off the wagon, so he couldn't go hunt for her. But around 10 o'clock that evening, she came in the door of the house wearing her dead son's muddy coat and boots to announce, "I fixed him."
- 14 The Commissioners of Insanity pronounced Matilda Downey insane, saying she probably would live only another two or three months.
- 24 Ed Downey reported his mother was still in Pierce with the doctors, and that "At times she is very violent and the chances for recovery are considered few."

Note: *The author wishes to thank Nancy Zaruba who, while walking Northside Cemetery for the Madison County Genealogical Society, noticed George Downey's stone, looked for his obituary, and found he had met an untimely death.*

George Downey Died 23 April 1886 Aged 24 years

Remember friends as you pass by,

As you are now So once was I;

As I am now so you must be,

Prepare for death, and follow me.

Editors notes: The Northside Cemetery is today known as the Warren Cemetery. In other years it was also known as the Howard Cemetery and the Terry Cemetery. It is located 1.5 miles east of Tilden and then 1.8 miles north on the east side of the road.

We would like to thank Mickie (Charlton Ryan) for the effort she put in to get this story ready for publication. She took the 9 pages of newspaper articles and then went to the courthouses in 3 counties, looked through census microfilm, and more newspapers to get the details just right and then condensed it to this very readable article. Well done!

BURNETT BLADE April 16, 1886 Page 2, 3
Part of the top of two columns is missing.

A Bo

George Dow

Death--

Axe--J.

the Act--

liminary

Sold in B

or

Pre-

ey still

Below w tial summary of the testimon case of the state vs. J. A. Erskine, on a warrant sworn out by N. Downey charging assault with intent to kill. The hearing has been before Justice Memminger, Ben White appearing for the prosecution and Alex. Athey for the defense. Mr. Erskine was arrested Sunday and the examination has been going on from Monday morning to Thursday night. The evidence has been taken down in long hand very efficiently by C. E. Burnham. Kierstead's Hall, where the examination has been held, has been crowded and there has been a good deal of intense interest manifested.

THE EVIDENCE

Samuel Baker sworn--Acquainted with Geo. Downey and J. A. Erskine, the first 18 months, the second 8 months. Met George Downey Saturday, April 10th, in Burnett on the sidewalk after dinner, can't say exactly what time, was in his company a few minutes, we left town together about 5 o'clock for home, stopped at the house of John Bell, the girls wanted us to stay to supper, we staid to supper and afterwards John Bell came home from where they were moving the school house, and we staid and talked with him quite a while, and then mounted our horses and rode east. Some one shouted from the school house and George said "let's go across." The shout wasnt anything in particular just "hello," we rode across and came to the school house, located on the south east corner of the old Markley place in Madison county. We rode up and found John Erskine, Jacob Hoepfinger, Ed Lea, and Johnson there. George got off his mule and Hoepfinger got to scufflingaround apparently in fun. I got off my horse, Bill Duncan came up and George took hold of him then I did and we scuffled around with him. They had some skids under the school house to move it with. While we stood and talked with Bill Duncan some one calaled to cone they were ready to move it. The school house stands north and south, door in south end. One skid was northeast and one at northwest corner of the house. We went up on west side and took hold of skid at northwest corner, Geo. Downey and I and some other man (I

don't know who) had hold of that one, John Bell, Hoepfinger, Bill Duncan and I think Mr. Erskine were at the other skid. The skids were about 12 or 14 feet apart, our skid slipped and fell down and we fell across it toward the east. Some one asked what we were doing, Geo. said we're moving the sool house, Jake and commenced to scuffle with Jake again. Lea then stepped in by them--don't know what Lea said--Leas went around the house anf four or five followed him, we went around the house and came back to the northeast corner and there was some words spoken first by one man and then another, Erskine spoke up and said to Geo. "Now go home" or "go away from here," can't give the exact words, think Geo. said he "didn't have to go," Erskine then put his hand on George's shoulder and told to go, Geo. said "you don't know me," Erskine then pushed Geo. a little and said "go away now," and Geo. says "you don't know me" and put up his fists in poistion, Erskine still had hold of Geo by the should and said "I'm no fighting man" and George said "I ain't either," Erskine then turned around with his face toward the south, walked two or three steps, reached down and picked up an ax that laid there, turned round, walked back to George, raised the ax with both hands and told Geo. he would strike him ir hit him, Geo. was standing then with both hands at his side, Erskine repeated twice he would strike h im. It was six or seven feet form where Geo stood to where Erskine got the ax. Geo didn't say anything when Erskine said he hit him. Erskine then struck Downey sith the head of the ax just as he said the workds (the last time.) I witnessed the blow, I thought it was a pretty hard lick. He struck him on the temple, George fell like dead on his right side. Duncan said "that's too bad," Erskine said nothing, Bell said "there's a dead man" and Erskine said he thought not. "I didn't strike him has enough for that. I know how hard I struck him." He acted calmly, don't think he acted angry when he went to pick up the axe. After he struck the blow he stood there with the axe in his hand, about one half minute. Bell started to lift Geo up and I went to help him, we raised him and he bled so bad that it made Bell sick and he let go. Bell said "we want some water for this mand" and asked Erskine to go over and bring a pail of water, E said "here's some boys, send them." Erskine did not offer to help us raise Downey. The boys brought the water and we tried to get Geo to drink, but he didn't know enough. Bell said "we must have a doctlr" and then we took George over to Bell's house. During this time Erskine was standing around, don't know exactly what he was doing. About three minutes from the time he was struck till we started for Bell's house. I can't identify the axe.

Cross examine: We left town house back at about 5 or 6 o'clock. I go on my house without help, Geo and I were present--don't know but what Mell Downey was there. Didn't Mell help you to get on your horse? No sir George Downey had some liquor with, I didn't see him take out a revolver when we passed Russel's place. We staid at Bell's till about nine o'clock. About 1/4 of mile from Bell's to the school house. The reason we left the road for the school house was because we heard the voices and went over to see what was there. I didn't have er alone. the west where Ers- ule, Bell's got down. e and ask him hat did he he s k. What did now. We were s d cutting up. I did did go. Did you and rr make it up to com rink? No sir. George ohnson and knock him do skid, I am positive. I don't know where Hoepfinger was at the time. Didn't you say on direct examination that Jake and Geo. was folling around at this time? objected to--sustained. Geo Downey and I took hold of a skid. Don't know who else had hold with us. When the skid slipped and we fell we got up and Jake said "boys don't be so stout" or somthing of the kind. George walked over where Jake was, don't know just what he did. Don't know how dark it was three or four lanterns were about. Don't know far I could see to recognize a man, didn't put one off to try. Don't know whether could two rods or not, could distinguish men and thing around the building because they had lanterns. Don't know exact position of the lanterns. Geo. did not have any troubles or fights that I saw with Hoepfinger or Lea or Johnson, think I should have seen it if there had been, I stood tolerably close to George while we were there I didn't see Lea pick up a

scantiing. Did not Lea say to Erskine referring to Downey "that dam fool knocked me down?" No sir. I don't know how close I was to Lea or where Erskine was at this time. Heard Erskine tell Geo to go away and don't remember of seeing Downey go up to Erskine and "dam you, take a drink." I had not made any plot with George to compel Erskine to take a drink. I didn't see Downey go up to Erskine, put the bottle under his nose and say "dam you, if you won't drink, you've got to take a smell." Erskine slipped back sideways for the axe, watching Downey. Couldn't see whether it was an axe or a club that he struck Geo with until after the blow was struck. Geo had a revolver in his pocket when he went to the school house, I did not see him reach for it when Erskine went to strike him, nor after he was struck. Downey didn't know anything after he was struck, or speak a word. The reason I didn't interfere to stop the fight when Erskine got the axe was that it was done so quick Downey and I didn't go over to the school house to have a fight.

RE DIREC.--About fifteen minutes from time we got to the school house and time Geo. was struck. No one asked us to help on the skids. Downey didn't attempt to draw a revolver there that night.

John Bell sworn--Know Downey and Erskine, was present at the moving of school house, Baker and Downey ate supper at my house, Baker took a half pint bottle from his pocket and offered me a drink. They galloped off after dark and I saw a flash; heard a report of a revolver in the field when they had gone. Started for school house and heard loud talking as though a fuss was going on. Found Erskine, Hoepfinger, Johnson, Lea, Geo. Downey and Sam Baker there, also Bill Duncan and Johnnie Duncan. We went to prying. The pry Duncan and Baker were at fell and they fell, Hoepfinger spoke up and old Downey he had better go home, Geo. took him by the collar and made a pass at Lea and then chased him. Erskine was fixing a pry, he said "what's this": and I said "keep still and I'll try to get Downey away." The next thing I knew Downey and Erskine were facing one another and the latter told Downey "you had better go away from here," Downey says "I'll bet you \$500. I can lick you," Erskine said he was fighting man, Erskine then stepped back about six to ten feet, can't say exactly the distance, I thought he was going away, saw him stoop down and pick up something, thought it was a stick, he came back where Downey was said "I will struck you" twice and struck him, Downey was standing erect, hands down and his head kin of down. He fell. When I said "we want a doctor," Erskine said "maybe it will be well to have one; I did not hit him hard enough to kill him. It was a minute after Geo. was struck before he got up, when he did he acted like a wil man, Baker caught him. Didn't hear him say a word after he fell, he roared around and I told Baker to keep him, (shown the axe,) I identify this the axe used at the school house that day.

Cross exam -- Don't know whether the boys had been drinking or not, I don't know whether they had any fire arms or not. I remember Hoepfinger accused the boys of throwing down the pry on purpose. Had not heard Erskine say anything before we went round the house, saw Lea have something in his hand after Downey was struck. I don't think Downey spoke in a threatening way, he was stubborn and set in his way. Heard Erskine say "go away and leave us peaceably so we can finish our work." Baker and Downey had their coats off when they had their racket with Lea. Have not heard the Downeys make any threats against Erskine. Don't know what made the lever come down. Bottle of alcohol, it was full at my house, I took out about one quarter.

W. H. Duncan, sworn -- Present at school house, went over after dark, Baker and Downey were there, Downey jumped on the end of skid. There was no general call for help. No one was bossing the job, didn't hear anyone say "come on boys," when Geo. jumped on the skid. Hoepfinger got spunky when the skid fell and said "you damn feller, go away," George hit him a rap and kind of staggered him, think he struck him twice, Lea interjered and Geo. said "you want some of it too, do you?" and hit him and knocked him down. Lea got up and run and Geo.

followed him and said "you're going after your revolver" and I didn't see Lea again till later I walked around the school house and when I got back Erskine and Geo. had their hands together and were shoving each other back and forwards, E. told Geo. to go away and Geo. said he would bet twenty-five dollars he could lick him and Erskine said he was no fighting man and wouldn't fight, there was no blows passed between them, Erskine stepped back three to five feet from Downey, Erskine held the axe and threatened to strike, saying "I'll strike you," Downey didn't say anything or offer any resistance, whether he was afraid of the axe or so drunk that he didn't know what he was doing, I don't know. Finally he said "well, let her come" and he was struck and fell, Erskine seemed somewhat excited and appeared very determined and when Geo. said "let her come" it was all done in an instant. From the time Lea was struck and ran I lost sight of George, they ran around the house, but I didn't run so fast as they did and he was out of my sight three or four seconds; when I got around he and Erskine were shaking each other, violently, Lea had a club nearby, Mr. Erskine brought the axe there that day to us, can't identify the axe. Positive I saw an axe eight or ten feet from building. Erskine went to about the spot where I saw it, to pick it up. I knew D. was under the influence of liquor. Downey was too quick for Lea when he knocked him down. Have known Erskine for some since 1871, have had some difficulty with him.

Cross exam. -- I noticed that Downey was under the influence of liquor, don't think Baker was, Downey offered me bottle containing reduced alcohol, I took a little, Downey took "an old swiller," I mean a good big drink, I know the bottle, Downey borrowed it of me while going to town. It was a dark, cloudy night, without a lantern could distinguish man one or one half rods. While going over I heard halloaing and a revolver shot, I know of Geo. offering Erskine a bottle, saw him put the bottle right up in Erskine's face and asked him to drink, Erskine said "I don't want anything," and Geo. put the bottle up. Sam Baker took his coat off during the feud. Downey tried to throw me down, but was too drunk, he said "hold Bill Duncan, I can just down you," Erskine only attempted to keep him away, Don't think Erskine wanted any trouble. I don't know Erskine knew the axe was there. When Erskine hit Downey he fell senseless, We all stood there for several seconds. Downey did not make any effort to draw a revolver. There was time to interfere after Erskine got the axe and before he struck, Erskine did not seem to want to hurt Downey, When Downey offered E. a drink I don't think he did it in a gentlemanly manner, he first offered him the bottle and then thrust it in his face.

Johnnie Duncan sworn -- His testimony chiefly corroborated of W. H. Duncan.

Dr. Eddy sworn -- Was called with Dr. Jackson last Saturday night about ten o'clock to see Geo. Downey. Wound on left side of cranium about three and one half inches long by 3/4 inch wide, location central anterior posterior parietal bone. Spicula driven into brain substance, hemorrhage set in so profusely that we could not make full examination. One or two drachms of brain protruded. Injury very dangerous, (shown axe) wound might have been made by such an instrument. It would not need a violent blow to produce wound.

Cross exam. -- (Axe lifted by request) think that such an axe in falling three to five feet would produce the injury. To produce the wound on Downey or a man standing upright, blow would have to come downward and at slight angle. A man would have to use some caution in wielding this axe to keep from inflicting worse wound than Downey's. Dr. Jackson agrees substantially to above statement.

John Scott testified that he got the axe at Mr. Erskine's place.

Jacob Hoepfinger sworn.-- was at work when Baker and Downey came up, Downey offered me a drink from his bottle, he was pretty drunk. When the pole fell and the boys with it, I told them to stop that business. Downey hit me, and gave me "blue eye," Lea said "let Jake alone," and Downey hit him and knocked him heels over head. Downey then went up to Erskine and offered him the bottle three times, he said you have to take a drink, Erskine refused, Downey said to Baker, we'll try him again. He then shoved the bottle under his nose. Downey tried to strike Erskine, E. told him to go away a number of times, Downey grabbed Erskine, but E. tore himself away and stepped back, Downey followed him. Erskine avoided him, Erskine said "I will strike you," Downey grabbed for him and Erskine struck him and he fell. Baker and Downey had their coats off from the start. Heard them shoot revolver as they came up.

Cross exam - Didn't see who fired the shot. It came from same direction boys did. Erskine bossed the job of moving. I was not mad when I spoke about the pry falling. George struck his fists in Erskine's face. E. backed and Geo. followed him and then Erskine struck. I couldn't tell what he struck him with reputation of George Downey is bad for fighting and getting drunk.

Sheridan Whitcraft sworn. -- Work for Erskine, was at school house, saw Sam Baker and Downey there, they were drunk. Saw Downey offer Erskine drink from bottle twice, I left then because I was afraid of a quarrel.

Edward Lea sworn -- Was at school house, saw Downey and Baker come up and get off. They offered Hoepfinger and Johnson a drink, saw Downey strike Hoepfinger in the face, I started around house to get out of his way, he followed me and I think that as he came around he quit me and pitched on Erskine, E. told him to go away and D. said with an oath he could lick him in a minute. Next thing I noticed Downey was lying on the ground, heard Bell say there was a dead man. Duncan came up from behind me and asked what E. hit Geo. with. Saw Geo. offer E. bottle and when he declined, shoved it into his face, saying "if you won't drink _____ you smell," Heard revolver shot as the boys were coming up. Saw Downey motion to draw revolver. He was not right drunk, but drunk enough to be quarrelsome, when George tried to draw revolver was after he was struck and came to his senses, it was the first move he made. Heard Bell tell Baker to get George's revolver away from him, I told E. that George was trying to draw his revolver, Baker took off his coat when Downey was fighting Hoepfinger, Johnson and Hoepfinger tried to avoid quarrel, so did Erskine.

Cross exam -- Feel sure the boys fired shot, didn't see them do it, but it came from that direction as they rode up. Downey didn't knock me down, but I should have fallen if had not caught myself. Geo. was trying to hit me again when I went around house. I picked up a stick to protect myself as I went, G. said to E. "God dam you I'll lick you inside of a minute." E. said "go away, I don't want any trouble with you." Didn't see anything more till Geo. was lying on the ground, then saw Geo. roll over and try to get into his hip pocket. As he was taken toward Bell's house I heard tell Baker to take his revolver away from him.

John Johnson sworn -- Was at the school house. Downey and Baker came up, they were some drunk, they hit Hoepfinger and Lea. Saw Geo. offer bottle to Erskine three times, the third time Geo. and Baker made it up between themselves that they would find out if E. was a christian and if he was would make him drink anyway or lick him, they stood right close to me when talking this was at s w corner of house, E. was on east side. Downey took hold of me shook till my hat fell off. When the revolver was fired, the ball went within about a foot of me. They did not go right away to E. to carry out the threat, the third time they told E. he had to drink, E. said "I will not drink." Geo. said "we'll lick him anyhow if he don't." After knocking Lea down George went to E. and made motions, E. said "go away, I'm no fighter," E. stepped back and Downey

followed him, E. told him three times "keep back or I will hit you." I was standing at s w corner of house when Geo. had his revolver out when they were talking over the plot against E., I was the only one near besides them, when they were taking Geo. over towards Bell's heard Bell say "take his revolver away from him" There was no quarreling there before B and D came.

Cross exam -- I was standing at s w corner when shot was fired, it went close to my leg. I was alone. The boys took hold of me and threw me down, they came near breaking my back. There was no one at work where I was but me. They knocked Hoepp. down and gave Lea a "blue eye," Geo. started after Lea and ran around and came upon Erskine, E. ordered him off three times, E. then slipped back and picked up something. Don't know whether it was an ax or not. Saw Geo. fall after E. struck saw him reach for his hip pocket after he was struck. Saw a revolver in his hand when he stood by me when he first came up.

John A. Erskine sworn -- Saturday afternoon I was helping move school house. We came back after supper. About 9 o'clock Baker and Downey rode up, B. halted me as I went to pick up a heavy pry and wanted me to drink, said it was good stuff, cost money, I thanked him and said I didn't drink. When I we got the pry ready I heard a fuss at north end and also understood that n w pry was down, I was at n e corner when Lea came running by and said "that damn fool struck me," and ran on with Downey after him, I paid no further attention to them, I went to n w corner where the pry had been thrown down and found no one there to help as the men there had been driven away. I raised the pry on my shoulder and called for someone to put the blocks under, while I held it on my shoulder Geo. came up and put his arm around my neck at the same time putting a bottle in my mouth, saying that I had to drink, I put my head under the pry and got loose in some way. John Bell came and put the props under pry and said he would try to get the boys away. I started east from the pry and Geo. caught me again said I had to drink I said "go away now and let us get our work done here," I attempted to pass and Downey caught me and with an oath D. said if I wouldn't drink I had to smell and rubbed his fist under my nose. I put my hands and warded off two or three blows he made at me, and in some way we got clinched and he told me that I had to fight, I said I was no fighting man and told him kindly to go away, he said he'd understood I was a damn good man and he was going to make a way for me now. I saw he was determined to fight and seeing nobody interfered to take him off I jumped loose and slipped back a step and told him to keep back, he crowded on me and tried to hit me, I told him to stand back or I would hit him, twice, and he crowded on me putting in a blow with his right hand, when I struck him and he fell, Bell said "that's a dead man," and I said I didn't hit him hard enough for that, I just tapped him to keep him off, Bell asked me to go for water, and I said I was very tired and sent the boys, before the water came, he came to and rolled over and tried to put his hand into his hip pocket and Lea said "he is trying to get his revolver we better stand back," I heard Bell say as they were going with D. to Bell's house "Sam take his revolver away from him," that was the last I heard an we staid and finished moving the house.

Cross exam -- Had no apprehension of anything serious until Lea came to me, Lea when he came by me only halted till he saw D. coming when he ran as hard as he could when D. put bottle into my face he ran it into my mouth, from their appearance, hats and coats off, I thought they intended a regular row, but thought they would have more respect for me than to bother me. Bottle was presented to me three times. When he crowded on me three times I did not call for help, I thought they were determined to roll with me and that Bell knew about it, Bell seemed drunk as the boys, I saw he was bent on a fight and though the easiest way was to give him a tap and disable him.

Redirect -- I had no intentions of hurting seriously, merely of saving myself.

At the close of the testimony and after hearing the arguments the court thought it his duty to bind the defendent over in \$800 bonds to await action of the district court. Ed Lea and N. L. Phillips became bondsmen and Mr. Erskine was at liberty.

A good deal of matter is crowded over till next week to give space to the trial.

At this date, Thursday night, the doctors still have hope of Geo. Downey's recovery though he is in a very critical condition yet.

BURNETT BLADE April 23, 1886 page 2

Geo. Downey is still alive. He has been reported sinking several times and again is improving. To day Drs. Eddy, Jackson and Alden, of Pierce, intended to perform an operation which if successful will save him. This is to raise the pieces of bone driven in the brain. It is a delicate and difficult operation but it is necessary to his recovery.

BURNETT BLADE April 30, 1886 page 2

The funeral services of George Downey were held at the home of John Bell Sunday. The sermon was preached by Rev. Mr. Brown, of Pierce County Will Harlow, Frank Burnham, Sam Baker, Thomas Bell, Fred Salts, and Charley Pratt were pall bearers. He was buried in the North side cemetery. There was a large attendance.

George Downey died last Friday night, in a few hours after the operation spoken of in our last issue. After his funeral Sunday, some of those interested sent to Dr. Tanner at Battle Creek asking him to come and hold an inquest. Accordingly he impaneled a jury consisting of G A Luikart, C E Burnham, Frank Henderson, J H Kierstead, Andrew Minkler, and Henry Carmody, and proceeding to the grave exhumed the body. After post mortem examination the jury made return that George Downey came to his death from the effect of a blow made by an axe or other blunt weapon in the hands of John Erskine, inflicted in the course of a quarrel.

BURNETT BLADE April 30, 1886 Page 2

The costs in the preliminary examination of Erskine foot up \$160. and the expenses of inquest will bring it up to nearly \$200.

BURNETT BLADE June 4, 1886 Page 2

SCHOOL HOUSE BURNED

The Duncan school house, where Geo. Downey received the fatal blow from the axe, was burned to the ground last Thursday night about 12:00. The fire was the work of some firebug. There has been ill feeling in the district over the removal of the school house from its former location. Whether this is the original source of the fire or not cannot be told, but there can be no doubt it was set on fire. Mr. Duncan's family were the first to notice the flames, Mrs. Duncan being sick at present. Apparently the fire was set inside and it soon consumed the building.

There was \$200 insurance on the building, and \$100 on the furniture, but it is doubtful if it can be collected as the policy has not been renewed since the building was removed. About \$100 worth of children's school books were also destroyed.

The school has been transferred to a tent this week where Miss Moore, the teacher, will continue to impart instruction under difficulties. It would afford the BLADE genuine satisfaction to be able to announce that the person who set the fire was detected.

BURNETT BLADE June 25, 1886 page 2

Since the death of George Downey his father has been endeavoring to obtain the rearrest of Erskine on charge of murder. After consulting with attorneys at Pierce he obtained a complaint and appeared before Justice M. F. Brown, of Warren, and demanded a warrant. Mr. Erskine was arrested by Constable Scott and the case was taken before Justice Memminger by Downey on change of venue. Attorney Ben White, of Norfolk, appeared for the prosecution and Athey for Erskine. After consultation between counsel and the court it was agreed to waive further examination and let the court fix the bail. The court fixed the surety at \$1500 which was furnished at once, such men as G. W. Honeysett, M. L. Howard, and L. W. Miller signed the bond. The Justice and prosecuting attorney deserve special commendation for handling the case so as to avoid piling up costs on the county.

BURNETT BLADE June 25, 1886 page 3

Dr. Tanner was subpoenaed in the Downey case at Burnett Wednesday but didn't have long to stay.

BURNETT BLADE July 16, 1886 page 2

ANOTHER DEVELOPMENT

Last week J. A. Erskine came into town with the statement that some one had been trying to poison himself and family by throwing strychnine in their well. As proof of his assertion he produced a considerable quantity of white crystals, apparently strychnine, which he had found in one of his well buckets which was suspended in the well. He claimed that some one had evidently thrown it in his well at night and a good part of it had lodged in the bucket. A comparison of the crystals with strychnine indicates that they are identical.

There are conflicting opinions over the matter. There are those who are willing to believe the Downeys had something to do with it. There are others who think the whole affair is a scheme on the part of Erskine to arouse sympathy for him and prejudice against the Downeys. And there are others who don't know what to think.

We understand Mr. Erskine is having a drive well put down to avoid the risk of an open one. It is certainly true that any person found engaged in any such business as poisoning wells or burning school houses will not be likely to die of old age.

BURNETT BLADE July 30, 1886 page 2

ERSKINE SHOT

Burnett was startled Monday night by the news that J. A. Erskine had been shot and was lying at the point of death at his home. Dr's Eddy and Jackson were summoned in haste to save him if possible. The particulars of the shooting were ascertained to be these:

Mr. Erskine had been over north of his home in Pierce County at work and was returning, when about 2 miles from his home and half a mile from the school house in the Downey district he had to cross a ravine thickly grown up with tall, rank weeds. It was just after sundown and as his team was ascending the bank of the ravine after crossing, there was a sharp report from behind and Erskine sprang up from his seat in the wagon with two bullet holes through him. He turned and saw the puff of smoke drifting away, and the figure of a man (whom, we are told he can identify) running rapidly away through the tall weeds. The young man who was with Erskine, Mr. Rightmire, caught him just as he fell and taking the lines drove to the house as fast as possible, while the blood from the wounds covered the wagon box. Arriving at home the physicians were summoned and are doing all in their power to save him.

There were evidently two bullets fired from one gun (a rifle probably.) Both bullets struck Erskine just below the right shoulder blade in the back, one bullet going straight through and coming out in front and the other, being deflected by a bone, turned and passed through the arm. The gun was not more than 20 or 25 yards away and was fired with deadly aim. The physicians say the wound is not necessarily fatal, but very dangerous.

The feeling in the community is that the assassin must be detected and given the penalty of the law. There was a large and vigorous expression of sentiment on receipt of the news of bodily going and seizing the suspected parties, but it gave away to a demand for the legal course.

There is no use to deny that suspicion and strong suspicion rests on the Downey family. It will be a matter of great difficulty for them to free themselves from this suspicion and the proof will have to be of a very convincing kind to persuade the public. The spot where Erskine was shot is not far from the house of the Downey's. Mel Downey was in Burnett Monday and tried to buy a shotgun of D. W. Whitney; he had been drinking some and left town about 1 or 2 hours before Erskine was fired upon. These facts with the known feeling cherished by the Downey's will bear hard upon them.

District Attorney Jackson came down from Neligh this (Tuesday) morning and will work up the case. The scene of the attack is in Pierce County.

The latest report as we go to press is that Mr. Erskine seems improving, and there are fair hopes of his recovery.

BURNETT BLADE August 6, 1886 page 2

There is nothing new or startling to note in the Downery-Erskine affair. Mr. Erskine is getting along remarkably well for a man that had a bullet through him and is in good prospect for recovery. He sat up and walked around some last week and has not lost any courage. On the

contrary he expresses a determination to stay where he is and see the fight through. He says that he thinks that there were two or three men concealed, from the motions the weeds made; he has his mind up to the identity of the person who fired the shot, although he did not see him. It is but justice to say that Mel Downey can establish his whereabouts at the time of the shooting.

BURNETT BLADE August 13, 1886 page 2

Melvin Downey called at the BLADE office last Saturday. He states that as far as he is concerned he knows nothing of the Erskine shooting further than common report. He is very angry at the author of the dispatch to the *Omaha Republican* from this place and doesn't hesitate to call him a liar. He denies that he ever had any desire to "do up" the BLADE editor and professes his intention to mind his own business and wishes others would do the same.

BURNETT BLADE August 13, 1886 page 2

WHAT SHALL BE DONE

It is now over two weeks since a man who was peaceably pursuing his business was shot down by concealed assassins within a few miles of Burnett. After the first burst of horror and indignation naturally to be expected there has succeeded and apparent indifference which seems to be as complete as it is astonishing. It is said it is the duty of the officers of the law to ferret out the criminals and it is even hinted that they are doing it in some occult way that no one is to know anything about. The BLADE don't believe that there is any efficient effort on foot to detect the authors of the crime. It does believe that the interests of the community demand such effort. The fact that a law abiding citizen can be shot in a bold and flagrant manner and no determined effort be made to punish the crime does not argue very strongly for the locality where it takes place. The question has so frequently been asked the writer by parties living at a distance "is any effort being made to arrest the guilty party?" that it is humiliating to reply "none, so far as I know."

Said a gentleman from Omaha only last week "if I were a property holder in your vicinity I shouldn't think I was taking care of my own interests until I had instituted an investigation and back it up with my time and my money. "

BURNETT BLADE August 27, 1886 page 2

ARREST OF THE DOWNEYS.

Yesterday Sheriff Davis came to Burnett and after consulting with Mr. Erskine he and the latter left on the morning passenger for Norfolk, giving it out Erskine was going to Madison to remain for safety until fall term of court. As a matter of fact they went to Norfolk, secured the services of Harry Brome and started for Pierce this morning, where they will secure warrants and arrest the entire family. Evidence is said to be forthcoming to fasten the shooting on the old man. In the meantime there is more trouble afoot. Ed. Downey is accused of outraging the little 11-year old daughter of Henry Rose. It is probable that the whole business will now be sifted.

BURNETT BLADE September 3, 1886 page 2

NOW ON TRIAL

As foreshadowed last week the Downey family were arrested and are now on preliminary trial at Pierce.

The arrest was made by Sheriff Heath, of Pierce County, accompanied by Deputy Box and Sheriff Davis, of the county. They drove out from Pierce at night and stayed over night at the place of Frank Eberly, a short distance from where the Downey's live. Before daylight Saturday morning they were on the move and reached the homes of the different persons they were after when light was abroad. Those arrested were the old man Downey, his wife and daughter and their boys, William, Melvin and Ed. No resistance whatever was offered and the entire party was quickly conveyed to Pierce. They asked for time to arrange for their defense and were granted till Wednesday of this week, in the meantime being kept under guard.

Sheriff Heath, of Pierce county, was in Burnett Tuesday serving subpoenas. The following persons have been summoned by the prosecution: Henry Rose, Mrs. Wm. Downey, Washington Russell, J. A. Erskine, D. W. Whitney, W. M. Brown and wife, Emma Brown, Thomas Eberly, Frank Eberly, Ed Lea, Mrs. Fred Markley, C. A. Garvery and wife, Levi Leighman and wife, Elisha Collins, Chas. Pratt. For the defense have been summoned; L. D. Loudermilk, Jacob Bausman and wife, Fred Salts, A. V. Ruby, Allen Hobkins, James Shaw, Frank Lee, Chas. Rottenberg and wife, Sam Melver, Scott Provin, Thos. Bell, Wm. Mills.

LATER:--A letter from Pierce on Thursday morning gives the following particulars: "The old man Downey will doubtless be held to the district court. The examination commenced yesterday morning and was nearly completed when court adjourned last night. Old Mrs. Downey is insane--trying the insanity dodge probably. Henry Rose was the best witness for the state. He swore that Downey told him "John Erskine was the one that was wanted and not the hired man who was at his side," and also that it was his desire to "permit Erskine to live until after his trial and then shoot him." Rose told Downey that he (Downey) was suspected and Downey replied that "he wasn't fool enough to own it to Erskine that he shot him." There is a great deal more strong evidence, so there is no hope for the old man to escape. About fifty Mills precinct people are here and the sheriff out for more.

PIERCE, NEB Sept. 2. (Special telegram to the BLADE)--Nicholas Downey held in \$2000 bonds. He can't give it.

--The latest reports are that the rest of the Downey family are bound over to keep the peace.

BURNETT BLADE September 17, 1886 Page 2

WHO SHOT ERSKINE?

The Downey trial ended last week with Nicholas Downey, the old man, being bound over to a district court, in \$2000 bonds. The old lady and the boys were bound over to keep the peace. The boys furnished bonds, but the old folks refused to give any. The old lady before the murder of her son by Erskine was a fine looking and fleshy woman, weighing about 170 pounds. Since then she has been reduced to almost a skeleton and has not eaten enough to sustain life. She brooded incessantly over the death of her son, talked of nothing, thought of nothing but his death, the desire for revenge. Her threats to shoot Erskine were open and made to numerous parties.

Tuesday she made the startling statement that she had done the shooting herself. Nicholas, the old man, had hitched up his team and gone after a barrel of water, she said, and while he was gone she took down the rifle and loaded it with two balls. Going through a cornfield she concealed herself in a draw where Erskine must pass when he went home from the field. When Erskine passed by she shot him. Nicholas Downey says that on coming home with the water he found Mrs. Downey gone and that in unloading the barrel to hunt for her it fell on him injuring him so that it not possible for him to leave the farm. About 10 o'clock the old lady came home,

saying she had "fixed him." She had on Downey's coat and boots. Wednesday the commissioners of insanity, pronounced her insane. The doctors say it is not probable that she can live more than two or three months.--Pierce Times

BURNETT BLADE September 24, 1886 page 2

In conversation with Ed Downey last Saturday he informed us that his mother is still at Pierce in charge of the physicians. At times she is very violent and the chances for recovery are considered few.

W. H. Ives

Funeral services for W. H. Ives who died from Bright's disease at his home near Tilden at 5:30 Thursday evening, were conducted by Rev. Mr. Daugherty, pastor of the Baptist church of Battle Creek, at 2:30 Sunday afternoon in Tilden. Interment was made in the cemetery at Tilden. The pallbearers were: Richard, Fred, Sherman, Frank and Clyde Terry and Jeffrey Westervelt, all brothers-in-law. The widow, three daughters, Mildred, Blanche and Myrtle, and two sons, George and Frank, survive.

Mr. Ives was born in Ohio sixty three years ago. He was married to Miss Elizabeth Terry at Tilden about thirty years ago. For about twelve years he was in the employ of the Northwestern railroad at Whitwood, S. D., and has been farming near Tilden for some time. He was confined to bed but ten days.

Mr. Ives has been well known in and around Tilden for many years. He has been considered one of the old settlers in that vicinity.