

The collision between the Executive and Judiciary powers of this territory appears to be real and serious. By the last accounts Judge Lecompte had ordered Gov. Geary a arrest on a charge of contempt of Court. The difficulty arises out of the interference of the Judge in the course adopted by the Governor in causing the re-arrest of Charles Hayes, the murderer of Buffum. Col. Titus, in accordance with the orders of Governor Geary, went out with six men and arrested Charles Hayes and took him to Lecompton, where he is now confined a prisoner. His Excellency, it is stated, is determined that he shall remain in prison until he has his trial on an indictment for murder, while the officials seem equally as determined to sustain the action of Judge Lecompte in admitting Hayes to bail, and to test the power of the Governor.

Marshal Donaldson has resigned. The Governor ordered him to arrest Hayes, which he refused to do. The following is a copy of the correspondence :

EXECUTIVE DEPARTMENT, LECOMPTON, K. T., }
 Monday November 10, 1856. }

To I. B. Donaldson, Marshal of the Territory of Kansas :

Sir: An indictment for murder in the first degree having been duly found by the Grand Jury of this Territory, against Charles Hayes, for the murder of a certain David C. Buffum, in this Territory; and the said Charles Hayes having been discharged upon bail as I consider in violation of law. This is, therefore, to authorize and command you to re-arrest the said Charles Hayes, if he be found in the bounds of this Territory, and safely keep him, until he is duly discharged by a jury of his country according to law.

Given under my hand and seal, at the city of Lecompton, the day and year above written.



JOHN W. GEARY,
 Governor of Kansas Territory.

UNITED STATES MARSHAL'S OFFICE, }
 Lecompton, K. T., Sunday, Nov. 9, 1856. }

To his Excellency, John W. Geary, Governor of the Territory of Kansas:

Sir—Your order bearing date of to-day, for the re-arrest and committal to jail of Charles Hayes, who has been indicted by the Grand Jury of the United States District Court, for the murder of David C. Buffum, and discharged upon bail, by Hon. Samuel D. Lecompte, Chief Justice of Kansas Territory, has been maturely considered by me and after such consideration I respectfully decline executing your order for the following reasons: 1. As a ministerial officer, I am unwilling to arrogate to myself the power to contravene or set aside the acts of a Court of Justice, even if I disapproved of the acts of such court, and more especially as I am not advised of any law conferring such power upon me.

2. Because I am clearly of the opinion that my act would be in violation of the law I have sworn to support and execute.

3. In making such arrests, without a legal warrant, or other circumstances as would otherwise justify it, it is most clear to my mind that I would lay myself liable to a suit of damages which might involve and ruin my securities.

The foregoing reasons and my own convictions of duty as a law officer have irresistibly impelled me to this decision.

I must be permitted to say to your Excellency, that I regret exceedingly, that my conviction of duty has constrained me to decline the execution of your warrant. I had hoped that my diligence in making the arrest of C. Hayes and others, would have shielded me from the imputation which your remarks this evening seem to imply. As proof of this, I beg leave to state that the warrant for his arrest issued on the 29th of October, was put in my hands the next day, and although 100 miles had to be traveled, in four days afterwards he was lodged in prison. Your determination as expressed this evening, (if I refuse to execute your order,) to suspend me or procure my removal by the President, induces me to say that I had, some days since, determined to discontinue my present official relation to the Territory, and I now desire the favor of you, to assure the President of my gratitude for his confidence and kindness, and ask him to relieve me from my present position as soon as may be convenient.

Very respectfully, your obedient servant,

I. B. DONALDSON,
 United States Marshal of Kansas Territory.