has never been discharged by Texas and is now justly and equitably due by the State to the heirs of Capt. Mellier.

This morning the Hon. J. W. Smyth mentions to me in my office that he was perfectly familiar with the claim and believes it due to the heirs, but that now a Mr Wm P. Ballenger of Galveston claims the right to it by pretending to hold an order (copy of which I enclose) in favor of A. Mellier for $665 $\frac{65}{100}$ which was given on Abner S. Lipscomb, then Secretary of State, June 2 1840, and to a copy of which Mr Ballenger desired Mr Smyth to make affidavit as to its correctness. Mr Smyth told me that as there was no money at that time in the Treasury of Texas, Capt. Mellier had sent the order to him for collection (I mean the original) but cannot remember what he has done with it subsequently. It was therefore not in the hands of Mellier when he died, nor is there a probability that it has been assigned or made over to any one. I now beg therefore that you will interpose the rights of the heirs in any action of Mr Ballenger and let that Gentleman show by what title he now seeks to recover the amount of the order on his own account or the administration of the Est. Mr Beale of New Orleans. What may be due from the State of Texas to the estate of Mellier, I believe, if not mistaken (though so informed by Mr Hunt of Austin) cannot be attached for debts as there are barred by the Statute of limitations. Mr Smyth is in possession of papers that relate to Capt. Mellier and it was himself who adjusted the account with him and gave the order, having no money to pay himself like the U. S. Commissioner.

I submit this case to your superior knowledge in such matters, and sincerely hope you may succeed to see justice done to the heirs and recover for them. If further information is required Mr Smyth, now here, and Mr Memucan Hunt in Texas will cheerfully furnish it.

Soliciting the favor of an early acknowledgement of the enclosed I remain

Very respectfully Your obd Servt

Chas. De Selding