

the then ensuing month of October for hearing the matter of the petition, directing the trustees to retain the money, and providing that a copy of the petition, and of the order, should be served on them, and Wilson and Hugh W. Evans, to whom the judgment in favor of Wilson had been assigned, on or before the 25th of the same month of September.

On the 24th of that month, Evans filed his answer to that petition, in which he denied all knowledge of the mortgage, and of the debt thereby intended to be secured, and insisted that if there was any such mortgage, it should have been previously exhibited in the cause. This answer also denied, or declared the respondent's entire ignorance of the grounds of equity contained in the petition, and the cause being submitted to the Chancellor, in pursuance to the order of the 10th of September preceding, on the petition and answer without proof on either side, an order was passed on the 10th of October, 1849, rescinding the said order of the 10th of September, and dismissing the petition upon which it was passed.

Afterwards, on the 5th of November, 1849, a second petition was filed by the same party, in which, among other things, he alleges, that he had no notice of the answer filed by Evans to his former petition, or of the contents thereof, and, therefore, did not know what evidence it would be necessary for him to produce in support of his said petition, and praying that he may be permitted to produce evidence of the allegations of his said former petition, and in support of his claim. The petition also states the death of the said George G. Belt, who it appears died on the 8th of May, 1848, and his administrator was made a party.

Upon this petition, which was not verified by the affidavit of the party, an order was passed on the 6th of November, 1849, fixing the 6th of the following December for the hearing thereof. And an answer having been filed thereto by Evans, the case now is presented for consideration, upon all the proceedings in the cause, together with certain affidavits which it is agreed by the parties shall be read as if taken under the order of the court. A written argument has been submitted by the counsel for Mr. Evans, and the petitioner's counsel has been heard.