with his own monies, although authentic instruments were afterwards executed acknowledging the existence of the debt, and declaring a subrogation. If I found such I could not believe it was law. In legal subrogation, the identity of the money which goes to pay the debt and whence it proceeds is the essential fact. The payment must be made by the party whom the law entitles to subrogation. The law thereupon, from that fact alone, operates subrogation. It is not the declaration or avowal of the parties that does so, nor can such declaration or avowal of the parties contrary to the fact have any such effect. Again, it is said the only parties who could have a right to complain would be creditors whose claims date anterior to the act of subrogation. On the contrary, I think that any posterior creditor has the right. All that the law requires is to have an interest. The chirographary creditor has always the right to question the validity or sufficiency of the hypothec which is collocated to the detriment of his claim. He may also prove the non-existence or extinction of the prior claim. To my mind the distinction is clear where the prior interest is required, where a fraudulent preference or unfair advantage is obtained over the debtor's estate by one creditor to the prejudice of another, where the deed is not void but is voidable by reason of such preference, it requires a demand in revocation to set it aside, and that demand can only be made by a creditor who has been injured by the execution of the instrument if allowed to stand. And if the act be a nullity, it has not had the effect of alienating, withdrawing or affecting any part of the debtor's estate, and only requires the nullity to be pronounced to exhibit a true record of the debtor's property. Any subsequent creditor has a right to demand that this nullity should be pronounced. Such creditor may very well say, I trusted my debtor on the faith of all the property he had, or had not validly alienated, and to show that he was possessed of means available for my payment, I claim the nullity of a pretended subrogation which was inoperative, the debt having been paid and extinguished before the act of subrogation. The doctrine of subrogation is founded on a legal fiction. The authors say it is *de droit étroit*, and therefore not to be extended beyond the cases where it has been admitted in practice. It may proceed from the creditor or from the debtor, or from both, or from the mere operation of law, when a party pays whom the law entitles to subrogation; but if the debtor has once, with his own moneys, satisfied his creditor, then neither can subrogate any one, because the debt is gone. The facility for frauds by means of pretended subrogation is so great that from its first introduction its admission was guarded with watchfulness, and strict rules were adopted to prevent its abuse. These were explained in Renusson's Treatise, and at a later date recognized in a liberal form by the arrêt of the Parlement de Paris of 1690, to be found in the fourth volume of the Journal des Audiences, at p. 284. They are substantially the same as contained in the Art. 1155 of our Civil Code. They were acted upon in the case of *Filmer* v. *Bell*, decided by this Court in 1852, and reported in 2nd volume L. C. R. It is a case about as near in point as could be had, and is valuable as determining that the after declarations of the parties, although by authentic instruments, are of no avail to effect subrogation. In that case the *bonâ fide* advancer of the money failed in his recourse, although his titles were authentic. The debtor, when he paid, declared in the notarial receipt he obtained, that he had borrowed the money from the new creditor, whom he subrogated, and the new creditor, although not present at this act, afterwards by notarial deed, accepted the subrogation so declared in his favor. In that case the form only was wanting; in the present it is the substance that is absent. No notarial documents were needed here; the essential fact to be proved was that the money had been paid by Bartley's sureties. That fact not being proved, but being disproved, as regards the $11,613.07, the notarial documents could be of no avail.

It was argued, and much learning expended, to prove that Bartley's obligation was for a sufficient cause and valid. It is quite true that there is a valid obligation on the part of Bartley, and a sufficient cause for it. It is not, however, the obligation which he first contracted towards Hamilton, but the obligation which he contracted towards Moat, by the declaration he made in the deed of the 23rd June, 1877. The obligation contracted towards Ham-