well as by practically all of the state courts, as the liberal citation of authorities above will demonstrate. In the case of *Fire Association* v. *Wickham* the Supreme Court of the United States cites with approval the Pinnel Case, and among other things says, Justice Brown rendering the opinion: 'The rule is well established that where the facts shew clearly a certain sum to be due from one person to another a release of the entire sum upon payment of a part is without consideration, and the creditor may still sue and recover the residue.' Again in *United States* v. *Bostwick*, cited above, the same court says: 'Payment by a debtor of a part of his debt, is not a satisfaction of the whole, except it be made and accepted upon some new consideration.' These holdings, however, have been with great reluctance and much adverse criticism on the part of the courts, expressed in almost every case in which the question has been presented.

The rule is an anachronism brought down by adherence to ancient customs and theories, the open extermination of which has been already too long delayed. In the present age of commercial affairs and financial activity, it is out of all harmony with reason, and its enforcement detrimental to all the best principles of the modern law merchant. It is in recognition of just this fact that the courts have grown more and more loath to enforce the rule, and in some instances at least, have openly declined to observe it; and those who have not yet had the boldness to overrule the doctrine, have nevertheless admitted its pernicious effect and in consequence, hedged it about with so many technical exceptions as to render its practical enforcement next to impossible.

Foremost of the former, is the Supreme Court of Mississippi, who in *Clayton* v. *Clark*, openly declares the rule to be absurd and unreasonable, and with severe denunciation and caustic criticism, expressly sets it aside. Chief Justice Woods in his vigorous yet most logical opinion in that case says: 'However it may have seemed three hundred years ago in England when trade and commerce had not yet burst their swaddling bands, at this day and in this country where almost every man is in some way or other engaged in trade or commerce, it is as ridiculous as it is untrue to say that the payment of a lesser part of an originally greater debt cash in hand, without vexation, cost and delay, or the hazards of litigation in an effort to collect all, is not often—nay generally—greatly to the benefit of the creditor. . . . And a rule of law