special Mississippi statute of incorporation exempted from taxation a college campus and buildings "and the endowment fund contributed to said college." *Held,* state court properly construed statute in ruling that real estate not part of the campus of the college, but donated to and rented by it for income purposes, is not included in the exemption. *Millsaps College v. Jackson,* 48 Sup. Ct. 94 (1927).

Great weight attaches to decisions of a state court regarding questions of taxation or exemption therefrom under the constitution or laws of its own state, and the United States Supreme Court will follow the construction of a state court on a contract of exemption from taxation when that construction is not obviously erroneous. *Chicago Theological Seminary v. Ill. ex rel. Raymond,* 188 U. S. 662; *Jetton v. University of South,* 208 U. S. 489.

Ordinarily an alleged statutory grant of exemption from taxation will be strictly construed. *People v. Watseka Camp Meeting Assoc.,* 160 Ill. 576, 43 N. E. 716; *Rochester v. Rochester R. Co.,* 182 N. Y. 99, 74 N. E. 953. Where there is doubt as to the legislative intention, or as to the inclusion of particular property within the terms of the statute, the presumption is in favor of the taxing power, and the burden is on the claimant to establish clearly his right to exemption. *Trenton v. Humel,* 134 Mo. App. 595, 114 S. W. 1131; *People v. N. Y. Tax Com'rs.,* 95 N. Y. 554.

An educational institution cannot as a general rule claim exemption from taxation in respect to property which it rents out for purposes wholly unconnected with its educational work. *Pratt Institute v. City of New York,* 91 N. Y. S. 136; *Willamette University v. Knight,* 35 Ore. 33, 56 P. 124; *Commonwealth v. Hampton Institute,* 106 Va. 614, 56 S. E. 594. But in some cases, where the exemption laws or charter provisions are broad enough to include such property yielding a revenue which is applied directly and exclusively to the maintenance of the institution, the exemption will be upheld. *New Haven v. Sheffield Scientific School,* 59 Conn. 163, 22 Atl. 156; *Williston Seminary v. County Commissioners,* 147 Mass. 427, 18 N. E. 210; *Little v. Theological Seminary,* 72 Ohio St. 417, 74 N. E. 193.

In the case under discussion the statute specifically designated certain land which was to be subject to the exemption. The Mississippi Court (136 Miss. 795, 101 So. 574), applying the rule of strict construction, stated that "the specific grant of an exemption on land of a certain character negatives by implication an intention to exempt land of a different character," citing *State v. Krollman,* 38 N. J. L. 574. This seems to be a reasonable inference which the United State Supreme Court properly upheld. F. A. E., '28.

PLEADING—EXHIBIT NOT PART OF PLEADING.—The trial court in a Missouri suit against an Indiana corporation sustained plaintiff's motion to strike out a paragraph of defendant's answer, which had attacked the jurisdiction of the court. The paragraph stated that the General Assembly of the State of Indiana had enacted a statute known as the Indiana Workmen's Compensation Act, which at all times in question was and remained in force in the State of Indiana, "a copy of which said act is herewith filed and marked defendant's Exhibit A, and that the act and each and every section thereof is hereby made a part of this plea, the same as if specifically pleaded herein." *Held,* that an exhibit attached to a petition or answer is not so far a part of the pleading itself as to save it from being bad on demurrer or motion to strike out, even though, if the petition were aided by the contents of the exhibit, it would thus be rendered good. *Scott v. Vincennes Bridge Co.,* 299 S. W. 145 (Mo. 1927).

The rules in the various jurisdictions as to the effect of an exhibit annexed

to and filed with the pleading are not uniform. An exhibit is no part of a pleading in an action at common law. *Gulf C. & S. F. Co. v. Cities Service Co.,* 270 Fed. 994. Missouri has almost an iron-bound rule in keeping with the common law. Exhibits mentioned and other records referred to are not part of the pleading and resort cannot be had thereto in order to aid the latter. *Johnson v. Crowley,* 207 S. W. 235. *State ex rel. Siegel v. Grimm,* 314 Mo. 242, 284 S. W. 490. Insurance policies fall under the same rule. See *Mattero v. Cent. Life Ins. Co.,* 202 Mo. A. 293, 215 S. W. 750. Other states which hold that an exhibit attached to a pleading does not become a part of the pleading are Illinois, Ohio, South Carolina, Mississippi, Colorado, and Wyoming. However, a majority of the states hold the other way, the ratio being about two to one. Under the various provisions governing pleading in these jurisdictions, where an exhibit is annexed to a pleading with proper references in the pleading, the effect is as if the instrument sued on were set out in the pleading. These exhibits include contracts, *Phinney v. Andrus,* 109 Wisc. 397, 178 N. Y. S. 760; *Shelton v. Eisemann,* 79 So. 75 (Fla.), *Ord v. Burreston,* 52 Utah 201, 173 Pac. 132; deeds, *East San Mateo Land Co. v. So. Pac. Ry. Co.,* 30 Cal. A. 223, 157 Pac. 634; and letters, *Hubb-Diggs Co. v. Mitchell,* 256 S. W. 702 (Tex.). It is agreed in all the states that an exhibit will not supply the substantial allegations essential to the statement of a cause of action or defense. One of the very few cases *contra* is *Union Sewer Pipe Co. v. Olson,* 82 Minn. 187, differentiated on the ground that the pleading was framed for that purpose and with that end in view. J. J. C., '30.

VENDOR AND PURCHASER—NON-MARKETABILITY OF TITLE AS GROUND FOR RESCISSION.—The purchaser of a tract of land sought to rescind the contract of sale and recover payments made thereunder because of alleged defects in title objected to by his attorney, which defendant made no attempts to cure. There was a judgment for plaintiff which was affirmed on appeal. *Larson v. Thomas,* 215 N. W. 927 (S. D., 1927).

There is an implied covenant on the part of the vendor to convey a good marketable title to the land, *Green v. Ditsch,* 143 Mo. 1, 44 S. W. 799.

The question in the case related to the conditions under which a purchaser could refuse to accept a conveyance on the ground that the title was not marketable although it was in fact good. One test as to when a title is marketable is firmly established both in England and the United States. Whenever there is a reasonable probability of future controversy the contract will not be enforced. *Fleming v. Burnham,* 100 N. Y. 1, 2 N. E. 905; *Jefferies v. Jefferies,* 117 Mass. 184. A vendee will not be compelled to buy a law suit. *Smith v. Hunter,* 241 Ill. 514, 89 N. E. 686; *Brokaw v. Duffy,* 165 N. Y. 391, 59 N. E. 196; *Ives v. Kimblin,* 140 Mo. A. 293, 124 S. W. 23; *Birge v. Bock,* 44 Mo. A. 330. The bare possibility that the title may prove defective gives the purchaser no right to refuse to accept the title. *Atteberry v. Blair,* 244 Ill. 363.

The conflict in the cases arises in determining who is to decide whether or not there is a reasonable probability of a future controversy over the title. In the principal case the respondent laid stress on the opinion of counsel as a determining factor in ascertaining the marketability of a title, and the court decided that a purchaser might reject a title on an opinion of counsel given in good faith if any of the questions involved were doubtful questions of law which would be objected to by most, if not all, reputable and competent attorneys. The case of *Eggers v. Busch,* 154 Ill. 604, 39 N. E. 619, is very similar to the principal case in its facts. The court there said, "A material defect in the title to land is such a defect as will cause a reasonable doubt and just apprehension