rule of construction[6] and pronouncements by the Supreme Court that contracts of the United States with an individual are to be construed by the same rules as would be a similar contract between private individuals,[7] a logical impasse is reached in attempting to justify the result of the instant case.

It is submitted that while the court's position may be essentially just, it is far from logical. Would it not be better to say that this case falls within a limitation of the rule of *expressio unius*, etc. This rule of construction has application only to situations where Congress understood that unless the exceptions were made, such exceptions would fall within the general rule.[8] It is apparent from the inclusion of inheritance taxes in the enumerated exceptions that this was not true. The listed exceptions to the tax exempt clause were merely *ex majori cautela*, made only for greater caution, to apprize the general public of the nature of the exemption[9] and do not call for the application of any technical rule of construction.

M. B.

TORTS—MUNICIPAL CORPORATIONS—SUFFICIENCY OF NOTICE OF INJURIES. —[Missouri].—In compliance with a statutory provision[1] plaintiff gave notice[2] to the mayor that she intended to maintain an action against the

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6. See cases enumerated 25 C. J. 220.

7. A contract between a corporation and the United States government is to be construed by the application of the same principles as if the contract were between individuals. Reading Steel Casting Co. v. United States, 268 U. S. 186, 45 S. Ct. 469, 69 L. ed. 907 (1925); see also Perry v. United States, 294 U. S. 330, 352, 55 S. Ct. 432, 79 L. ed. 912, 95 A. L. R. 1335 (1935); Lynch v. United States, 292 U. S. 571, 580, 54 S. Ct. 840, 78 L. ed. 1434 (1934).

8. This element is recognized as essential before the rule of *expressio unius*, etc., will apply in Helvering v. Stockholms Enskilda Bank, 293 U. S. 84, 55 S. Ct. 50, 79 L. ed. 211 (1934), citing and following the early English case, King v. Trustees for paving Shrewsbury, 3 Barn. and Ad. 216, 110 Eng. Rep. 80 (1832).

9. The omission of the gift tax from these exceptions can be explained by the fact that the gift tax act was passed after the issuance of the bonds.

1. R. S. Mo., 1929, Sec. 7493: "No action shall be maintained against any city of this state which now has, or may hereafter attain the population of one hundred thousand inhabitants, on account of any injuries growing out of any defect in the condition of any bridge, boulevard, street, sidewalk or thoroughfare in said city, until notice shall first have been given in writing to the mayor of said city, within ninety days of the occurrence for which such damage is claimed, stating the place where, the time when such injury was received, and the character and circumstances of the injury, and that the person so injured will claim damages therefor from such city."

2. The notice given in this case in substance is as follows: ". . . You are hereby notified that the undersigned, Helen B. David, of the city of St. Louis, Mo., was injured on the 13th day of January, 1931, on the sidewalk situated at 6058 Kingsbury, when the said Miss Helen B. David was walking along the sidewalk in front of the above premises, when she was caused to fall due to the defective condition thereof. . . ."

city for personal injuries growing out of a defective sidewalk. The notice contained the statement that plaintiff had sustained personal injuries by falling on a sidewalk due to the defective condition thereof. *Held;* the notice is sufficient to meet the statutory requirements as to the character and the circumstances of the injury.[3]

The holding in this case liberalizes previous Missouri decisions determining what constitutes sufficient notice to a city, regarding the character and circumstances of a plaintiff's injury caused by the defective condition of some part of the city's property, and removes any doubt that Missouri is now in line with those jurisdictions adhering to the more liberal view.[4] The few previous Missouri decisions interpreting the "character and circumstances" provision were all Court of Appeals' decisions which had insisted that there be a more definite indication of the character and circumstances of the injury than is found in the notice in the instant case.[5] But previous Missouri decisions construing the whole notice statute had also been replete with dicta foreshadowing the newer construction of this statute. These cases had pointed out repeatedly that while the statute should be strictly construed as to the requirement of notice as a condition precedent to maintaining an action, the contents of the notice itself should be liberally construed,[6] inasmuch as the real purpose of the statute was to bring the pertinent facts before the proper authorities, within a reasonable time, so that they might determine, while the evidence was still available, whether any just claim of liability existed.[7] Since the notice was not a pleading and was not to be construed with the same strictness as a pleading,[8] it had been stated repeatedly that substantial compliance with the statute was all that was necessary.[9]

Many other jurisdictions with similar notice statutes are in accord with the preceding Missouri holdings in regard, 1) to a liberal construction of the contents of these statutes,[10] 2) to the purpose for which such statutes

3. David v. City of St. Louis, 96 S. W. (2d) 353 (Mo., 1936).

4. 6 McQuillin, *Municipal Corporations* (2d ed. 1928) sec. 2895.

5. Thus Jacobs v. City of St. Joseph, 127 Mo. App. 669, 106 S. W. 1072 (1908), a leading Missouri Appeals case, in construing a notice almost exactly similar to that in the instant case held that the notice was insufficient, in that it failed to state in any way, the character of plaintiff's injuries. Accord, Lyons v. St. Joseph, 112 Mo. App. 681, 87 S. W. 588 (1905).

6. Ogle v. Kansas City, 242 S. W. 115 (Mo. App., 1922); Kling v. Kansas City, 61 S. W. (2d) 411 (Mo. App., 1933); Koontz v. City of St. Louis, 89 S. W. (2d) 586 (Mo. App., 1936).

7. Cole v. City of St. Joseph, 50 S. W. (2d) 623, 82 A. L. R. 742 (Mo., 1932); Snickles v. St. Joseph, 139 Mo. App. 187, 122 S. W. 122 (1909); Plater v. Kansas City, 334 Mo. 842, 68 S. W. (2d) 800 (1933); Beane v. City of St. Joseph, 211 Mo. App. 200, 240 S. W. 840 (1922); Reno v. City of St. Joseph, 169 Mo. 642, 70 S. W. 123 (1902).

8. Beane v. City of St. Joseph, 211 Mo. App. 200, 240 S. W. 840 (1922); Reno v. City of St. Joseph, 169 Mo. 642, 70 S. W. 123 (1902).

9. Reno v. City of St. Joseph, supra, note 8; Ogle v. Kansas City, 242 S. W. 115 (Mo. App., 1922).

10. Sheehy v. City of New York, 160 N. Y. 139, 54 N. E. 749 (1899); City of Gary v. McNulty, 194 N. E. 193 (Ind. App., 1935); McComb v. City of Chicago, 263 Ill. 510, 105 N. E. 294 (1914).

exist,[11] 3) to the difference between the required notice and formal pleadings necessary in later stages of the suit,[12] and 4) to the necessity of only substantial compliance with the statute.[13] There are some jurisdictions, however, which adopt a stricter construction, such as that previously followed in Missouri.[14]

The broad interpretation now given to those provisions of the Missouri notice statute requiring a statement in the notice of "the character and circumstances of the injury" is in accord with modern pleading tendencies to remove "pitfalls in the way of honest claimants."[15] E. M. F.

TORTS — *Res Ipsa Loquitur* — EXPLODING OR BURSTING CONTAINERS — [Kentucky].—The action in the instant case was brought against a brewing company for injuries caused by the explosion of a beer keg which was attached to a carbon dioxide gas tank. The question of the brewing company's liability was submitted under the doctrine of *res ipsa loquitur* on the theory that the explosion of the keg was caused by the pressure of fermentation of the beer contained therein. *Held;* reversing the lower court, that negligence was not a reasonable deduction from the circumstances, and therefore the doctrine of *res ipsa loquitur* was inapplicable.[1]

In order to rely on the doctrine of *res ipsa loquitur*, the plaintiff must establish (1) that the accident was of a kind which, in the absence of proof of some external cause, does not ordinarily happen without negligence; (2) that the defendant owned, operated, maintained, or was responsible for the management of the instrument doing the damage; and (3) that the defendant possessed superior knowledge or means of information as to the cause of the injury.[2] One of the controversial problems which has

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11. Dalton v. City of Salem, 136 Mass. 278 (1884); Sheehy v. City of New York, supra, note 10; Savannah v. Helmken, 158 S. E. 64 (Ga. App., 1931); Langley v. Augusta, 118 Ga. 590, 45 S. E. 486, 98 Am. St. Rep. 133 (1903); Titus v. City of Montesano, 106 Wash. 608, 181 Pac. 43 (1919).

12. City of Atlanta v. Hawkins, 42 Ga. App. 847, 166 S. E. 262 (1932); City of Birmingham v. Guy, 222 Ala. 373, 132 So. 887 (1931); Judd v. City of New Britain, 81 Conn. 300, 70 Atl. 1028 (1908); Lowe v. Clinton, 133 Mass. 526 (1882); Spellman v. Chicopee, 131 Mass. 443 (1881); Maggs v. City of Seattle, 86 Wash. 427, 150 Pac. 612 (1915); Sizer v. Waterbury, 113 Conn. 145, 154 Atl. 639 (1931); Brown v. City of Owosso, 126 Mich. 91, 85 N. W. 256 (1901).

13. Sheehy v. City of New York, 160 N. Y. 139, 54 N. E. 749 (1899); City of Atlanta v. Hawkins, 42 Ga. App. 847, 166 S. E. 262 (1932); City of Birmingham v. Guy, 222 Ala. 373, 132 So. 887 (1931); Judd v. City of New Britain, 81 Conn. 300, 70 Atl. 1028 (1908); Savannah v. Helmken, 158 S. E. 64 (Ga. App., 1931).

14. Hilson v. City of Memphis, 142 Tenn. 620, 221 S. W. 851 (1920); Spear v. City of Westbrook, 104 Me. 496, 72 Atl. 311, 20 L. R. A. (N. S.) 804 (1908); Mears v. City of Spokane, 22 Wash. 323, 66 Pac. 1127 (1900).

15. Snickles v. City of St. Joseph, 139 Mo. App. 187, 122 S. W. 122 (1909).

1. Fehr Brewing Co. v. Corley, 96 S. W. (2d) 860 (Ky., 1936).

2. 5 Wigmore, *On Evidence* (2d ed. 1923) sec. 2509, l. c. 498; 3 Cooley, *Torts* (4th ed. 1932) sec. 480, l. c. 369.