directly liable to the injured party only by statute. Throckmorton's Ann. Code Ohio 1929, § 9510–4. The court might have modified and applied one of the exceptions to the rule, namely, that a person vicariously liable for the tort of another can indemnify himself from the wrongdoer. Since the defendant insurance company was not a tortfeasor, the court might have allowed the plaintiff not the severe remedy of indemnity, but contribution from the defendant. (2) The right of contribution is not based upon contract, but upon the equitable maxim "equality is equity." *Deering v. Winchelsea*, 2 Bos. & P. 270, 1 Cox 318 (1787); Stearnes, Suretyship 473 (2d ed. 1915). It is available in many widely different situations when one party has "relieved them of a common burden and hence they ought to reimburse him for their proportionate part of his loss" (2 Williston, Contracts §1278 (1920)). *Ward v. Ward's Heirs*, 40 W.Va. 611, 21 S.E. 746 (1895) (necessary repairs on common property made by one co-tenant); *Asylum of St. Vincent De Paul v. McGuire*, 239 N.Y. 375, 146 N.E. 632 (1925) (broker criminally but effectively pledged securities of several parties, pledge sold A's to satisfy debt); *Baltimore & Ohio R. Co. v. Walker*, 45 Ohio St. 577, 16 N.E. 475 (1888) (one railroad paid for maintenance and repairs of common crossing which statute made joint duty of both railroads). Contribution exists among cosureties, and the plaintiff in the instant case contended that they and defendants were cosureties by virtue of the statute (Throckmorton's Ann. Code Ohio 1929, § 9510–4) which made the joint judgment the direct liability of the insurers, thus constituting the common obligation with the injured party as the common principal. Because the court would not accept this theory, they refused any relief. But in doing this they ignored the equitable nature of contribution, and the fact that it is permitted in many cases where there is no contractual relationship between the parties.

Although these ideas might have disposed of the principal case the great mass of cases involving contribution among joint tortfeasors would remain under the old rule. The remedy lies with the legislature.

Trusts—Liability of Settlor of Trust for Her Minor Children on National Bank Stock Held by the Trust—[Federal].—In 1926 the settlor transferred national bank stock in two banks to trustees for the benefit of her minor children reserving no control over the trust or the trustees. In 1931, one of the banks became insolvent, and the receiver thereof, after having collected and realized on the remaining funds of the trust which were insufficient to cover the assessment, sued to recover the balance from the settlor under the shareholder's liability clause of the National Banking Act, 38 Stat. 273 (1913), 12 U.S.C.A. § 64 (1927). *Held*, no recovery. *Pottorff v. Dean*, 77 F. (2d) 893 (C.C.A. 1st 1935).

A transfer of bank stock, to relieve the transferor of liability, need not be made to a financially responsible party if made in good faith, *Earle v. Carson*, 188 U.S. 42 (1903); *Sykes v. Halloway*, 81 Fed. 432 (C. C. Ky. 1897), but it must be made to a party capable of accepting and holding the stock. *Aldrich v. Bingham*, 131 Fed. 363 (D.C. N.D. 1904). A transfer of shares to a minor does not release the transferor from liability to assessment because a minor is without legal capacity to assume this statutory obligation. *Early v. Richardson*, 380 U.S. 496 (1930); *Foster v. Chase*, 75 Fed. 797 (C. C. Vt. 1896); 43 Harv. L. Rev. 1150 (1931).

Under the National Banking Act, 13 Stat. 118 (1864), 12 U.S.C.A. § 66 (1927), trustees are released from personal liability. *Fowler v. Gowing*, 165 Fed. 891 (C.C.A. 2d 1908); *McNair v. Darragh*, 31 F. (2d) 906 (C.C.A. 8th 1929); *Heiden v. Cremin*, 66 F. (2d) 943 (C.C.A. 8th 1933). At common law, the plaintiff could have proceeded against the trustees who were liable personally to assessment. *Muir v. City of Glasgow Bank*, 4 A.C. 337 (1789); 3 Bogert, Trusts and Trustees §§ 720, 721 (1935).

The settlors are held liable when the transfer to the trust was not in good faith. *Stuart v. Hayden*, 169 U.S. 1 (1898); *Sykes v. Halloway*, 81 Fed. 432 (C.C. Ky. 1897); or when the trustee acts as an agent, *English v. Gamble*, 26 F. (2d) 28 (1928); or when he retains power of modification, *Corliss v. Bowers*, 281 U.S. 376 (1929); or when the transfer is within the statutory time limit of 60 days. 38 Stat. 273 (1913), 12 U.S.C.A. § 64 (1927); or when the *cestui* disclaims the trust. *Jervis v. Wolferstan*, 18 Eq. 18 (1874) (settlor's estate held for assessment on stock when remaindermen of trust disclaim). The same is true when the settlor places bank stock in trust and takes participating certificates. *Keyes v. American Life and Accident Ins. Trust*, 1 F. Supp. 512 (D. C. Ky. 1932); *Laurent v. Anderson*, 70 F. (2d) 819 (C.C.A. 6th 1934) (cases do not indicate positively whether party is held as settlor or as *cestui*).

While the facts in the principal case do not come directly within any of these exceptions, the result has enabled the settlor to do indirectly what she could not have done directly. The benefits of the trust have been enjoyed by her minor children and necessarily also by herself. And yet the statutory protection for creditors of closed banks has been avoided.

The result raises important questions. Would the result have been the same if the settlor's husband had been named the *cestui?* What if the settlor had named herself beneficiary of an irrevocable trust? With the principal case in view, it seems absurdly simple for a holder of bank stock to avoid liability and retain the benefits. It may mean that the National Banking Act is in need of amendment on this point to guard against abuse of this device.