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Business Associations I: Mid-Semester Examination (October 26, 1959)

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1. Jones, the owner of a home and an auto, asked his son, John, to get John's friend, Smith, to fix the plumbing in Jones' house. Smith was an accomplished handyman who worked on the railroad and who had been John's friend for 40 years. John took Jones' car with permission and went to get Smith. Upon arrival at Smith's house it was discovered that Smith was heading for a football game, but when John persuaded him as an "Old Buddy", Smith agreed to fix the plumbing. Both climbed into Jones' car, John driving, and headed toward Jones' house. Incidentally, John did not live with Jones, but had his own home. On the way, John and a truck driven by Black, who worked for White Co., collided at an intersection of secondary state highways. The evidence was that John was driving between 30 and 35 mph against the speed limit of 55 mph, and that the truck, having its vision obscured by a bank and high weeds, pulled into the intersection and struck the right fender of Jones' car. The evidence showed that John did not slow as he approached the intersection nor did he at any time put on his brakes, one witness saying that John did not have time to brake the car. As a result of the collision, Smith sued Jones and the White Co. as joint tort-feasors. White Co. then made a settlement with Smith and now sues Jones for contribution. Upon trial of the White Co. v. Jones case, the judge directed a verdict for White Co. for half of the amount paid Smith on the settlement. Jones appeals. What, and why, should be the result on appeal?

2. Black, the regularly employed bus driver for City Bus Co., while making a regular run stopped his bus at a red light in close proximity to a car being driven by Green who also was stopped at the light. When the light changed, and both the bus and the car commenced a right turn, Green called to Black to be careful, to watch out for him. Black, before the turn was completed, stopped the bus, got out, inspected his signal light, and then approached Green to discuss the matter. An argument ensued, and Black struck Green in the face, giving him a bloody nose, and causing Green to lose control of the car (the motor was still running) and run over the curb into the corner of a building, damaging the car. Black says that the reason he hit Green is because Green called him a liar. What instruction covering the above facts, in substance, should the court give the jury? Assuming a correct instruction, and a verdict for Green who sues for his personal and property damages, followed by an appeal by City Bus Co., what should the result be? Why?

3. Black and White were good friends and shipmates. Black owned an auto, and often visited White at his home in Norfolk when they were ashore. One evening after having dinner at White's house and watching TV, Black could not get his car started when he got ready to leave. He got White to use White's car to give a push in order to get the disabled car started. White complied with the request and pushed Black for miles to no avail. Finally, the lights on Black's car went out, though the lights on White's car were working. It had been raining off and on during the evening and the streets were dark and slippery. Being unable to thus start Black's car, it was decided that White should push Black on to a filling station. To do this it became necessary to turn left from the road they were on, and White speeded up so as to gain momentum, then ease off Black's car, allowing Black to negotiate the turn without White immediately behind him.

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4. The Daily Camera, a newspaper doing business in interstate commerce, upon the request of its newspaper boys, refused to meet with the boys to discuss certain problems relating to compensation and hours of work. The newsboys were actually a relatively stable group of mature men, who bought the papers from the Daily Camera and then resold them on street corners and other advantageous spots. This venture provided the income with which the newsboys supported their families. The Daily Camera fixed the prices at which the papers were bought and resold, sometimes allowed the newsboys to purchase on credit, gave credit for returned, unsold papers, but charged for lost, unreturned papers. The Daily Camera also assigned various spots to the newsboys and fixed their hours of work. Instructions as to sales technique were given, though it was expected that much latitude would be left for individual initiative. The Daily Camera furnished change aprons, racks, and boxes.

Section 2(3) of the National Labor Relations Act, as amended, defines an employee as "any employee ..." but further says that employee shall not include any individual having the status of an independent contractor ... Section 7 of this Act gives employees the right to bargain collectively. Must the Daily Camera discuss with the newsboys the matters the latter want discussed? Why?