

## **Interview with Special Editor of JJAS, Professor Emeritus Michael Conant, Haas School of Business, University of California at Berkeley on March 7, 2005, at his office**

**Professor Hoshino:** Professor Michael Conant, I am very glad to meet you again here.

Several years passed since I met you last time. At least 6 or 7 years ago I came here to the Haas School of Business and I met you.

**Professor Conant:** That's right.

**Professor Hoshino:** At that time I was thinking of inviting you to Nagoya University of Foreign Studies to teach one course, corporate law. But at that time you couldn't come to Japan, because you were busy taking care of some law affairs, litigation.

**Professor Conant:** I was advising lawyer.

**Professor Hoshino:** Yes lawyer. So you said you couldn't go to foreign countries.

**Professor Conant:** Right.

**Professor Hoshino:** Because of that you couldn't come to Japan, I am sorry that you couldn't come.

Then, now you became Professor Emeritus at Haas School of Business, after 1991.

Would you explain the role of Professor Emeritus status in this school?

**Professor Conant:** Well Professor Emeritus has no ties to the school. If he chooses he can move to Arizona and sit on the sun all day. But different professors have different views. My view is I could retire in 1991 and become a full time researcher, not a half time researcher like when you're teaching. So that's why I have turned out some substantial work since 1991. But I can tell you some things about the retirement system that may interest you.

**Professor Hoshino:** Yes.

**Professor Conant:** The University of California retirement system sets your pension on the basis of how many years you taught. All right under that system, if you teach for 41 years you retire at full salary. In 1991 they had a special incentive for retirement for older professors because they wanted to bring in some young very smart people. So the university adopted a policy that was called "Plus Five", to the number of years you taught you add five.

**Professor Hoshino:** Five years.

**Professor Conant:** You add five years in terms of calculating your pension. All right I taught 37. 37 plus 5 is forty-two. So I am just explaining I retired on full salary. That's better than most places on this earth. It is very comfortable.

**Professor Hoshino:** It is a strong incentive to retire.

**Professor Conant:** Well yes.

**Professor Hoshino:** But in the United States no retirement age formally.

**Professor Conant:** They have done away with that, yes. When in 1991 the university still had a compulsory retirement age of 70 but a new law was about to begin wiping out the 70 which means a professor could stay on and never retire. And the university administration, the president's office came up with the idea that some professor might want teach when they are 75 and their brain is not too good, so that's why they had adopted the plus five to try to get those of us who were on the verge of retirement taking retirement. And so that was a very pleasant event. So, my pension is a lot of money.

**Professor Hoshino:** And you can use this office any time.

**Professor Conant:** Yes, well because we only have a half office here, I can't really work here. I mean I have an enormous library of 400 volumes in my study at home, so mostly I work at home. But if you work in the law like I do, you have to spend one or two days a week in the law library assembling materials to take home. So I am here usually Monday and Fridays and I work. I have been already to the law library this morning, checking out some materials and so I keep busy with my research. Other professors, in fact the majority who retired, they don't do very much research. a few of them asked to be called back each year, which the dean can either approve or say no. So the dean has the power to decide whether some older professor passed 70, has still got his mind functioning well or not. So each year the older one who wants to continue in teaching must reapply for part time, not full time. You can teach one course a year, just in a full semester or spring, or you can apply for two courses a year, one in the fall and one in the spring. And if the dean approves, you are called back. So one of our professors here who's name is Alan Cerf, is in accounting, a field where there're in a very short of faculty and he has asked to be called back two semesters every year. He teaches every year, so people like me

think he's a little bit crazy but that's, you know, but he just enjoys the class room so much more than other people do.

**Professor Hoshino:** Yes, I think that is very good. I know that a very famous professor of Management, Dr. Peter Drucker, is still teaching at the Claremont Graduate School. His age is I think 95 this year.

**Professor Conant:** It could be.

**Professor Hoshino:** And he published a series of articles from Nihon Keizai Shimbun. That is a counterpart of Wall Street Journal, an economic paper in Japanese. Almost all Japanese businessmen read it every day because it's a very important newspaper in Japan. And Drucker is still teaching. I was very surprised to know. I found out that one Japanese company "ITOYOKADO" donated 20 million dollars to that business school; they have a name, Drucker and Ito School of Management. That's a very good case.

**Professor Conant:** Yes, I have met Drucker.

**Professor Hoshino:** Oh you have met?

**Professor Conant:** Yes he has a German accent.

**Professor Hoshino:** And, he is from Austria. When did you meet him?

**Professor Conant:** That was at some meeting in San Francisco and I met him. I don't remember exactly.

**Professor Hoshino:** Not so recent one?

**Professor Conant:** No, no. Twenty years ago when he was an old man.

**Professor Hoshino:** And also very famous economist "Samuelson" he published articles also in the counterpart of Wall Street Journal, Nihon Keizai Shimbun, I saw his article, he is a professor at MIT now.

**Professor Conant:** Oh yes.

**Professor Hoshino:** He is still active.

**Professor Conant:** Oh yes, he's older than I am.

**Professor Hoshino:** Oh older than you.

**Professor Conant:** I am 80, he is more than 80.

**Professor Hoshino:** These people are very active, even he is older than you, so that is very good.

**Professor Conant:** You see Paul Samuelson grew up in Chicago, when he was an undergraduate at the University of Chicago he was extremely a gifted student and he sat in on and all of the graduate courses in economics, he visited all the graduate courses in economics, the whole thing. Then he went on to Harvard for the PhD program, but he had already heard the PhD

courses in Chicago, so at Harvard he was a great star. I mean he already absorbed the graduate level of economics once and now he was doing it a second time. So that made him a great student at Harvard.

**Professor Hoshino:** You met him at that time?

**Professor Conant:** No, no I haven't met Samuelson, no I never met him.

**Professor Hoshino:** So I see you know that because you are also from the University of Chicago.

**Professor Conant:** You're right.

**Professor Hoshino:** Then ok.

**Professor Conant:** I mean I studied; I finished all my graduate courses before Professor Friedman came back from Columbia to teach in Chicago, Milton Friedman, you know who Milton Friedman is.

**Professor Hoshino:** Of course, I know.

**Professor Conant:** So he, I met Friedman and I took my final oral exam for the PhD. He was on the examining committee so I met him across the table, on that occasion. But I talked to him some other times.

**Professor Hoshino:** So your degree is from economics and law, both.

**Professor Conant:** Both.

**Professor Hoshino:** Great

**Professor Conant:** Yes, both fields. So I was a graduate student for 6 years. I was a graduate student in economics for three years and a law student for three years.

So that's hard work, very hard work. You know in my law school class, this may interest you, in my law school class there were 98 men and one woman. And the one woman was from Hawaii and her name was Patsy Takemoto Mink.

**Professor Hoshino:** Takemoto Mink?

**Professor Conant:** Yes Japanese American. And so she was there with all of us, and she was a very fine student, and she was the first member of our class to be elected to the Congress of the United States, she was a congresswoman from the state of Hawaii, 24 years in the Congress of the United States. And so she goes down in history as the first Asian woman ever to serve in the United States Congress.

**Professor Hoshino:** Ah I didn't know.

**Professor Conant:** The first Asian ancestry women. When Hawaii first became a state, I don't remember, I think in 1959, one of the man who was elected as a

senator, to the United States Senate, to the upper house, was named Hiram Fong, so he was a Chinese American, so he was the first Asian American ever to sit in the Congress, and Patsy Takamoto was the first female Asian to sit in the Congress of the United States. And so we were also proud of her.

**Professor Hoshino:** I remember when I was in the university of Hawaii, at that time the governor was George Ariyoshi, he is a Japanese American and governor of the state of Hawaii.

**Professor Conant:** Let me tell you this. In our law school class we had another student from Hawaii, a fellow named Edward Nakamura, and Ed Nakamura was a disabled veteran from what was called the 442nd regiment, the all volunteer Japanese-American regiment fighting in France and Germany, and they fought so hard and they won so many medals that the 442nd regiment came down in history as the most decorated with medals of any regiment in the history of the United States Army.

**Professor Hoshino:** Very great.

**Professor Conant:** Yes, so Ed was one of the decorated and disabled members of the 442nd. All right, when he went back to Hawaii he joined a law firm working on labor relations, he was a labor lawyer, for 25 years and after 25 years he got a telephone call from Governor Ariyoshi. And Ariyoshi said, would you like to serve on the Supreme Court of Hawaii, he was 55 I think at that time, he said yes thank you I will take that appointment. After working all his life so hard as a practicing lawyer, sometimes you work 7 days a week as practicing lawyer of preparing. And so sitting on the Supreme Court of Hawaii was less tiring job because they don't have a heavy docket. A docket is the list of cases coming up during the year, we call it the docket. They don't have a very big docket which means they don't work very hard. So Edd had, that appointment was a 10 years appointment, so he was on there for 10 year and then he retired, and then couple of years ago he died unfortunately. So, what a wonderful fellow. So we had two fine people from Hawaii, both Japanese Americans in the class of 51.

**Professor Hoshino:** You know, I visited for a short time L.A., there is a Japanese American museum at the center of Los Angeles, Little Tokyo I think. Their picture is there I think.

**Professor Conant:** I don't know. Well I can, I have some

newspaper clipping about Patsy that I could send you, if you would like to see what it is. You know, me being 80 years old I have to start giving away all my files, because my time on this earth is limited. All of us have a limited time, yes.

Well, I tell you one thing that happened 60 years ago. When I was in the Army of the United States, I was not sent overseas. I stayed; I spent the war in California, because you remember World War II was a terrible, terrible battle. So God looked on me and said you stay in California. But we had about a million men just assigned to coast defenses on the worry that some submarine may land suicide troops.

**Professor Hoshino:** Oh yes I understand, I think so.

**Professor Conant:** But there were no landings on the Pacific coasts. There were two small landings on the Atlantic coast of Germans, and they were very quickly captured. And they immediately said we are prisoners of war, we intend to sit around till the end of the war. And President Roosevelt said no. If you land in civilian clothes with arms you are terrorists. And President Roosevelt appointed a military commission to try them as terrorists. And they were tried as terrorists and executed.

**Professor Hoshino:** Oh yes, some Nazis.

**Professor Conant:** But the fairness of our legal system allowed them to take their claim to be prisoners of war all the way to the Supreme Court of the United States. So they had the full use of our legal system to try to make that claim. They lost it, but at least our legal system showed you can even be a terrorist and have, lawyers will be appointed to you, because they had no money with them. So the court appointed lawyers for them and they took this up to the Supreme Court.

**Professor Hoshino:** That is similar with even the Japanese system. OK then, I would like you to talk about your two published books. Did you publish these two books after retirement?

**Professor Conant:** Yes.

**Professor Hoshino:** Especially the latest one.

**Professor Conant:** This one.

**Professor Hoshino:** ..."Railroad Bankruptcies and Mergers from Chicago West 1975-2001: Financial Analysis and Regulatory Critique" from Elsevier 2004.

**Professor Conant:** That was published just as I retired 1991.

**Professor Hoshino:** The Constitution and the Economy, a different one. “Constitutional Structure and Purposes, Critical Commentary”.

**Professor Conant:** This is more general jurisprudence. This is the narrow part of the Constitution.

**Professor Hoshino:** Which year is this?

**Professor Conant:** 2001.

**Professor Hoshino:** Three books, very good.

And especially the latest one, you are dealing with the case of bankruptcy and mergers, which is very interesting for me.

**Professor Conant:** Let me see if can find a copy of summary. Here is a copy you can take home. You have to enlarge it in your computer.

**Professor Hoshino:** So summary is ok. Then can you explain how to publish a book in English.

**Professor Conant:** Yes, but you see this is a very narrow topic, .....and I had to find a publisher that was interested in transportation and I found Elsevier, although its offices are in England and in Holland. They were publishing a series of books on transport in the United States, and so I wrote to them, and said I have a manuscript on transport, economics and law, in this area. And I actually, their editor for economics is in Oxford. So I wrote to this fellow in Oxford and he said send me the manuscript. So I sent him the manuscript and he said well , since most of our studies in transport are American, we’ve appointed an editor in the US to decide whether your book should be published. So he mailed the manuscript to the professor of transportation and economics in the University of Maryland. And the fellow at the Maryland read the manuscript, and he said if you just put a short conclusion at the end of each chapter, to give emphasis to the reader who is new to the topic, and may have missed your key points. If you just write a page and a half of conclusion for each of the chapters, I’ll recommend publication.

**Professor Hoshino:** Good.

**Professor Conant:** So he recommended publication, here it is. So I was just lucky that I found a publisher who was doing transport economics.

**Professor Hoshino:** And how many copies usually for a publication.

**Professor Conant:** I don’t know.

**Professor Hoshino:** Ah you don’t know. No agreement or contract with the publisher.

**Professor Conant:** Well I have a contract that provides for little royalties. But it doesn’t say how many they’re going to publish. The contract does not indicate how many they are going to publish.

**Professor Hoshino:** So you receive a royalty if they publish more.

**Professor Conant:** I receive a royalty for every one they sell, not every one they publish. Every one they sell.

**Professor Hoshino:** That’s right. Even me I receive some royalties for one book. I published a book called “the Anatomy of Japanese Business” with Kazuo Sato. He actually died last year. I had an interview with him last January. And still some times I receive small amount of royalty, after 20 years, since 1984. And this university has that book, in the library, I checked before coming here. They have it which is good.

So this University also includes this book in the library.

**Professor Conant:** Oh yes, it’s here in the library.

**Professor Hoshino:** Did they buy it automatically or did you donate it?

**Professor Conant:** No I didn’t donate it. I told them my book is published and I’m sure you want to buy it, And the librarian said yes.

**Professor Hoshino:** That’s nice, I think so.

**Professor Conant:** We do want to buy it, so that’s what happened.

**Professor Hoshino:** So those books are in the library.

**Professor Conant:** Oh yes, well this one is in the law library.

**Professor Hoshino:** Oh in the law library.

**Professor Conant:** This one I think is in both business and law, it is in both libraries.

**Professor Hoshino:** Because of law and economics, of course. You published more before 1991.

**Professor Conant:** I don’t know whether I have it here. No I have copies at home.

**Professor Hoshino:** I understand that in American business schools usually they emphasize very much on publishing academic papers in academic journals rather than publishing books.

**Professor Conant:** What can I say, there are universities that emphasizes research more than teaching either, like this one, I have to tell you about the appointment system. When you are a young PhD just finished and wherever you where educated you have very good recommendation letters from the professors, they say you’ve got brain

power. then you come and you are appointed assistant professor, all right, while you are an assistant professor you have six years before you come up for review. At the end of six years you're either promoted and given tenure .....for life, or you're released. All right so during that first 6 years the young assistant professor has to work like mad on publications, because when you come up for review at the end of six years and you're department says you are one of the really great teachers, the president's office says so what we don't look at that, tenure in a research university is based on research, so that means you really got to work hard 7 days a week while you are an assistant professor and get things done. So I published a book, I published some transport articles while I was an assistant professor but my main research is about antitrust and the motion picture industry. And antitrust you know is antimonopoly laws, and so when I finished law school I was in a law firm in Chicago for about three years, and our biggest client in the law firm was a chain of motion picture theaters. And we were in litigation with the production companies, because our big client had a lot of theaters but only one in downtown Chicago. The main big motion picture theaters in downtown Chicago were controlled in Hollywood by the Paramount Picture Corporation. And there was a big Antitrust suit by the government the 1940s that forced the big production companies to sell all their theaters, they set up separate companies and distribute the stock, get rid of it. and so because the criminal prosecution by the antitrust division of the department of Justice in 1940s established monopoly practices as proved then the small companies started suing what we call the section 7 in the Sherman Act, smaller firms were injured by monopolist, treble damages, so the section 7 of the Sherman Antitrust Act is concerned with firms that were injured and then lost money because of the position of the monopolists. So we had in our firm in Chicago representing this chain of smaller theaters, we had a litigation going on against the bigger companies growing out of what happened in the 1940s, and so I sort of became, developed an enormous expertise in motion pictures antitrust problems, and so I decided my key thing when I was an assistant professor is to write a really substantial book in antitrust and motion pictures industry. And that came in 1944 it was accepted for publication by the University of California press in 1959,

and published in 1960. So in 1960 when I came up before the president's office on the question of tenure, my book was coming out. So that book plus number of articles on number of topics I got my tenure. So that's why I am here for life.

**Professor Hoshino:** So to get tenure, assistant professor has to publish papers, are books compulsory?

**Professor Conant:** It can be papers or books or both. The question is what they do for promotion; they ask the department first, like the School of Business, do you want the person promoted, and then the department sets this up and have two or three of the faculty review the material then they call a meeting of all the tenure members, associates and full professors and they say this is what we prepared to send up to the president's office, but we want to vote on it and all full professors, associate professors are notified two weeks ahead, all the materials of this candidate will be in such and such a room, go in and inspect the materials read what ever you want to read because we're going to have a vote on whether to recommend him for tenure.

And then they have the vote. And it doesn't have to be anonymous because there maybe some people that just took a personal dislike to him.

**Professor Hoshino:** The majority rule or two third?

**Professor Conant:** Well no it just has to be substantial so there is no, two thirds is a good estimate, but it better be more than two thirds, it better be more than two thirds. So then it goes up, then the chancellor's office for the campus sends all the research materials and letters to the academic senate that represents the whole faculty and the academic senate, they appoint a committee of five to review what the department is recommending. And of the committee of five, two are from the department and three from outside.

**Professor Hoshino:** Ah three.

**Professor Conant:** Three that are not in the School of Business. So like in my case, I don't know who was appointed, it is a secret but it would be at least one or two from the Economics Department and one from the Law School. And so they review this and they write a report to the chancellor. So the chancellor reviews that and if it's a split committee it's difficult. In other words, if you have three in favor and two against, it's border line. So it's difficult. But if you have four out of five it's pretty much sure the chancellor will sign the

recommendation letter to the president's office, for promoting the assistant to tenure.....

**Professor Hoshino:** So you have been publishing more books rather than articles. I think.

**Professor Conant:** Well I published about 40 articles.

**Professor Hoshino:** 40 articles. And how many books.

**Professor Conant:** Well, six I think.

**Professor Hoshino:** So more articles than books as the number is concerned. Still your answer is books. I think that for many Japanese scholars they prefer books, in the business area, but I thought American scholars emphasize on papers more than on books.

**Professor Conant:** In the hard sciences chemistry, physics and biology it's almost all of it is papers.

**Professor Hoshino:** Yes finance too.

**Professor Conant:** Or in the humanities, the professors of English literature may write books about some theme found in the literature, that is found in a enormous number of writings why the theme is developed in the literature, some thing like that. So it's to integrate ideas.

**Professor Hoshino:** Could you explain about the American taxation system. Because you file this document every year.

**Professor Conant:** Yes, well it is so complex we make an enormous gift to charity every year.

**Professor Hoshino:** Yourself.

**Professor Conant:** More than 20,000 dollars a year to charity.

**Professor Hoshino:** You donate 20,000 dollars. A big amount of money.

**Professor Conant:** Yes, that's a big amount of money. But you see my wife and I have no children.

**Professor Hoshino:** No children.

**Professor Conant:** Zero children, so you know, people with no children have to think and I have nieces and nephews but they all have university educations, they have good jobs, and so I don't want to give them much money, they will quit their jobs and become lazy. I don't want them to become lazy. So I give ten thousand dollars a year to the University of Chicago, it's one of my charities. Because when I was a graduate student for 6 years I had 6 years of scholarships, no tuition and so I had a great, great education with no tuition in graduate school and in law school. And so I feel an obligation, since I have substantial income, to help, because their tuition is so high, I am concerned with helping some

graduate students in the university of Chicago, get scholarships, because they don't have money to pay the tuition over 15,000 dollars a year. But my wife, she gives her money to two main charities. One is called "the Nature Conservancy," which buys up forest land and gives it to the states or the nations or governments. In other words to make sure that forest land remains forest land and not cut down for farms.

**Professor Hoshino:** Buying from private owners?

**Professor Conant:** Private owners sure, there is coastal land all along the Pacific Coast where some areas are owned by private owners. And then there are all the mountain areas of California, I mean the majority is owned by the state but there are other parts that they are not, they are privately owned. So she gives half of her money. She gives 12,000 dollars a year to the Nature Conservancy. And then she gave the other 12,000 that she gave, to an American branch of a British charity. But in order to take the deduction in the income tax, you see we are all concerned here. The charity deduction is one that you deduct from your gross income to calculate the net income that is taxable. The other one is called "Oxfam America", is an Oxford England charity concerned with famine in Africa. So they are called Oxfam England. But our charitable gifts must be given to an American charity. So the Oxfam people got wealthy Americans to organize an American charity, Oxfam America, and file the name with the Internal Revenue Service, so we can deduct from our income tax for gifts to Oxfam America.

So that's where are our three gifts go.

**Professor Hoshino:** But you said 20,000.

**Professor Conant:** Well, as really as, this year I gave 34. Because I gave 10 and my wife 12 to each of the two, so this year 34,000. So we are trying to do the right thing.

But in my will I have left the bulk of my estate, to the University of Chicago. I mean I left a little bit to my niece and nephews, but mostly to the University of Chicago.

**Professor Hoshino:** So if you donate charity, there are some advantages of tax deductions.

**Professor Conant:** Well among the deductions. Let's see if we have the whole forms in there,

**Professor Hoshino:** I personally need to file the tax form, after going back to Japan because March 15th is the dead line. I do it my self without any help of a tax lawyer

**Professor Conant:** Let's see it's here. Let me put on my

glasses. Let's see, see 31, I guess it says see page 31. It doesn't work out. Here, itemize deductions or standard. Standard is for the lower income people. They elect the standard because they don't have enough. All right, so this is a standard deduction sheet, how you work it out. I don't know why I can't find.

**Professor Hoshino:** And you ask a tax expert every time.

**Professor Conant:** Yes.

**Professor Hoshino:** That's average Americans asking those file to expert.

**Professor Conant:** But anyway, they have deduction for medical expenses but the medical expenses has to be more than 2% of your general gross income, so there is, if you don't have that amount, then there is real estate taxes, and personal taxes, and then there are charity deductions. And so there is charities across the country, all registered with the Internal Revenue Service. Because they have to file reports every year to the Internal Revenue Service, on how much money they get, and spend on administration and how much is actually spent on charitable activity. The Internal Revenue Service ones know if they are mostly doing charity work, or mostly hiring executives to administer. You know it might be not much of a charity. So they demand annual reports from all of these hundreds and hundreds of charities maybe thousands.

Because this also applies, you see all of the churches are also registered with the Internal Revenue Service as charities. So you can imagine what is involved in that.

**Professor Hoshino:** But if you give some amount of charity to an organization or church, so you pay this tax income?

**Professor Conant:** Yes, the deductions, you see the deductions on the form are added up, and that total amount is subtracted from your gross income to get you down to a net taxable income.

**Professor Hoshino:** So it's up to each personal income. If I donate, let's say 10,000 dollars per year and tax does not deduct the 10,000, maybe only 10% or so, tax deduction for me. Once I calculated, only 10% of deduction on tax. So not a big advantage of donated money for me. Then many Japanese don't donate. If big incentive such as 100% exists, everybody donate a lots of money. They don't like having tax rather than paying charity.

In the States, I'm not sure. It depends upon the income of each person.

**Professor Conant:** Sure, sure.

**Professor Hoshino:** But generally speaking, American people are more willing to pay charity or donation. I think, rather than Japanese. That's a big advantage I think.

**Professor Conant:** Well maybe you know, large numbers of Americans go to church, and the church talks to them. I wouldn't go to the church under any conditions, but, my ancestry is not Christian, my ancestry is Jewish. So I am not a Christian.

**Professor Hoshino:** But you still donate.

**Professor Conant:** Well yes, exactly. You know half of the Christian religion is the Old Testament which is the Jewish Testament. I mean our Old Testament is half of what the Christians believe.

**Professor Hoshino:** Well. Thank you for much for your interesting and stimulating talks, today.

**Michael Conant**

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Practice of Law, specializing in business organization,  
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**Books:**

Antitrust in the Motion Picture Industry (University of  
California Press, 1960)  
Railroad Mergers and Abandonments (University of  
California Press, 1964)  
The Constitution and Capitalism (West Publishing  
Company, 1974)  
The Constitution and the Economy: Objective Theory  
and Critical Commentary (University of Oklahoma  
Press, 1991)  
Constitutional Structure and Purposes: Critical  
Commentary (Greenwood Publishing, 2001)  
Railroad Bankruptcies and Mergers from Chicago West  
1975-2001: Financial Analysis and Regulatory  
Critique (Elsevier, 2004)

**Articles:**

Journal of Business, Minnesota Law Review, Land  
Economics, Antitrust Policies, Cornell Law Quarterly,  
University of Pennsylvania Law Review, Michigan Law  
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Management Review, Industrial Organization Review,  
Anglo-American Law Review, Cornell Journal of Law  
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