



T O S H O O T T H E

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A Conversation with D. Gordon Smith, Eighth Dean of the BYU Law School

D. Gordon Smith began his term as BYU Law School dean on May 1, 2016, replacing James R. Rasband, who had served as dean since 2009. Smith hails from Wisconsin, is an adult convert to the Church, graduated from BYU with an accounting degree, and attended law school at the University of Chicago. He joined the Law School faculty in 2007 after teaching at several other law schools.

Why did you decide to apply for the deanship?

Jim Rasband was an amazing dean, and I was blessed to serve as one of his associate deans for five years. During that time, I received a number of calls to apply for deanships at other law schools, but I never applied. In thinking about whether to apply for this deanship, I thought about one of my mentors, who had been a candidate for the deanship at another law school. At the time, I had asked him why he would want to do that, and he said, “Because I want to make a difference.”

While law professors can make a tremendous difference in the classroom and through scholarship, I felt like the time was right for me to make a difference through serving the Law School community in this way. After Jim Rasband’s deanship, BYU Law is in an excellent position to take the next steps toward greatness, and I felt like my experiences and entrepreneurial approach to my work could be helpful to the Law School in taking those next steps.

How has the Law School changed during your time here?

When Jim became the dean and I became one of his associate deans (along with Kif Augustine-Adams), we understood that the Law School was on the cusp of a big transition because of the impending faculty turnover. We knew that a lot of people would be retiring from the faculty within 5 to 10 years, and indeed we have replaced more than two-thirds of our faculty since my arrival at BYU in 2007. This was a very challenging period, but we also recognized an opportunity in this transition, namely, to create a “vibrant intellectual community.” We used those words a lot back then. We wanted BYU Law to become a place where people were animated by a love of scholarship and a love of big ideas.

In pursuit of that vision, we have hired new faculty members who believe that an important part of the job is creating new ideas, and we have tried to mentor those new faculty members in the process of developing and disseminating those ideas. At BYU Law we cannot be content to teach other people’s ideas; it’s important for us to have our own ideas and to contribute to broader conversations. It’s one thing to say, “My job is to read what other people write and present it in a form that my students can find understandable and useful,” and quite another thing to say, “My job is to be a contributor to the great discussions of the day and to help my students engage on a level in which they can have their own ideas.” I think there is an important modeling aspect to being this sort of teacher: your job in life is not just to sift through what other people tell you; your job is to create. And that’s the message we want to send to students—that their job too is to create new ideas.

By the way, this is one of the reasons I am so interested in entrepreneurship, because entrepreneurs are creators. They create something new. When they go to work, something exists that didn’t exist before. I love that!





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How did you become so interested in entrepreneurship?

I recently finished reading a book about John F. Kennedy's speech at Rice University in 1962, when he challenged the United States to put a man on the moon before the Soviet Union. I was born in 1962, and I can remember watching Neil Armstrong walk on the moon in 1969. At that young age, I did not appreciate how wild the idea was of a human being walking on the moon, but that event became one of the metaphors of my childhood. People would say, "Well, if we can put a man on the moon . . ." It was a way of saying that nothing was impossible.

Of course, at the time that John F. Kennedy made that speech, putting a person on the moon was impossible. We didn't have the technology to do it, so a lot of things had to happen from the time that he made that statement to the time that the event actually happened. For me, it was a metaphor that explained how we shouldn't let our present circumstances constrain our aspirations.

How does this entrepreneurial attitude affect your approach to the deanship?

I think that whenever you get a new job, the tendency is to try to fit a mold and be what someone else wants you to be. For example, when I first became a law professor, I taught from the casebooks that other people recommended and wrote about well-worn topics of corporate governance. Within a few years, however, I was writing my own casebooks, and my scholarship had started to focus on venture capital and entrepreneurship—topics that were hardly discussed in the law reviews in the mid-1990s. In the course of that transition, I discovered that one of my core beliefs is that new ideas are inherently valuable.

I think BYU Law should be known, among other things, as a place of ideas. What I would hope to do as dean is to help people who have innovative ideas execute on those ideas, whether by finding resources for them or providing the space for them or simply offering well-timed encouragement. Sometimes it doesn't take a lot. You can say to somebody, "Hey, that's a great idea! Why don't we do that?"

At this law school, many people—not just faculty—are really creative and have great ideas. I have already noticed that I'm getting a lot more emails saying, "I have this idea that I want to share with you." Maybe people are sending me these emails for the same reason I love giving gifts to my daughter. She gets so excited! I think that when the dean reacts with excitement to new ideas, it has a similar effect on people. It's also important to have someone say, "Yes, we can do something that is different than we have done before. Let's try it!"

Are you ever afraid of failure?

My family line goes back to the 1830s in Wisconsin. My ancestors on my father's side were dairy farmers. On a recent trip back to see my mother in Wisconsin, my wife, my daughter, and I decided to visit some cheesemakers. One of them was a woman named Marieke Penterman, who is from the Netherlands. She makes an award-winning Gouda. Because I study entrepreneurship, I always ask these cheesemakers how they got started. She told me this story:

"I was in my late 20s, and I'd always had a goal to start a business by the time I was 30. I was sitting in bed thinking about this goal and thinking how I didn't really have any ideas for what I wanted to do for my business. And then my mind started to wander, and I started to think, 'Wow! I really miss the cheese from Holland.' I sat upright in my bed and said to my husband, 'I'm going to make cheese.'"

Her husband was a dairy farmer, so he had the milk, but she had never made cheese before. She enrolled in a course at the local university on how to make cheese, and after she had completed the class, she did apprenticeships both in the United States and in the Netherlands. Four months after making her first batch of Gouda in November 2006, she won a gold medal at the U.S. Championship Cheese Contest, and in 2013 one of her cheeses was named United States Champion.

Marieke is a successful cheesemaker by any measure, but when she started the venture, the outcome was highly uncertain. In those early days, her husband would comment, "I hope your cheese business is a success." She would respond, "If I do this, it is a success. The only way I can fail is to not try."

That is basically my attitude toward failure, and it is one that I have shared with the faculty.

You mentioned wanting to help BYU Law take the next steps toward greatness. Can you say more about that?

What do people think of when they hear “BYU Law”? Inevitably these words evoke a connection to The Church of Jesus Christ of Latter-day Saints. Although we embrace that connection—for example, our International Center for Law and Religion Studies does an amazing job promoting religious liberty in the United States and throughout the world—no one at BYU Law believes that this is our sole reason for being. I embrace the idea that the mission of the J. Reuben Clark Law School is still unfolding.

Moreover, I strongly believe that people are led to the Law School at every level. People feel that they are here for a reason and that they are part of something that is bigger than themselves. They want to participate in the adventure of making this law school great.

One of the perks of being dean is that I get to participate vicariously in the successes of our faculty and students. For example, I see Carolina Núñez and Kif Augustine-Adams go down to Dilley, Texas, to help the detainees who are there, and that becomes an expression of the Law School’s identity. I can share in that as a member of the community, even though I was not personally in Dilley. I can applaud it. I can support it. I can be grateful for it. I can be inspired by it. It now affects the way I work and live in Utah. That is how this community works. We have different clusters of people doing different things that are all unified in a vision to make the world a better place. I am grateful to be part of that.

Tell us about your vision for fundraising.

We have been blessed by tremendous financial support from the Church and from donors to the Law School. When I speak with prospective law students, it is so wonderful to be able to say, “I want you to be at BYU Law because you are an amazing person with a great mind and incredible life experiences, and we believe that you will enrich the environment of this place and make us proud to have you as an alum.” We are not recruiting students to be at BYU Law so that we can get their tuition money. We want them here because we believe we can help them become great, and we believe they will help us in return. So when I think about fundraising, my first thought is, “How do we bless the lives of the students?”

My second thought is, “How do we increase the influence of the Law School?” At the same time I was being recruited to teach at BYU Law School, the second graduating class was raising money for an endowment to encourage the teaching of law and entrepreneurship. At the time, this was not a major field of study in law schools, but this fund allowed us to launch a startup clinic and various programs at the Law School. In the subsequent nine years, we have hired many faculty members with an interest in this area. I do not believe that all of these events are simply a matter of coincidence.

Now we have other faculty members forming research and teaching clusters around other topics, including the role of law in helping poor and marginalized groups or the development of law and corpus linguistics. We have an incredibly talented and creative faculty, and donations to the Law School can assist them in expanding their influence broadly.





What unique experiences do you bring to the Law School?

Well, I am certainly the first dean of the Law School from Wisconsin, and I am in the first generation in my family to attend college. I spent about half of my childhood on a farm and the other half in a really small town right next to our farm.

Another experience that has already forged a number of connections for me is that I majored in accounting at BYU. Shortly after becoming dean of the Law School, I met with Elder Dallin H. Oaks and told him the story of how I decided to major in accounting. When I came to BYU in 1980, I was not a member of the Church. My best friend brought me here, and his older brother had just graduated from the Law School. I had declared myself as a broadcasting major, thinking that I might become a sportscaster, but I was also thinking about law school. When I asked the older brother for advice, he said I could major in anything I wanted, but Dallin Oaks and Rex Lee were both accounting majors at BYU who went on to attend the University of Chicago Law School. So I changed my major to accounting and went to the University of Chicago Law School. Obviously, I was very impressionable.

When I arrived in Chicago, I was convinced that I was going to work in some job involving the Constitution, but I actually became a Delaware corporate lawyer and worked for a large New York-based law firm. Since leaving the practice of law, I have taught at six law schools in the United States as well as in a number of programs abroad. These experiences have given me a very large network of friends in the legal academy and varied perspectives on legal education that I hope will be helpful to BYU Law.

What is your style of leadership?

Some people have already noted that I am approaching the deanship with a sense of urgency. With a young faculty, excellent students, a burgeoning network of alumni and friends, and generous financial support, BYU Law is poised to make incredible advances, and I want to seize this opportunity.

My role is to persistently reinforce the notion that BYU Law is a place that revels in new ideas and a place that can and will surprise people in positive ways. This notion needs reinforcement because creating something new can be scary, especially for students or young faculty members. When you are doing something that no one has ever done before and you struggle a bit, you inevitably wonder if there is a reason that no one has ever done it. You realize that it might just be a silly thing to do. But sometimes the reason that no one has done the thing is that no one has figured it out. It is actually pretty hard to know in advance if the thing simply cannot be done or if it just has not been done yet.

I am editing a book right now about entrepreneurial action. In my view, the key to successful entrepreneurship is *action*. You have to *do*. We learn by doing. As Reid Hoffman, the cofounder of LinkedIn, famously said, “If you are not embarrassed by the first version of your product, you’ve launched too late.” That is a distillation of entrepreneurial action. You put something out there, you let people try it, and then you say, “Okay, I knew that wasn’t going to work, but I didn’t know how it wasn’t going to work. And now that I know how that didn’t work, I’m going to make another try and figure out how that doesn’t work. Then I’m going to figure out how this next thing doesn’t work.” Then pretty soon it’s going to work because we will have solved all the important problems. So we will embrace experimentation, and we will recognize that failure only comes in not trying new things.

When I first arrived here, some of my friends in legal academia told me that the BYU Law School will never be this or the BYU Law School will never be that. When I described some of my hopes and dreams for the Law School, they would say, “Good luck. There is no way that will ever happen at BYU.”

Now, less than a decade later, a number of those people have contacted me to remind me of those conversations. They have told me that they didn’t believe me at the time, but now they see it happening.

And I say, “Yes, it is happening, and you should be part of it.”

I hope people who are reading this interview will want to be part of it too. [cm](#)