



## Church & State

# The 'Con-Con' Con

## Homeschooling Advocate Michael Farris May Be Setting His Sights On Rewriting The Constitution

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*Viewpoint*

By [Sarah Jones](#)

Michael Farris is having a very good time, even if the rest of us aren't. His tribe – conservative white evangelicals – voted their anointed candidate into office, positioning them to roll back abortion and LGBTQ rights.

And his career's doing about as well as his crusade for the country's soul: In January Farris, a longtime Religious Right warhorse, became the new president, CEO and general counsel of Alliance Defending Freedom (ADF), the nation's largest Religious Right legal group. For an added bonus, he'll do the ADF gig while retaining his role as chairman of the Homeschool Legal Defense Association (HSLDA).

This is a step up for Farris. HSLDA is his creation, and it has significantly advanced the Christian homeschooling movement. But ADF, founded in 1993 by a band of TV and radio preachers and formerly known as the Alliance Defense Fund, is bigger, richer and more famous, and his new position places Farris at the heart of the Religious Right's growing political clout at a particularly advantageous moment.

ADF's motivations for hiring him, though, aren't quite as obvious. The group, based in Scottsdale, Ariz., boasts an 80 percent victory rate for its legal cases. Farris, meanwhile, has litigated a lot of cases, but he also tends to lose them.

He earned what is arguably his one big victory way back in 1986, when he convinced the U.S. Supreme Court to rule in his favor in *Witters v. Washington Department of Services for the Blind*. (The case concerned a visually impaired Christian college student who applied for aid from Washington state so he could go to a Christian college and study to become a minister. The high court said giving him the aid would not violate the First Amendment.) If ADF wanted a storied legal lion, Farris is a strange choice.

One possibility is that ADF respects Farris's record as a homeschooling champion and sees him as an asset to its aggressive promotion of "school choice" (vouchers) – an agenda that will likely prosper under the Trump administration.

But there's a wrinkle here. Farris has historically opposed school vouchers in favor of homeschooling. Federal funding ties voucher schools to the state, and this is incompatible with Farris' vision of a theologically purified America. This doesn't mean ADF is going to stop litigating voucher cases now that Farris is its president – it just means that school choice probably isn't the reason they hired him. The second, and far more likely possibility, is that ADF and Farris are focused on a bigger prize: a constitutional convention.

As I first reported for *Church & State* in an April 2014 story titled "Faux Founders," Farris has long campaigned for a so-called "convention of the states." With Mark Meckler, founder of Citizens for Self-Governance, Farris has spent years quietly lobbying state legislators to call for a new Constitutional Convention (sometimes known as a "con-con.") It's a lot of work, too. According to Article V of the U.S. Constitution, 34 state legislatures have to call for a Constitutional Convention in order for it to be convened.

In 2014 – what halcyon days – this seemed like another of Farris's many fringe projects. Specifically, it seemed like a new and doomed way to push his beloved "Parental Rights Amendment," which would make homeschooling a constitutional right. Despite his diligence, and some existing support for the idea within the GOP (40 Republican representatives introduced a parental rights measure in 2009), it's obviously come to nothing so far.

Now it looks like Farris may just get what he wants. *In These Times* reported in January that 28 states have now called for a constitutional convention, and this, coupled with Republican gains in state legislatures last November, means that Farris's big idea may now be just a few states away from becoming reality.

Farris obviously benefits from this, but so does ADF. In theory, socially conservative legislators could propose and pass constitutional amendments that ban same-sex marriage, criminalize abortion and erode the wall of separation between church and state. To you and me, this would be a real-world version of Margaret Atwood's *The Handmaid's Tale*. To the Religious Right, it would be no dystopia

at all. It's what they've always wanted.

There are some risks, of course. Once a Constitutional Convention is convened, ADF and its allies in state legislatures can't control how it would play out. Representatives could pass anything from the Equal Rights Amendment to an amendment banning school vouchers. As Stanford University's Jack Rackove told me in 2014, "Anything you want to propose is up for consideration. You can't definitively say whether or not it would be a 'runaway' convention." This is precisely why the late Phyllis Schlafly opposed the idea.

But the Religious Right might not have a better moment to advance its goal of American theocracy. The Democratic Party took a hard hit in November. It controls a minority of state legislature seats, and its forces are almost equally demoralized and disorganized at the federal level. It's not quite out of time yet, but if it can't rebuild its infrastructure at the local level and marshal a cogent response to Trump and the ideology that put him in office, opposition forces may be totally unequipped to prevent a Constitutional Convention from being convened – and ending in disaster.

We confront a political reality where little makes sense. Most pundits and political operatives never believed Trump would ever become president, but here we are, and we are still discerning the extent of the threat he poses to our civil liberties.

Farris is the perfect person to take advantage of a political climate that blurs the line between hyperbole and reality. He's a visionary, even by fundamentalist standards. HSLDA became an obstreperous grass-roots force under his leadership. Patrick Henry College endures, if plagued by occasional scandal. His parental rights obsession has filtered into mainstream Republican rhetoric.

Now Farris heads a legal behemoth with net assets of \$40 million – a powerful perch from which he may lead the most successful assault on the wall of separation yet.

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Tags:

**HOMESCHOOL LEGAL DEFENSE ASSOCIATION, MICHAEL FARRIS, CONSTITUTIONAL CONVENTION, ALLIANCE DEFENDING FREEDOM**

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