The Convention Alternative.—Because it has never successfully been invoked, the convention method of amendment is surrounded by a lengthy list of questions.[21] When and how is a convention to be convened? Must the applications of the requisite number of states be identical or ask for substantially the same amendment, or merely deal with the same subject matter? Must the requisite number of petitions be contemporaneous with each other, substantially contemporaneous, or strung out over several years? Could a convention be limited to consideration of the amendment or the subject matter which it is called to consider? These are only a few of the obvious questions, and others lurk to be revealed on deeper consideration.[22] This method has been close to being used several times. Only one state was lacking when the Senate finally permitted passage of an amendment providing for the direct election of senators.[23] Two states were lacking in a petition drive for a constitutional limitation on income tax rates.[24] The drive for an amendment to limit the Supreme Court's legislative apportionment decisions came within one state of the required number, and a proposal for a balanced budget amendment has been but two states short of the requisite number for some time.[25] Arguments existed in each instance against counting all the petitions, but the political realities no doubt are that if there is an authentic national movement underlying a petitioning by two-thirds of the states there will be a response by Congress.

Ratification.—In 1992, the nation apparently ratified a long-quiescent 27th Amendment, to the surprise of just about everyone. Whether the new Amendment has any effect in the area of its sub-

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Seth Barrett Tillman, *A Textualist Defense of Art. I, Section 7, Clause 3: Why Hollingsworth v. Virginia was Rightly Decided, and Why INS v. Chadha was Wrongly Reasoned*, 83 TEX. L. REV. 1265 (2005), for extensive analysis of what *Hollingsworth's* delphic pronouncement could mean. Whatever the Court decided in *Hollingsworth*, it has since treated the issue as settled. *See* Hawke v. Smith (No. 1), 253 U.S. 221, 229 (1920) (in *Hollingsworth*, "this court settled that the submission of a constitutional amendment did not require the action of the President"); INS v. Chadha, 462 U.S. 919, 955 n.21 (1983) (in *Hollingsworth*, "the Court held Presidential approval was unnecessary for a proposed constitutional amendment . . . ").

[21] The matter is treated comprehensively in C. Brickfield, *Problems Relating to a Federal Constitutional Convention*, 85th Congress, 1st Sess. (Comm. Print; House Judiciary Committee) (1957). A thorough and critical study of activity under the petition method can be found in R. CAPLAN, CONSTITUTIONAL BRINKMANSHIP: AMENDING THE CONSTITUTION BY NATIONAL CONVENTION (1988).

[22] Id. *See also Federal Constitutional Convention: Hearings Before the Senate Judiciary Subcommittee on Separation of Powers*, 90th Congress, 1st Sess. (1967).

[23] C. Brickfield, *Problems Relating to a Federal Constitutional Convention*, 85th Congress, 1st sess. (Comm. Print; House Judiciary Committee) (1957), 7, 89.

[24] Id. at 8–9, 89.

[25] R. CAPLAN, CONSTITUTIONAL BRINKMANSHIP: AMENDING THE CONSTITUTION BY NATIONAL CONVENTION 73–78, 78–89 (1988).