in fact led to the capitulation of the other faction, thus making an effectual and authoritative determination not reviewable by the Court.[625]

The Doctrine Before Baker v. Carr.—Over the years, the political question doctrine has been applied to preclude adjudication of a variety of other issues. In particular, prior to *Baker v. Carr*,[626] cases challenging the distribution of political power through apportionment and districting,[627] weighted voting,[628] and restrictions on political action[629] were held to present nonjusticiable political questions. Certain factors appear more or less consistently through most of the cases decided before *Baker*, and it is perhaps best to indicate the cases and issues deemed political before attempting to isolate these factors.

1. Republican Form of Government. By far the most consistent application of the doctrine has been in cases in which litigants asserted claims under the republican form of government clause.[630] The attacks were generally either on the government of the state itself[631] or involved a challenge regarding the manner in which it had acted.[632] There have, however, been cases involving this clause in which the Court has reached the merits.[633]

2. Recognition of Foreign States. Although there is language in the cases that would, if applied, serve to make all cases touching

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[625] 48 U.S. at 44.

[626] 369 U.S. 186 (1962).

[627] Colegrove v. Green, 328 U.S. 549 (1946); Colegrove v. Barrett, 330 U.S. 804 (1947).

[628] South v. Peters, 339 U.S. 276 (1950) (county unit system for election of statewide officers with vote heavily weighted in favor of rural, lightly populated counties).

[629] MacDougall v. Green, 335 U.S. 281 (1948) (signatures on nominating petitions must be spread among counties of unequal population).

[630] Article IV, § 4.

[631] As it was on the established government of Rhode Island in Luther v. Borden, 48 U.S. (7 How.) 1 (1849). *See also* Texas v. White, 74 U.S. (7 Wall.) 700 (1869); Taylor v. Beckham, 178 U.S. 548 (1900).

[632] Pacific States Tel. Co. v. Oregon, 223 U.S. 118 (1912) (challenging tax initiative); Kiernan v. City of Portland, 223 U.S. 151 (1912) (attacks on initiative and referendum); Marshall v. Dye, 231 U.S. 250 (1913) (state constitutional amendment procedure); O'Neill v. Leamer, 239 U.S. 244 (1915) (delegation to court to form drainage districts); Ohio ex rel. Davis v. Hildebrant, 241 U.S. 565 (1916) (submission of legislation to referendum); Mountain Timber Co. v. Washington, 243 U.S. 219 (1917) (workmen's compensation); Ohio ex rel. Bryant v. Akron Metropolitan Park District, 281 U.S. 74 (1930) (concurrence of all but one justice of state high court required to invalidate statute); Highland Farms Dairy v. Agnew, 300 U.S. 608 (1937) (delegation of legislative powers).

[633] All the cases, however, predate the application of the doctrine in Pacific States Tel. Co. v. Oregon, 223 U.S. 118 (1912). *See* Attorney General of the State of Michigan ex rel. Kies v. Lowrey, 199 U.S. 233, 239 (1905) (legislative creation and alteration of school districts "compatible" with a republican form of government); Forsyth v. City of Hammond, 166 U.S. 506, 519 (1897) (delegation of power to court to deter-