tion," nor, since the Court is merely interpreting the Constitution, is there an "initial policy determination" not suitable for courts. Finally, "judicially . . . manageable standards" are present in the text of the Constitution.[666] The effect of *Powell* was to discard all the *Baker* factors inhering in a political question, with the exception of the textual commitment factor, and that was interpreted in such a manner as seldom if ever to preclude a judicial decision on the merits.

***The Doctrine Reappears.***—Despite the apparent narrowing of the doctrine in *Baker* and *Powell*, the Court has not abandoned it. Reversing a lower federal court ruling subjecting the training and discipline of National Guard troops to court review and supervision, the Court held that under Article I, § 8, cl. 16, the organizing, arming, and disciplining of such troops are committed to Congress and by congressional enactment to the Executive Branch. "It would be difficult to think of a clearer example of the type of governmental action that was intended by the Constitution to be left to the political branches, directly responsible—as the Judicial Branch is not—to the elective process. Moreover, it is difficult to conceive of an area of governmental activity in which the courts have less competence. The complex, subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments, subject always to civilian control of the Legislative and Executive Branches." [667]

The suggestion of the infirmity of the political question doctrine was rejected, since "because this doctrine has been held inapplicable to certain carefully delineated situations, it is no reason for federal courts to assume its demise." [668] In staying a grant of remedial relief in another case, the Court strongly suggested that the actions of political parties in national nominating conventions may also present issues not meet for judicial resolution.[669] A challenge to the Senate's interpretation of and exercise of its impeach-

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[666] 395 U.S. at 548–549. With the formulation of Chief Justice Warren, *compare* that of then-Judge Burger in the lower court. 395 F.2d 577, 591–96 (D.C. Cir. 1968).

[667] Gilligan v. Morgan, 413 U.S. 1, 10 (1973). Similar prudential concerns seem to underlay, though they did not provide the formal basis for, the decisions in O'Shea v. Littleton, 414 U.S. 488 (1974), and Mayor of Philadelphia v. Educational Equality League, 415 U.S. 605 (1974).

[668] 413 U.S. at 11. Other considerations of justiciability, however, id. at 10, preclude using the case as square precedent on political questions. Notice that in Scheuer v. Rhodes, 416 U.S. 232, 249 (1974), the Court denied that the Gilligan v. Morgan holding barred adjudication of damage actions brought against state officials by the estates of students killed in the course of the conduct that gave rise to both cases.

[669] O'Brien v. Brown, 409 U.S. 1 (1972) (granting stay). The issue was mooted by the passage of time and was not thereafter considered on the merits by the Court. Id. at 816 (remanding to dismiss as moot). It was also not before the Court in Cousins v. Wigoda, 419 U.S. 477 (1975), but it was alluded to there. *See* id. at 483 n.4,