is) the most important factor: a "prudential" attitude about the exercise of judicial review, which emphasizes that courts should be wary of deciding on the merits any issue in which claims of principle as to the issue and of expediency as to the power and prestige of courts are in sharp conflict. The political question doctrine was (and is) thus a way of avoiding a principled decision damaging to the Court or an expedient decision damaging to the principle.[652]

Baker v. Carr.—In *Baker v. Carr*,[653] the Court undertook a major reformulation and rationalization of the political question doctrine, which has considerably narrowed its application. Following *Baker*, the whole of the apportionment-districting-election restriction controversy previously immune to federal-court adjudication was considered and decided on the merits,[654] and the Court's subsequent rejection of the doctrine in other cases disclosed narrowing in other areas as well.[655]

According to Justice Brennan, who delivered the opinion of the Court, "it is the relationship between the judiciary and the coordinate branches of the Federal Government, and not the federal judiciary's relationship to the States, which gives rise to the 'political question.'"[656] Thus, the "nonjusticiability of a political question is primarily a function of the separation of powers."[657] "Deciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate

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[652] For a statement of the "prudential" view, *see generally* A. BICKEL, THE LEAST DANGEROUS BRANCH: THE SUPREME COURT AT THE BAR OF POLITICS (1962), *but see esp.* 23–28, 69–71, 183–198. *See also* Baker v. Carr, 369 U.S. 186, 267 (1962) (Justice Frankfurter dissenting.) The opposing view, which has been called the "classicist" view, is that courts are duty bound to decide all cases properly before them. Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 404 (1821). *See also* H. WECHSLER, PRINCIPLES, POLITICS, AND FUNDAMENTAL LAW: SELECTED ESSAYS 11–15 (1961).

[653] 369 U.S. 186 (1962).

[654] Wesberry v. Sanders, 376 U.S. 1 (1964); Reynolds v. Sims, 377 U.S. 533 (1964); Hadley v. Junior College District, 397 U.S. 50 (1970) (apportionment and districting, congressional, legislative, and local); Gray v. Sanders, 372 U.S. 368 (1963) (county unit system weighing statewide elections); Moore v. Ogilvie, 394 U.S. 814 (1969) (geographic dispersion of persons signing nominating petitions).

[655] *See, e.g.,* Powell v. McCormack, 395 U.S. 486 (1969). Nonetheless, the doctrine continues to be sighted.

[656] Baker v. Carr, 369 U.S. 186, 210 (1962). This formulation fails to explain cases like Moyer v. Peabody, 212 U.S. 78 (1909), in which the conclusion of the governor of a state that insurrection existed or was imminent justifying suspension of constitutional rights was deemed binding on the Court. *Cf.* Sterling v. Constantin, 287 U.S. 378 (1932). The political question doctrine was applied in cases challenging the regularity of enactments of territorial legislatures. Harwood v. Wentworth, 162 U.S. 547 (1896); Lyons v. Woods, 153 U.S. 649 (1894); Clough v. Curtis, 134 U.S. 361 (1890). *See also In re* Sawyer, 124 U.S. 200 (1888); Walton v. House of Representatives, 265 U.S. 487 (1924).

[657] 369 U.S. at 210.