POLITICAL QUESTION DOCTRINE

Claimant raises a constitutional issue in a case otherwise properly within a federal court's jurisdiction

before deciding the issue, ask (as part of your justiciability analysis):

Major premise

Minor premise

This question (and its 2 components) are judicial questions (not for the poltical branch to decide) since a court always has jurisdiction to determine its jurisdiction.

Is there a textually demonstrable constitutional commitment of the issue to a coordinate* political branch?

related inquiry

informs the answer

Is there a lack of judicially discoverable and manageable standards for resolving the issue **

In Vieth v. Jubelirer, 4 members of the Court treated this as a distinct basis for invoking the Political Question doctrine (in political gerrymandering cases)

* *Arising as it does from SoP concerns, the Pol Qu. Doctrine applies only to federal judicial inquiry into questions assigned to the political branches of the federal gov't, not to questions about state gov't. Baker v. Carr. But see Luther v. Bordan; Vieth v. Jubelirer*

this question has 2 components:

1
Does the political branch have power to act (on that issue)?

The constitution must assign both power and discretion to a coordinate political branch

The "issue" refers to the const'l provision serving as the basis for the claim brought

Power to act is insufficient, the branch must also have final responsibility for interpreting the scope and nature of its power. (*Nixon v. US*)

2
Does that branch have discretion (final decision making authority)?

This question can be bound up with the merits of the case, as in *Goldwater v. Carter*

Yes

No

If a court decides an issue committed to a political branch, it usurps that branch's power, violating SoP

The issue raises a nonjusticiable political question

The issue (case) is justiciable

This is so even if the issues are "political" or otherwise involve a political branch

"The doctrine of which we treat is one of 'political questions,' not one of 'political cases.' The courts cannot reject as 'no law suit' a bona fide controversy as to whether some action denominated 'political' exceeds constitutional authority" Baker v. Carr

Once this is determined, the judicial role is over; there can be no further inquiry into the branch's handling of the issue ("political" remedies only)

***Other examples given in Baker v. Carr are related to the major and minor premise, although cases touching foreign affairs are often seen as Political Questions*

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