ened to be withheld from South Dakota in *Dole*, which he characterized as less than half of one percent of South Dakota's budget. How courts are to consider grant withdrawals between 10 percent and one-half of 1 percent, however, is not addressed by the Roberts opinion, and the Chief Justice declined to speculate where such a line would be drawn.

In those cases where a state accepts federal funds on conditions and then fails to follow the requirements, the usual remedy is federal administrative action to terminate the funding and to recoup funds the state has already received.[663] Although the Court has allowed beneficiaries of conditional grant programs to sue to compel states to comply with the federal conditions,[664] more recently the Court has required that any such susceptibility to suit be clearly spelled out so that states will be informed of potential consequences of accepting aid. Finally, it should be noted that Congress has enacted a range of laws forbidding discrimination in federal assistance programs,[665] and some of these laws are enforceable against the states.[666]

Clause 2. The Congress shall have Power * * * To borrow Money on the credit of the United States.

BORROWING POWER

The most significant attribute of this clause may not be the scope of Congress' power to borrow, but rather the limits it sets on the ability of Congress to abrogate its debt obligations. The Court has found that when Congress borrows money "on the credit of the United States," it creates a binding obligation to pay the debt as stipulated and cannot thereafter vary the terms of its agreement. When Congress passed a law that declared contractual provisions requiring payment in gold coin to be against public policy, the application

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[663] Bell v. New Jersey, 461 U.S. 773 (1983); Bennett v. New Jersey, 470 U.S. 632 (1985); Bennett v. Kentucky Dep't of Education, 470 U.S. 656 (1985).

[664] *E.g.*, King v. Smith, 392 U.S. 309 (1968); Rosado v. Wyman, 397 U.S. 397 (1970); Lau v. Nichols, 414 U.S. 563 (1974); Miller v. Youakim, 440 U.S. 125 (1979). Suits may be brought under 42 U.S.C. § 1983, *see* Maine v. Thiboutot, 448 U.S. 1 (1980), although in some instances the statutory conferral of rights may be too imprecise or vague for judicial enforcement. *Compare* Suter v. Artist M., 503 U.S. 347 (1992), *with* Wright v. Roanoke Redevelopment & Housing Auth., 479 U.S. 418 (1987).

[665] *E.g.*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681; Title V of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

[666] Here the principal constraint is the Eleventh Amendment. *See*, *e.g.*, Board of Trustees of Univ. of Ala. v. Garrett, 531 U.S. 356 (2001) (the Americans with Disabilities Act of 1990 exceeds congressional power to enforce the Fourteenth Amendment, and violates the Eleventh Amendment by subjecting states to suits brought by state employees in federal courts to collect money damages).