negative rather than affirmative[957] and in no way obligates the states to adopt specific measures of reform.[958]

Commencement of Actions.—A state may impose certain conditions on the right to institute litigation. Access to the courts has been denied to persons instituting stockholders' derivative actions unless reasonable security for the costs and fees incurred by the corporation is first tendered.[959] But, foreclosure of all access to the courts, through financial barriers and perhaps through other means as well, is subject to federal constitutional scrutiny and must be justified by reference to a state interest of suitable importance. Thus, where a state has monopolized the avenues of settlement of disputes between persons by prescribing judicial resolution, and where the dispute involves a fundamental interest, such as marriage and its dissolution, the state may not deny access to those persons unable to pay its fees.[960]

Older cases, which have not been questioned by more recent ones, held that a state, as the price of opening its tribunals to a nonresident plaintiff, may exact the condition that the nonresident stand ready to answer all cross actions filed and accept any *in personam* judgments obtained by a resident defendant through service of process or appropriate pleading upon the plaintiff's attorney of re-

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[957] Some recent decisions, however, have imposed some restrictions on state procedures that require substantial reorientation of process. While this is more generally true in the context of criminal cases, in which the appellate process and post-conviction remedial process have been subject to considerable revision in the treatment of indigents, some requirements have also been imposed in civil cases. Boddie v. Connecticut, 401 U.S. 371 (1971); Lindsey v. Normet, 405 U.S. 56, 74–79 (1972); Santosky v. Kramer, 455 U.S. 745 (1982). Review has, however, been restrained with regard to details. *See, e.g.*, Lindsey v. Normet, 405 U.S. at 64–69.

[958] Ownbey v. Morgan, 256 U.S. 94, 112 (1921). Thus the Fourteenth Amendment does not constrain the states to accept modern doctrines of equity, or adopt a combined system of law and equity procedure, or dispense with all necessity for form and method in pleading, or give untrammeled liberty to amend pleadings. Note that the Supreme Court did once grant review to determine whether due process required the states to provide some form of post-conviction remedy to assert federal constitutional violations, a review that was mooted when the state enacted such a process. Case v. Nebraska, 381 U.S. 336 (1965). When a state, however, through its legal system exerts a monopoly over the pacific settlement of private disputes, as with the dissolution of marriage, due process may well impose affirmative obligations on that state. Boddie v. Connecticut, 401 U.S. 371, 374–77 (1971).

[959] Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949). Nor did the retroactive application of this statutory requirement to actions pending at the time of its adoption violate due process as long as no new liability for expenses incurred before enactment was imposed thereby and the only effect thereof was to stay such proceedings until the security was furnished.

[960] Boddie v. Connecticut, 401 U.S. 371 (1971). *See also* Little v. Streater, 452 U.S. 1 (1981) (state-mandated paternity suit); Lassiter v. Department of Social Services, 452 U.S. 18 (1981) (parental status termination proceeding); Santosky v. Kramer, 455 U.S. 745 (1982) (permanent termination of parental custody).