it is the duty of the Court to exercise and regulate it by a sound and just judicial discretion, whereby the rights and independence of the bar may be as scrupulously guarded and maintained by the Court, as the right and dignity of the Court itself."[338] The Test-Oath Act of July 2, 1862, which purported to exclude former Confederates from the practice of law in the federal courts, was invalidated in *Ex parte Garland*.[339] In the course of his opinion for the Court, Justice Field discussed generally the power to admit and disbar attorneys. The exercise of such a power, he declared, is judicial power. The attorney is an officer of the court, and though Congress may prescribe qualifications for the practice of law in the federal courts, it may not do so in such a way as to inflict punishment contrary to the Constitution or to deprive a pardon of the President of its legal effect.[340]

SECTION 2. Clause 1. The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party;—to Controversies between two or more States; between a State and Citizens of another State;

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[338] *Ex parte* Secombe, 60 U.S. (19 How.) 9, 13 (1857). In Frazier v. Heebe, 482 U.S. 641 (1987), the Court exercised its supervisory power to invalidate a district court rule respecting the admission of attorneys. *See In re* Sawyer, 360 U.S. 622 (1959), with reference to the extent to which counsel of record during a pending case may attribute error to the judiciary without being subject to professional discipline.

[339] 71 U.S. (4 Wall.) 333 (1867).

[340] 71 U.S. at 378–80. Although a lawyer is admitted to practice in a federal court by way of admission to practice in a state court, he is not automatically sent out of the federal court by the same route, when "principles of right and justice" require otherwise. A determination of a state court that an accused practitioner should be disbarred is not conclusively binding on the federal courts. Theard v. United States, 354 U.S. 278 (1957), citing Selling v. Radford, 243 U.S. 46 (1917). *Cf. In re* Isserman, 345 U.S. 286, 288 (1953), where it was acknowledged that upon disbarment by a state court, Rule 2, par. 5 of the Rules of the Supreme Court imposes upon the attorney the burden of showing cause why he should not be disbarred in the latter, and upon his failure to meet that burden, the Supreme Court will "follow the finding of the state that the character requisite for membership in the bar is lacking." In 348 U.S. 1 (1954), Isserman's disbarment was set aside for reason of noncompliance with Rule 8 requiring concurrence of a majority of the Justices participating in order to sustain a disbarment. *See also In re* Disbarment of Crow, 359 U.S. 1007 (1959). For an extensive treatment of disbarment and American and English precedents thereon, *see Ex parte* Wall, 107 U.S. 265 (1883).