records, correct the errors of the clerk or other court officers, and to rectify defects or omissions in their records even after the lapse of a term, subject, however, to the qualification that the power to amend records conveys no power to create a record or re-create one of which no evidence exists.[334]

Appointment of Referees, Masters, and Special Aids

The administration of insolvent enterprises, investigations into the reasonableness of public utility rates, and the performance of other judicial functions often require the special services of masters in chancery, referees, auditors, and other special aids. The practice of referring pending actions to a referee was held in *Heckers v. Fowler*[335] to be coequal with the organization of the federal courts. In the leading case of *Ex parte Peterson*,[336] a United States district court appointed an auditor with power to compel the attendance of witnesses and the production of testimony. The court authorized him to conduct a preliminary investigation of facts and file a report thereon for the purpose of simplifying the issues for the jury. This action was neither authorized nor prohibited by statute. In sustaining the action of the district judge, Justice Brandeis, speaking for the Court, declared: "Courts have (at least in the absence of legislation to the contrary) inherent power to provide themselves with appropriate instruments required for the performance of their duties. . . . This power includes authority to appoint persons unconnected with the court to aid judges in the performance of specific judicial duties, as they may arise in the progress of a cause."[337] The power to appoint auditors by federal courts sitting in equity has been exercised from their very beginning, and here it was held that this power is the same whether the court sits in law or equity.

Power to Admit and Disbar Attorneys

Subject to general statutory qualifications for attorneys, the power of the federal courts to admit and disbar attorneys rests on the common law from which it was originally derived. According to Chief Justice Taney, it was well settled by the common law that "it rests exclusively with the Court to determine who is qualified to become one of its officers, as an attorney and counselor, and for what cause he ought to be removed." Such power, he made clear, however, "is not an arbitrary and despotic one, to be exercised at the pleasure of the Court, or from passion, prejudice, or personal hostility; but

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[334] Gagnon v. United States, 193 U.S. 451, 458 (1904).
[335] 69 U.S. (2 Wall.) 123, 128–129 (1864).
[336] 253 U.S. 300 (1920).
[337] 253 U.S. at 312.