Court order to sell real estate for the payment of a widow's allowance and not ejectment.[21] Also, the *Nettleton Bank Case*,[22] cited with approval *Force v. Van Patton*,[23] which held that ejectment is an action which involves title to real estate, and permits direct appeal to the Supreme Court. Not only is the authority of the principal case faulty, but also the logic of the proposition is with the dissenting opinion. Ejectment today is more than a possessory action, it is a mode of trying title and the plaintiff must recover on the strength of his own title and not the weakness of his adversaries.[24] In the present case title was put in issue by the defendant pleading facts showing him to be the owner. Thus under the decisions of the *Tooker* case and the *Maxwell* case appeal should lie to the Supreme Court. As is pointed out in the most recent decision on the subject,[25] by Division no. 2, that until there is a decision en banc on the point, because of the absurd conflict between Division no. 1 in the *Ballenger* case and Division no. 2 in the *Tooker* case, appeals to the Supreme Court will turn not upon the constitutional provision but rather upon the Division to which the case is assigned.

R. L. S.

ATTORNEY AND CLIENT—DISBARMENT OF JUDGES—[Oklahoma].—On his return to private practice, disbarment proceedings were commenced against a former county judge for private acts of moral turpitude[1] committed while he occupied his judicial office. *Held;* the Board of Governors of the state bar (of Oklahoma) have the jurisdiction and authority to hear charges against a practicing lawyer of disbarable offenses involving moral turpitude rendering him unfit to be permitted to continue the practice of law, even though the offenses evidencing such loss of character occurred while he theretofore held judicial office.[2]

This case is in line with the weight of authority, although the Oklahoma

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21. Supra, note 20.
22. Supra, note 20.
23. Force v. Van Patton, 149 Mo. 499, 50 S. W. 906 (1899) which holds that ejectment is an action which involves title to real estate.
24. Ballenger v. Windes, 93 S. W. (2d) 882 (Mo. 1936). The dissent points out that at the time of Blackstone ejectment was the only way to try title. This was the rule in Missouri down to 1897 when a special statute was enacted to try title. Mo. St. Ann. sec. 1520, p. 1682. In Missouri the action of ejectment to do away with the fiction of lease, entry and ouster, allows the plaintiff to plead only possession. R. S. Mo. 1929, sec. 1365-1370. However, the plaintiff must prove he is legally entitled to possession and must recover by the strength of his own title and not the weakness of his adversaries when title is put in issue. Brown v. Simpson, 201 S. W. 898 (Mo., 1918).
25. Welsh v. Brown, 96 S. W. (2d) 345 (Mo., 1936) by Div. 2.

1. The case does not specify the particular acts of moral turpitude involved.
2. Weston v. Board of Governors of State Bar, 61 P. (2d) 229 (Okla., 1936).

court seemingly treats it as a case of first instance.[3] The majority of cases hold that the office of judge does not protect an attorney from the consequences of his acts of moral turpitude committed while occupying his judicial office.[4] A respectable minority, however, holds that an attorney who is a judge should not be attacked in his character as a lawyer where such an attack might indirectly cause his removal from the bench by means other than those provided by law.[5] Under the majority view, although the respondent at the institution of proceedings is no longer a judge, he can be disbarred for private acts committed while he occupied his judicial office.[6]

The real issue which might be raised in regard to the disbarment of an attorney who is a judge is that disbarment should not be used as a means of removing judges. It is clear that in a court created by the legislature, as distinguished from one created by the state constitution, this contention has little weight, as removal of judges need not be by a constitutional process such as impeachment. Besides, as the legislature has complete control over legislative courts,[7] it can provide that attorneys, although they are acting as judges, can be disbarred for moral turpitude in their character as attorney. In the case of a judge of a constitutional court some difficulties might arise. But in this connection it must be pointed out that the majority of courts have repeatedly held that disbarment is not a civil or

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3. The Oklahoma court states in the above decision that "no judicial decision has been cited by either of the parties directly upon the point in issue, and our independent investigation has failed to disclose one." Although this statement may refer only to the jurisdiction of Oklahoma, it seems to refer generally to the point at issue. For statements of the general rule see L. R. A. 1915A 663, Ann. Cas. 1917B 232, 9 A. L. R. 195 (1920).

4. In re Stolen, 214 N. W. 379, 193 Wis. 602 (1927); State v. Peck, 88 Conn. 447, 91 Atl. 274, Ann. Cas. 1917B 227 (1914); People ex rel. Stead v. Phipps, 261 Ill. 576, 104 N. E. 144 (1914); Hobb's Case, 75 N. H. 285, 73 Atl. 303 (1909); In re Dallenbaugh, 17 Ohio C. C. 106, 9 Ohio C. D. 325 (1899); In re Spriggs, 36 Ariz. 262, 284 Pac. 521 (1930); In re Burton, 67 Utah 118, 246 Pac. 188 (1926); State ex rel. Dill v. Martin, 45 Wash. 76, 87 Pac. 1054 (1906); In re Davis, 15 Hawaii 377 (1904); cf. In re Simpson, 79 Okla. 305, 192 Pac. 1907 (1920), where it was held that "a court may suspend or disbar an attorney for misconduct in an official capacity"; In re Breen, 30 Nev. 164, 17 L. R. A. (N. S.) 571, 93 Pac. 997 (1908). Missouri has not ruled on this point.

5. State Bar of Cal. v. Superior Court, 207 Cal. 323, 278 Pac. 432 (1929); People ex rel. Johnson v. Goddard, 11 Colo. 259, 18 Pac. 338 (1888); In re Silkman, 84 N. Y. Supp. 1025 (1903); In re Strahl, 195 N. Y. Supp. 385 (1922); In re Gibbs, 51 S. D. 459, 214 N. W. 850 (1927).

6. The respondent had contended in the instant case that during his tenure of office as judge he was, in effect, suspended from the bar, so that the bar had no jurisdiction over his private acts. In refusing to allow this contention the Oklahoma court reached the same result as did the Wisconsin court in the leading case of In re Stolen, 214 N. W. 379, 193 Wis. 602 (1927), wherein it is stated that one "cannot take unto himself any office or position, or shroud himself in any garb which will place him beyond the power of this court to keep its roster of attorneys clean."

7. State ex rel. Martin v. Kalb, 50 Wis. 178, 188, 6 N. W. 557 (1880).
(1880).

criminal proceeding and consequently it is not to be confused with the regular methods of removing judges.[8] Moreover, the power of disbarment is inherent in the courts.[9] It is true that as a result of disbarment an attorney may be disqualified to act as judge, but this is incidental to disbarment and not the object of a disbarment proceeding.[10] As a result the courts in a majority of cases very properly refuse to let this constitutional question be raised to hinder proceedings.[11] By the weight of authority and logic there is no good reason why an attorney occupying the office of judge, and committing acts unworthy of his office of attorney should not be disbarred regardless of the effect on his official position. E. M. F.

CHATTEL MORTGAGES—PRIORITIES—ACCESSION—[Texas]. — One Darden purchased an automobile from the defendant company, paying part cash and executing a chattel mortgage on the car, complete with standard attachments, accessories and equipment. This mortgage was duly recorded according to Texas law. Thereafter Darden bought new tires for the automobile from the plaintiff, executing a chattel mortgage on these tires for the balance due of the purchase price, such mortgage also being recorded. The new tires were placed on the car, the old ones being returned to Darden. Subsequently the defendant repossessed the car in accord with the terms of its chattel mortgage. The plaintiff filed suit against the defendant company to foreclose its mortgage on the tires. *Held;* for the plaintiff, since the prior recorded mortgage of the defendant did not include accessories and equipment subsequently placed on the car, its title thereto depended solely on inclusion by accretion or accession. Tires, being easily identified by serial numbers, and being so attached they may be easily removed without injury to the automobile, do not become part of the car by the rule of accretion or accession.[1]

The law of accretion is not applicable to a case of this sort except by analogy, as it relates only to real property.[2] The common law of accession

8. "The proceeding to disbar an attorney is neither a civil action nor a criminal proceeding, but is a proceeding *sui generis,* the object of which is not the punishment of the offender, but the protection of the court." In re Richards, 333 Mo. 907, 63 S. W. (2d) 672 (1933), comment 19 ST. LOUIS LAW REVIEW, 146 (1934); In re Noell, 96 S. W. (2d) 213 (Mo. App. 1936); State v. Peck, 88 Conn. 447, 91 Atl. 274 (1914).

9. In re Richards, 333 Mo. 907, 63 S. W. (2d) 672 (1933), comment 19 ST. LOUIS LAW REVIEW 146 (1934); State ex rel. Selleck v. Reynolds, 252 Mo. 369, 158 S. W. 671 (1913); In re Sizer & Gardner, 300 Mo. 369, 254 S. W. 82 (1923).

10. In re Stolen, 193 Wis. 602, 214 N. W. 379 (1927).

11. In re Stolen, supra, note 10; In re Spriggs, 33 Ariz. 262, 44 Pac. 54 (1930); In re Burton, 67 Utah 918, 246 Pac. 188 (1926); In re Dallenbaugh, 17 Ohio C. C. 106, 9 Ohio C. D. 325 (1899); In re Davis, 15 Hawaii 377 (1904).

1. Firestone Service Stores, Inc. v. Darden et al., 96 S. W. (2d) 316 (Tex. Civ. App., 1936).

2. Bouvier's *Law Dictionary* (Rawle's 3rd Rev. 1914); 1 C. J. 730.