

1 thing. At one time equity was a removal right in the
2 Constitution, in the 1867 Constitution. It was not until
3 1922 that the Court of Appeals in a rather torturous
4 line of reasoning took the right of removal of equity
5 cases out. We have since had right of removal only in law
6 cases. The basic objection, of course, is the fact when
7 you go before a judge and you don't think you are going to
8 get a fair trial, the only person who can decide whether
9 you are going to get a fair trial or whether he should
10 disqualify himself is the judge. I suggest to you if you
11 had to ask him whether he was going to be fair and
12 disqualify himself, you wouldn't have had to ask him
13 to disqualify himself in the first place. The second
14 objection, however, I think, would assume that we would
15 have a judiciary which would in all cases be reasonable
16 and fair.

17 This is a fact, that there is growing in
18 this country a movement to combine law and equity. This
19 is a current Federal procedure, and there may come a
20 time when we want to abolish the distinction between law
21 and equity, and I would hate to see written into this