

claims court for one reason and one reason only and that was if the defendant requested a jury trial. Why? Our Constitution guarantees a right to a jury trial and we couldn't have a statute which totally precluded an individual from having a jury trial, so we said if a defendant wanted a jury trial he could remove the case from the small claims court. That is the way the law used to be. However, there were some people who were being haled into small claims court that said, by golly, we have got to have a lawyer in the first instance and so they got this body to change the law several years ago to say that for any reason whatsoever a defendant could remove a claim from small claims. That has caused a lot of trouble to plaintiffs and to the court system. Now in the end, let me tell you, a defendant can get a lawyer. If you do a small claims case and you lose it, you can appeal it and you can appeal it to the district court, and in the district court, the case is tried all over again and this time you bring in your lawyer. Why? Because the Constitution effectively guarantees you the right to counsel so somewhere along the line a person who wants to have a lawyer with him has got to be entitled to get it, but under the present law, you get it in the district court level. The judges in Omaha in the municipal court have from time to time told me that they feel that the provision which allows a defendant to remove a claim from a small claims court for no reason whatsoever except desire effectively negates much of the value of the small claims process, and given my own experience, I think that is absolutely right. So all my amendment would do is to return the small claims court act to the way it originally was, the way it was when we passed it in the body in 1972 or 73 and to say simply that only the only kind of removal that can occur from small claims to the regular court is where the defendant requests a jury trial. If that request is made, the case will then go to the regular court and proceed as though it were a regular case. To do otherwise is to effectively destroy much of the value behind small claims. I would move my amendment.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I don't know whether I favor Senator Johnson's amendment or not. It wasn't brought up at the hearing. It wasn't discussed, had no input. The only thing we have here at the moment is an amendment based on Senator Johnson's experience. I would like to have had this discussed in front of committee. I don't know that I really oppose it