

March 3, 1980

LB 892

SENATOR VICKERS: Then down further where you are striking the language that puts a little bit of the burden on the party that is causing the action to be moved up, could you explain why you are striking that language?

SENATOR JOHNSON: Yes, when I gave the amendment to the bill drafter, I said make the amendment read like the law was when the bill was originally drafted and he did, and in the original version of our small claims court act, the second batch of material which is stricken did not exist.

SENATOR VICKERS: Well, then, if I understood the reason that you were asking for this amendment awhile ago, you were saying that because one of the parties might show up with an attorney, thereby you would like to have the procedure set up where both parties could be...have an attorney available to them. Then why if you could, could you tell me that you have to have a trial to a jury because it seems to me if you leave the language as it is now in 24-525, you have the same effect that you are asking for awhile ago. You could, in fact, set up a procedure and we do have a procedure right now whereby both of the defendants can be represented by a counsel.

SENATOR JOHNSON: Let me explain it again, Senator Vickers, if you don't mind if I use a few minutes of your time.

SENATOR VICKERS: Well, no, go ahead because you are going to have to explain it a little better than you have so far or you are not going to get my yes vote.

SENATOR JOHNSON: You are right, you are right. It may well be that my explanation was insufficient, that probably it was. At this time if a plaintiff doesn't want to have a lawyer but wants to pursue his case he can go to small claims court. He doesn't have to have a lawyer at all, but when he goes in without a lawyer and he would certainly hope the defendant would not be with a lawyer because there is a total inequality in representational positions if the defendant has a lawyer. The way the law presently reads, the defendant can go into small claims with a lawyer and immediately get the case transferred to the bigger court, immediately get the case transferred.

SENATOR VICKERS: Okay, now stop right there. Now explain to me how the amendment that you are offering here is going to change that any?