

March 3, 1980

LB 892

question?

SENATOR HOAGLAND: I will try to answer the question, Mr. Speaker, and this is Senator Johnson's bill and I hope he will correct me if I am wrong. The way Senator Johnson's amendment is written now the only grounds, Senator Murphy, on which somebody can transfer a case out of small claims court if he is a defendant is by way of a request for jury trial, and then when he gets up in the municipal court, he has got to go ahead and undertake a jury trial. He can't then waive the jury trial and have the same effect we have right now. So it considerably narrows the grounds, the circumstances under which a defendant can take a case out of small claims court thereby subverting a purpose of the small claims act. I hope that answers your question, Senator Murphy.

SPEAKER MARVEL: Senator DeCamp, your light is on and then Senator Newell.

SENATOR DeCAMP: Mr. President, I strongly support the amendment and I wasn't here for the beginning but maybe I can give you a little history on this small claims thing and show you why this is a good amendment. Maybe I will be repeating, I don't know, but I will try to put it in language that I can understand. We started out with the idea, you know, we'd have a small claims court so Sam and Joe could settle their squabble right there without lawyers, just before the judge. Everybody would save money, it would work that way. Next thing we discovered was, well, you can't have a closed system. You have to give that guy the right to appeal his decision, so when we played around trying to give the guy the right to appeal his decision, we went a little too far maybe and we put it so that not only does he have the right to appeal his decision but we let him jump out of the court, the small claims court, just with a motion. Just get out of there. So real quick we kind of destroyed the real purpose of the small claims court because we set up the following system. Senator Kelly goes to the local judge and he says I have got a claim for \$240 against Bill Nichol. He says Bill hasn't paid me for all the mowing I did on his property for the last two years. He says, but I can't afford a lawyer, so the judge sits down there in the court house and he says, well, we have the small claims court. You just fill out this little piece of paper here and then we will send a notice to Bill Nichol and he will come in and we will see who is right and who is wrong and that is the idea that