

March 3, 1980

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of expense to our judicial system. I think it is an excellent amendment and would support it strongly at this time.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, again I am going to show my ignorance but I am going to ask Senator Johnson, I guess, some questions about this. What originally was the small claims court purpose?

SENATOR JOHNSON: I just sent a young man out to get a copy of the original bill but the original function of small claims is to give litigants with small minor issues an opportunity to go before a judge and tell their story and not have to bring in lawyers.

SENATOR KAHLE: Okay, now when we get through with this, and from what I have heard you say and some of the others about a jury trial, we have got clear away from the philosophy of the small claims court, have we not?

SENATOR JOHNSON: No, and that is such a terrible misapprehension of what is intended. We have gotten away from the philosophy of small claims court right now by allowing any defendant to remove that case. They will remove it because they have a lawyer and that then means the poor plaintiff has now got to get a lawyer to represent himself, and the only reason the trial by jury is in there is because I am afraid if I don't put those three words in there I have got an unconstitutional bill.

SENATOR KAHLE: Then I get to wondering who is going to pay the cost of the jury trial and this looks like a county cost or a local cost of some sort that is not now used, is that correct?

SENATOR JOHNSON: Jury trials are, at this time, the cost of jury trials are always borne by the State of Nebraska. That is just part of our overall system of justice. Those costs are not borne by litigants.

SENATOR KAHLE: Not even the cost of the attorney for the prosecution?

SENATOR JOHNSON: In the civil contacts, everybody pays his or her own lawyer. I mean that is the way it works right now.