

appointment of a lawyer to represent an incapacitated person and to make it a discretionary appointment by the court system. That amendment did carry. There were a few other changes that were made that were essentially innocuous changes to the bill. But I got thinking about that and thinking about that, and to me it is a very troublesome issue. It is the issue that I think is of central importance to this measure. It does not do this body a lot of good to carefully articulate rights for incapacitated people without assuring to those incapacitated people that those rights will be well argued in the court system. That is one reason we have lawyers and one reason we have appointed lawyers is to make certain that rights can be fully aired in the judicial process. If we remove from this legislation the mandatory appointment of counsel, if we remove it from this legislation, which is what 428 currently does, what we have done is we have set up a very fine framework in my opinion of solid rights for people who are haled before the county court and are thought to be incapacitated but we have left them essentially voiceless, we have left them without an attorney to represent their interests. You know over the long pull one of the things that we have done in society is we have tried to assure people whose liberty is about to be taken away that they will have a lawyer to represent them. We have done that in the criminal arena. We first started out in all capital offense cases and we said if you are charged with a capital offense then you have to have a lawyer appointed, then we did that with felony cases, if you are charged with a felony offense and you can go to jail you have to have a lawyer appointed. Then we did it with misdemeanor cases. We said if you are charged with a misdemeanor offense you can go to jail for even as short as one day, you have to have a lawyer appointed. Then we did it in juvenile court cases. We said if you are brought before the well intentioned, well meaning juvenile court, the purpose of which is not to label a juvenile as a criminal but simply to assist that juvenile, rehabilitate that juvenile, bring that juvenile into the wholesome system you have to have a lawyer appointed. We do that in mental illness cases. If you are haled before the mental commitment board and you are going to be charged with some type of mental illness and you have a possibility of being confined in a mental institution, you have to have a lawyer appointed. Now we get down to the guardianship area. The thing that you and I know about a guardianship is this. A guardianship effectively strips from the individual every civil right that individual has. That individual no longer has the freedom to deal with the