

✖ With the retirement of the 89-year-old John Paul Stevens, looking imminent, it's time for the Great Mentioner to, well, start mentioning. Legal Planet's own great mentioner, Dan Farber, [commenting at TPM](#) about the possibility of Solicitor General Elena Kagan getting the nod, observes

“It would be hard for Republicans to explain how they voted to confirm her for solicitor general without hesitation but she is now unacceptable[.]”

Dan, you couldn't have meant that, could you? There are two reasons why I engage in the [abnormally dangerous activity](#) of disagreeing with you:

- 1) It seems to me perfectly consistent to say that you will approve someone to serve as an executive branch official, but that you do not want to see them as a life-tenure Supreme Court justice. If I were a Senator, I could see myself voting for Ted Olson as SG but there is no way in hell I'd vote to confirm him for SCOTUS.
- 2) You assume that politicians in general, and Republicans in particular, place any value on intellectual consistency.. This is a group of people who in the same breath during the health care debate warned that Obama would a) cut Medicare; and b) bring out government-run health care.

What am I missing here?