

[Rollcall Vote No. 152 Leg.]

YEAS—49

Baldwin	Hickenlooper	Reed
Bennet	Hirono	Rosen
Blumenthal	Kaine	Schatz
Booker	Kelly	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Leahy	Smith
Carper	Lujan	Stabenow
Casey	Manchin	Tester
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warnock
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Ossoff	Wyden
Hassan	Padilla	
Heinrich	Peters	

NAYS—45

Barrasso	Ernst	Murkowski
Blackburn	Fischer	Paul
Blunt	Graham	Risch
Boozman	Grassley	Romney
Braun	Hagerty	Rubio
Burr	Hawley	Sasse
Capito	Hoeven	Scott (FL)
Cassidy	Hyde-Smith	Scott (SC)
Collins	Inhofe	Shelby
Cornyn	Johnson	Sullivan
Cotton	Kennedy	Thune
Cramer	Lankford	Toomey
Crapo	Lee	Tuberville
Cruz	Lummis	Wicker
Daines	McConnell	Young

NOT VOTING—6

Marshall	Portman	Sanders
Moran	Rounds	Tillis

The motion was agreed to.

The PRESIDING OFFICER (Mr. SCHATZ). The majority leader.

EXECUTIVE SESSION

MOTION TO DISCHARGE

Mr. SCHUMER. Mr. President, pursuant to S. Res. 27, the Judiciary Committee being tied on the question of reporting, I move to discharge the Senate Judiciary Committee from further consideration of the nomination of Vanita Gupta, of Virginia, to be Associate Attorney General.

The PRESIDING OFFICER. Under the provisions of S. Res. 27, there will now be up to 4 hours of debate on the motion, equally divided between the two leaders, or their designees, with no motions, points of order, or amendments in order.

Mr. SCHUMER. Thank you, Mr. President.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, I would like to ask the Chair for clarification. It is my understanding there is 4 hours of debate, evenly divided between the Democrats and Republicans, on the discharge petition.

The PRESIDING OFFICER. Yes, between the leaders or their designees.

Mr. DURBIN. And either side can yield back; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Thank you.

Mr. President, let me be the first to rise today on our side and say that I am in strong support of the nomination of Vanita Gupta to be the Associate Attorney General.

The Justice Department has not had a Senate-confirmed Associate Attorney General in over 3 years because President Trump never put forward a nominee. The No. 3 position in the Department of Justice has been virtually vacant of a Senate-confirmed nominee for 3 years.

That position, by definition, oversees the Department's civil litigation components. This is no small deal. It is a big deal. The Department of Justice needs and deserves to have full leadership in place.

Vanita Gupta will be the first woman of color and the very first civil rights attorney to serve as Associate Attorney General. This historic nominee is also exceptionally well qualified. She is a veteran of the Justice Department. She has a proven record of working across political and ideological lines to uphold the rule of law in a nonpartisan fashion. I don't believe President Biden could have picked a better nominee.

Vanita Gupta first joined the Justice Department shortly after the shooting death of Michael Brown by a police officer in Ferguson, MO. I remember it. I am sure many of my colleagues do as well. It was a difficult moment for many. As the head of the Department's Civil Rights Division, Ms. Gupta worked closely with all of the stakeholders involved in police reform: community leaders, civil rights leaders, and law enforcement.

Not only did Ms. Gupta implement meaningful reforms in Ferguson, MO, and other cities, but she did so by helping to repair the relationship between law enforcement and the communities they serve. Can you think of a better qualification at this moment in time in our history?

Sadly, in recent days, our Nation has been rocked by controversial police shootings. Vanita Gupta is exactly the type of person we need at the Justice Department at this very moment. One strong piece of evidence is the incredibly broad range of support her nomination has received. When you say the words "civil rights lawyer," you say, "Oh, way off on the left. I will bet she is out of touch with reality."

Not so. It is not just the civil rights groups that support her. Her nomination has the support of virtually every major law enforcement organization in the country. I want to repeat that because in the ensuing several hours, when we will discuss the discharge of her nomination, there will be assertions made which do not acknowledge the obvious.

Vanita Gupta has the support of virtually every major law enforcement organization in the country, including the Fraternal Order of Police, the National Sheriffs' Association, the Major Cities Chiefs Association, and the International Association of Chiefs of Police, just to name a few.

I can read numerous quotes from law enforcement groups praising Ms. Gupta. I am going to read one. In a letter to the Senate, David Mahoney,

President of the National Sheriffs' Association, said:

"I strongly believe that Ms. Gupta is exactly the type of leader who is needed in the Justice Department today. She possesses immense credibility among law enforcement leaders and community leaders."

Immense credibility, with both law enforcement and community leaders. Isn't that exactly the type of person we need in the Department of Justice at this moment in history?

It comes as no surprise when you look back on her background. Throughout her career, Ms. Gupta has worked across the partisan divide, forming broad coalitions to get things done when people said it was impossible. A great example of this is criminal justice reform. Over a number of years, Vanita Gupta partnered with numerous conservatives—certifiable, reported conservatives. Let me give you a couple names: Grover Norquist; Mark Holden, the former general counsel of Koch Industries.

These efforts helped lay the groundwork for the passage of the FIRST STEP Act, a bill which I worked on with Senator GRASSLEY, Senator LEE, Senator WHITEHOUSE, Senator CORNYN, a number of Democrats, CORY BOOKER included. We put together a bipartisan bill, signed into law by the President of the United States.

Vanita Gupta was part of that effort. She knew how to put Republicans and Democrats at the table and come up with a reasonable compromise. Isn't that exactly what we need at this moment in history?

The Judiciary Committee has received so many letters from Republicans supporting Ms. Gupta's nomination that I only have time to scratch the surface. Former Republican Congressman Tom Coleman, whom I served with in the House, put it very well. He represented Missouri's Sixth Congressional District for 16 years. He understood the challenge of Ferguson, and he understands the record of Vanita Gupta. Here is what he wrote: "Ms. Gupta is a person who seeks the common good, without concern for partisan gamesmanship."

He added: "I urge you, my former colleagues, to recognize the truth with respect to Vanita Gupta: She is an ideal public servant. She possesses wisdom and an ability to work across partisan lines."

Ms. Gupta has spent her career fighting to uphold the rule of law, almost always on behalf of those who had little power or little money. In her previous tenure at the Justice Department, Vanita Gupta undertook critically important work. In addition to police reform, she led efforts to prosecute human trafficking, combat religious discrimination, and protect the rights of servicemembers to ensure that they didn't have to be worried about being taken advantage of financially while they were protecting our Nation.

More recently, during her tenure at the Leadership Conference on Civil and Human Rights, Ms. Gupta led initiatives on voting rights, criminal justice reform, and the census.

Ms. Gupta began her career as a civil rights lawyer with the NAACP Legal Defense and Educational Fund. One of the first matters she worked on as a young attorney involved nearly 40 wrongfully convicted individuals in the small town of Tulia, TX. The individuals who had been wrongfully convicted were almost all African Americans, and they had been convicted of drug charges based solely on the false testimony of one corrupt, blatantly racist undercover police officer.

How about walking into that situation, trying to resolve that situation. She did. Despite being completely innocent, these individuals were sitting in jail, and their appeals had been rejected. Vanita Gupta took their case anyway.

As a result of her work, not only were these individuals exonerated, but they received pardons from the Republican Governor of Texas, Rick Perry, and Texas eventually paid out a \$6 million settlement. That is nothing short of a political miracle, and she achieved it by hard work, being smart as can be, and reaching out to both sides to find some area of agreement.

Ms. Gupta's commitment to ensure the equal protection of the law has been praised by Republicans and Democrats alike. Michael Chertoff, former Secretary of Homeland Security under President George Bush, said about Ms. Vanita Gupta in a letter to the Senate. "She is a relentless advocate for fairness and the rule of law."

How would you like to have that as the lead sentence of your legal biography: "a relentless advocate for fairness and the rule of law." How would we like to have a person like that in this administration, in the Department of Justice? Obviously, we would jump at the chance.

She is the right person at the right time. She will bring experience, dedication, and a nonpartisan approach to the role of Associate Attorney General, and I urge my colleagues to support her nomination.

Now, if you heard what I just said about Vanita Gupta, you might think: Why was this a tie vote in the Senate Judiciary Committee? First, it is an evenly divided committee: 11 Democrats, 11 Republicans. And there are a lot of things going on, on both sides of the table, when it comes to the final vote on nominees like this.

Several Republicans told me they might be leaning in her direction but they couldn't vote for her in the committee. I hope they will reconsider when it comes to the floor.

And there was another thing going on too. Rightwing groups were spending millions—millions—of dollars on television in Washington trying to attack the reputation and character of Vanita Gupta.

I think I have made it clear. Vanita Gupta is highly qualified and historic, with broad support from law enforcement and civil rights organizations, advocates across the political spectrum. She, clearly, on the merits, will be an outstanding Associate Attorney General.

But every step of the way, her detractors have tried to delay and obstruct her nomination. We saw that in our Judiciary Committee markup on March 25. I allowed committee Republicans to speak for 94 minutes about Ms. Gupta's nomination at markup. One Senator from Texas spoke for 29 minutes himself. I didn't cut him off.

But someone on the Republican side made the decision to invoke the 2-hour rule, a Senate rule that says that a committee cannot operate more than 2 hours after the Senate comes into session, to try to cut off the markup for the vote even before the vote.

I had received assurances earlier that the 2-hour rule would not be invoked, but at 11:55, with barely 5 minutes to spare, I was told the other side had changed their mind. Just as the previous two chairs of the committee, Senators Graham and Grassley, had done in the past, I ended debate, notwithstanding committee rule IV, and called for a vote on the nomination.

I won't go into a debate over committee rule IV other than to say it is a doomsday filibuster. Any Senator can object to the business in the Senate Judiciary Committee and virtually stop all proceedings indefinitely. There is no recourse.

I gave Republicans ample time to make their arguments in the committee. I was prepared to give them even more time until the 2-hour rule was invoked. But someone on the other side decided to force my hand. I had to act quickly.

I told Republicans in writing in a March 24 letter that we would hold a vote on Ms. Gupta's nomination the next day, and I meant it. In the future, I would be happy to limit the number of minutes that Senators can speak in order for all Senators to have an opportunity, but at this moment in time, we have to accept the obvious.

Vanita Gupta has been subjected to blatantly false attacks from many rightwingers and conservative, dark money groups. Republicans have falsely claimed that she supports defunding the police. Be prepared. You are going to hear this mantra again and again.

In reality, Gupta has the support of virtually every major law enforcement organization in America. Republicans have made false claims about Gupta's position on drugs. For example, the senior Senator from Texas alleged that Gupta previously advocated, "All drugs should be legal." In reality, Vanita Gupta has never advocated that all drugs should be legal. As the senior Senator from Texas knows, Gupta did write, 9 years ago, that she favored decriminalizing the "simple possession" of "small amounts" of marijuana and other drugs.

Take a look at what we have done with sentencing and drug crimes in America, even under the Trump administration.

At her hearing, Ms. Gupta was completely forthright in explaining that she changed her mind over the years in terms of decriminalizing drug possession, due in part to a family experience with opioid addiction.

Republicans have criticized Ms. Gupta's past statements on Twitter, despite the fact that they strongly supported President Donald Trump and many of his nominees, many of whom were just White males, who made such harsh statements in speeches and social media posts that they were legendary.

Republicans have argued that Gupta is radical and dangerous. In reality, Vanita Gupta has a career-long record of working closely with conservatives, business leaders and community leaders and law enforcement. That is why she has the support of so many prominent Republican leaders now.

I am looking forward to voting for her and to watching her serve in the Department of Justice. She will follow the trail that she set in her legal career, looking for solutions, bringing us together. Can you think of a moment in history in this country when we needed that more? I can't.

Every day we have these conflicting stories coming at us, from the courts in Minnesota on a question of George Floyd and the culpability for his death to a situation here in the Capitol, where we are honoring law enforcement when Officer Billy Evans of the Capitol Hill Police gave his life serving this country.

We are torn trying to find the right combination for law enforcement that is sensible and principled and humane. We need someone like Vanita Gupta at the table in the Department of Justice, leading. I hope her critics will have second thoughts.

Give this outstanding woman an opportunity to serve her country even more than she has in the past.

I yield the floor.

The PRESIDING OFFICER (Mr. PETERS). The Senator from Utah.

MOTION TO DISCHARGE

Mr. GRASSLEY. Mr. President, right now, I just want to speak about the motion to discharge as opposed to whether people should vote for or against Gupta.

I am opposed to this effort to discharge Gupta from the Judiciary Committee. In fact, it is not properly in order. In theory, we are moving this nomination because it failed in Committee by an even, tie vote. But that vote should never have been called, and it was improper when it was.

Under the committee rules, members have a right to unlimited debate. This can only be stopped either by a bipartisan vote to end debate under the rules or by a vote of the majority of the committee to set a time certain to vote under precedent. Because Republicans at Ms. Gupta's markup wanted