WORLD

SCOTT MCINTYRE FOR THE NEW YORK TIMES

A polling place in Orlando, Fla. A referendum in Florida ended some of the harshest voting restrictions in the United States for those with criminal records.

A second chance for ex-felons

ORLANDO, FLA.

Floridians pass measure restoring right to vote to most who completed terms

BY FRANCES ROBLES

As soon as he turned 18, Keith R. Ivey got a voter registration card and tucked it into his wallet. He's 46 now and has never used it.

Mr. Ivey, the co-owner of a used-car lot in Jacksonville, Fla., is one of the more than 1 million Floridians whose felony convictions prevented them from voting. "You want to be involved, and you're not involved," Mr. Ivey said, thinking about nail-biter elections he has watched from the sidelines because he served eight years for grand theft.

No longer. On Election Day, Florida voters approved an amendment to the state Constitution to restore the voting rights of those with felony convictions who have served their sentences, as long as the crime committed was not murder or sexual abuse.

Florida has become known for its razor-thin election margins, and exactly how the change will affect the state's politics nobody knows for sure. What is clear is that the state created a potential pool of a million-plus voters overnight. Some experts suggested that a new stream of Democratic voters might emerge from the referendum, called Amendment 4, but others doubted that one party would automatically benefit.

"I do think that Amendment 4 is going to transform Florida forever, but nobody really knows exactly how and when, because nobody has a good understanding of what the political leanings are of 1.4 million people who have completed all the terms of their sentences," said Howard Simon, executive director of the American Civil Liberties Union of Florida.

Over the past two decades, other states have enacted similar reforms, either through executive actions or ballot initiatives. Alabama reduced the kinds of crimes that could disqualify someone from voting, and California restored voting to people on probation. Maryland now allows people on probation and parole to vote, and the former Democratic governor of Virginia, Terry McAuliffe,

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Yvette Demerit of Miami wearing buttons that read "Believe in second chances" in support of Florida's Amendment 4, which restored voting rights to most ex-felons.

restored voting rights to nearly 175,000 people.

Florida was one of just three remaining states — the others being Iowa and Kentucky — that prevented people with felony records from voting.

The change in Florida was long in the making. Crisscrossing the state with a message of redemption were volunteers from a broad coalition that included advocacy groups, Christian organizations, the League of Women Voters, criminal justice experts and, of course, those who had been convicted of felonies.

"Now I feel like a part of society. I wanted to voice my opinion, but I couldn't. It didn't matter what I felt. Now it does."

By persuading Floridians to change the ban, the groups accomplished what a class-action lawsuit and various legislative attempts could not.

A key nonpartisan campaign point was the idea of second chances. Advocates released a series of videos — Mr. Ivey starred in one — that presented the state's ban as unfair to taxpaying Floridians who had criminal records.

"We believe that when a debt is paid, it's paid," said Neil G. Volz, the political director of the Florida Rights Restoration Coalition. "People could unite behind that." Mr. Volz, a former Republican lobbyist, spoke of his own criminal record after pleading guilty in the 2006 Jack Abramoff lobbying scandal.

Those who won the right to vote on Tuesday said the change made them feel far more connected.

"Now I feel like a part of society," said Clarence Office Jr., 61, a former addict with a long criminal record who has been out of trouble for a decade and is now getting his master's degree in public administration. "I wanted to voice my opinion, but I couldn't. It didn't matter what I felt. Now it does."

Mr. Office works at the Department of Veterans Affairs in Miami, where he does outreach with military veterans accused of crimes. He said many veterans would return from war, get into a fight or become involved with drugs and suddenly find out they could no longer vote.

"They'd say, 'I can serve my country, go fight in Vietnam, go to Afghanistan, risk my life, come here and get in trouble over marijuana, and even though I did all these other things right, I can't vote.'"

Karen L. Leicht, 61, who served 28 months in federal prison for conspiracy to commit insurance fraud, said it was relatively easy for someone who has done a crime to be labeled a felon.

She prefers to call them "returning citizens."

"Any crime over $300 is a felony," she said. "Three times with a suspended license and you're a felon."

Civil rights groups said the banning of those with criminal records was a legacy of the Jim Crow eras. Even now, they noted, black Floridians of voting age were disproportionately affected.

Ms. Leicht, who is white, joined the speaking circuit and filmed a video too. She said she did so as part of a strategy to show Floridians that the ban affected people of all races. In fact, 70 percent of those convicted of felonies in the state are not African-American, Mr. Volz said.

"I would go speak to the Republican women's groups and they would look at me and say, 'It's not fair you can't vote!'" she said.

Richard A. Harrison, executive director of Floridians for a Sensible Voting Rights Policy, opposed the campaign with speaking engagements of his own. He criticized the measure because it replaced the previous state policy that allowed people with felony convictions to apply for clemency on a case-by-case basis. He feared that those with serious records would be serving on juries and running for office next.

"In Florida, felons were not allowed to vote historically because people who demonstrated a willingness to break the law shouldn't be allowed to make the law for the rest of us," said Mr. Harrison, a Tampa lawyer.

Myrna Pérez, the director of the Voting Rights and Elections Project at the Brennan Center for Justice at New York University, which filed a lawsuit against Florida's voting ban 18 years ago, said the origins were a bit more sinister than that. The ban began right after the 15th Amendment to the United States Constitution forced Florida to give freed slaves the right to vote. The drafters of the state's constitution looked to create loopholes.

Even with the new amendment, Florida still has among the strictest voting rules in the country because it excludes murderers and sex offenders. The new amendment would go into effect in January. Now advocates will begin a campaign to get people to register.

"Florida is an outlier among outliers," Ms. Pérez said. The ban was "so extreme and so contrary to the American understanding of second chances and being able to redeem yourself that people from all walks of life were able to point to it and say, 'That doesn't seem right.'"

A Justice Dept. boss who disdains courts

WASHINGTON

Acting attorney general has also expressed doubts about Trump investigation

BY CHARLIE SAVAGE

The United States acting attorney general, Matthew G. Whitaker, once espoused the view that the courts "are supposed to be the inferior branch" and criticized the Supreme Court's power to review legislative and executive acts and declare them unconstitutional, the lifeblood of its existence as a coequal branch of government.

In a Q. and A. when he sought the Republican nomination for senator in Iowa in 2014, Mr. Whitaker indicated that he shared the belief among some conservatives that the federal judiciary has too much power over public policy. He criticized many of the Supreme Court's rulings, beginning with a foundational one: Marbury v. Madison, which established its power of judicial review in 1803.

"There are so many" bad rulings, Mr. Whitaker said. "I would start with the idea of Marbury v. Madison. That's probably a good place to start and the way it's looked at the Supreme Court as the final arbiter of constitutional issues."

The interview was among evidence that shed new light on Mr. Whitaker's views, including disparagement of the Russia investigation, which he now oversees, and an expansive view of presidential power. Congressional aides, journalists and other observers scoured his record after Mr. Trump fired Attorney General Jeff Sessions on Wednesday and replaced him with Mr. Whitaker, instantly raising questions about whether the president wanted a loyalist in charge at the Justice Department with the power to end the Russia investigation.

Groups throughout the nation marched on Thursday to support the inquiry of Robert S. Mueller III, the special counsel, and to protest Mr. Whitaker's appointment. Thousands demonstrated in dozens of cities, including in Washington, Philadelphia, Omaha and Salt Lake City.

In New York, about 4,000 people marched from Times Square to Union Square, the police said.

Though Democrats called on Mr. Whitaker to recuse himself from overseeing the investigation into Russian interference in the 2016 election and whether any of Mr. Trump's associates conspired, the Justice Department has said he will supervise Mr. Mueller. Past statements suggest that Mr. Whitaker has already made up his mind that the investigation will fail to show that Mr. Trump or his advisers aided Russia's disruption.

"The truth is there was no collusion with the Russians and the Trump campaign," Mr. Whitaker said in an interview on "The Wilkow Majority," a conservative political talk radio show, in summer 2017. His remarks were reported earlier by The Daily Beast. "There was interference by the Russians into the election, but that is not collusion with the campaign," he added, views that dovetailed with Mr. Trump's longstanding complaints about the inquiry. "That's where the left seems to be just combining those two issues."

He also argued last year that the president could not have obstructed justice by asking the F.B.I. director, James B. Comey, to end an investigation into his first national security adviser, a broad notion of executive power that Mr. Trump's lawyers have also embraced. Mr. Whitaker dismissed the outcry over Mr. Trump's request as overkill during a radio interview in June 2017 on the conservative "David Webb Show."

"This hyperventilation of what we see here is just, I don't think, sustainable based on these facts," he said in comments reported earlier by Mother Jones. And he once said Mr. Mueller's appointment "smells a little fishy," according to a radio segment unearthed by CNN.

While the Justice Department was treating Mr. Whitaker's installation as acting attorney general as a done deal, prominent legal experts insisted that it was unconstitutional. Justice Department officials have pointed to the Vacancies Reform Act, a law that Congress passed in 1998, which set out the procedures that Mr. Trump used to name Mr. Whitaker as acting attorney general without Senate confirmation.

But only someone whom the Senate has confirmed can run the Justice Department, even on an interim basis, according to an opinion column in The New York Times by Neal K. Katyal, a former acting solicitor general in the Obama administration, and George T. Conway III, a conservative lawyer who is married to Mr. Trump's adviser Kellyanne Conway. "We cannot tolerate such an evasion of the Constitution's very explicit, textually precise design," they wrote, adding, "For the president to install Mr. Whitaker as our chief law enforcement officer is to betray the entire structure of our charter document."

Before joining the Trump administration last fall, Mr. Whitaker sat on the advisory board of a patent marketing company in Florida that was shut down and ordered this year to pay consumers nearly $26 million. The Federal Trade Commission accused the company, World Patent Marketing, of bilking thousands of customers who believed they were receiving patents.

But Mr. Whitaker's answers to the 2014 Senate candidate questionnaire offered the broadest look at his approach to government and the law, showing that he holds strongly conservative views across a range of issues. The answers were published by the journalist Jacob Hall on the Caffeinated Thoughts website alongside answers by the other Republican primary contenders.

CHARLIE NEIBERGALL/ASSOCIATED PRESS

The United States acting attorney general, Matthew G. Whitaker, in 2014.

Mr. Hall said he had interviewed Mr. Whitaker over the phone, writing down his answers. A spokeswoman for the Justice Department declined to comment.

Mr. Whitaker's criticism of Marbury aligned with the view of some conservatives that the 1803 case — or at least how it came to be interpreted — gave the courts too much power to strike down laws. But Mr. Whitaker also criticized famous decisions in which the Supreme Court declined to strike down laws that conservatives do not like, including 1930s cases involving President Franklin D. Roosevelt's New Deal programs and the 2012 case in which the court declined to strike down President Barack Obama's health insurance law.

Laurence H. Tribe, a constitutional law professor at Harvard Law School, said that Mr. Whitaker's expressed views of the Constitution and the role of the courts "are extreme and the overall picture he presents would have virtually no scholarly support" and would be "destabilizing" to society if he used the power of the attorney general to advance them.

Simultaneously criticizing the Supreme Court's power of judicial review while criticizing cases where it declined to strike down laws regulating economic and health insurance matters was a sign of an "internally contradictory" and "ignorant" philosophy, Mr. Tribe said.

"He seems to think much of the fabric of federal law that is part of our ordinary lives violates the Constitution of the United States to which he is evidently going to take an oath," Mr. Tribe said.

Andrew R. Chow contributed reporting from New York.