

ministering a trust for the benefit of persons who can trace their ancestry to Hawaiian inhabitants of 1778.<sup>9</sup>

**Grandfather Clauses.**—Until quite recently, the history of the Fifteenth Amendment has been largely a record of belated judicial condemnation of various state efforts to disenfranchise African-Americans either overtly through statutory enactment or covertly through inequitable administration of electoral laws and toleration of discriminatory membership practices of political parties. Of several devices that have been held unconstitutional, one of the first was the “grandfather clause.” Beginning in 1895, several states enacted temporary laws whereby persons who had been voters, or descendants of those who had been voters, on January 1, 1867, could be registered notwithstanding their inability to meet any literacy requirement. Unable because of the date to avail themselves of the exemption, African-Americans were disabled to vote on grounds of illiteracy or through discriminatory administration of literacy tests, while illiterate whites were permitted to register without taking any tests. With the achievement of the intended result, most states permitted their laws to lapse, but Oklahoma’s grandfather clause had been enacted as a permanent amendment to the state constitution. A unanimous Court condemned the device as recreating and perpetuating “the very conditions which the [Fifteenth] Amendment was intended to destroy.”<sup>10</sup>

The Court did not experience any difficulty in voiding a subsequent Oklahoma statute of 1916 that provided that all persons, except those who voted in 1914, who were qualified to vote in 1916 but who failed to register between April 30 and May 11, 1916, with some exceptions for sick and absent persons who were given an additional brief period to register, should be perpetually disenfranchised. The Fifteenth Amendment, Justice Frankfurter declared for the Court, nullified “sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.”<sup>11</sup> The impermissible effect of the statute, the Court said, was automatically to continue as permanent voters, without their being obliged to register again, all white persons who were on registration lists in 1914 by virtue of the previously invalidated grandfather clause, whereas African-Americans, prevented from registering by that clause, had been afforded only a 20-day registration opportunity to avoid permanent disenfranchisement.

<sup>9</sup> Rice v. Cayetano, 528 U.S. 495, 514 (2000).

<sup>10</sup> Guinn v. United States, 238 U.S. 347 (1915).

<sup>11</sup> Lane v. Wilson, 307 U.S. 268, 275 (1939).