SUPREME COURT OF THE UNITED STATES

No. 91-781

UNITED STATES, PETITIONER *v.* A PARCEL OF LAND, BUILDINGS, APPURTENANCES AND IMPROVEMENTS, KNOWN AS 92 BUENA VISTA AVENUE, RUMSON, NEW JERSEY, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[February 24, 1993]

JUSTICE STEVENS announced the judgment of the Court and delivered an opinion, in which JUSTICE BLACKMUN, JUSTICE O'CONNOR, and JUSTICE SOUTER join.

The question presented is whether an owner's lack of knowledge of the fact that her home had been purchased with the proceeds of illegal drug transactions constitutes a defense to a forfeiture proceeding under The Comprehensive Drug Abuse Prevention and Control Act of 1970, §511(a), 84 Stat. 1276, as amended, 21 U. S. C. §881(a)(6).[1]

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[1]The statute provides:

"The following shall be subject to forfeiture to the United States and no property right shall exist in them:

. . . . .

"(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of [21 U. S. C. §§801-904], all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to

On April 3, 1989, the Government filed an *in rem* action against the parcel of land in Rumson, New Jersey, on which respondent's home is located. The verified complaint alleged that the property had been purchased in 1982 by respondent with funds provided by Joseph Brenna that were "the proceeds traceable to an [unlawful] exchange for a controlled substance," App. 13, and that the property was therefore subject to seizure and forfeiture under §881(a)(6). *Id.,* at 15.[2]

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facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner."

[2]See n. 1, *supra*. The complaint also alleged that the property had been used in 1986 to facilitate the distribution of proceeds of an illegal drug transaction, and was therefore subject to forfeiture pursuant to §881(a)(7), which provides:

"The following shall be subject to forfeiture to the United States and no property right shall exist in them:

. . . . .

"(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment, except that

On April 12, 1989, in an *ex parte* proceeding, the District Court determined that there was probable cause to believe the premises were subject to forfeiture, and issued a summons and warrant for arrest authorizing the United States Marshal to take possession of the premises. Respondent thereafter asserted a claim to the property, was granted the right to defend the action,[3] and filed a motion for summary judgment.

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no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner."

No issue concerning the Government's claim under subparagraph (7) is presented before us.

[3]The United States Marshals Service entered into an agreement with respondent that allows her to remain in possession of the property pending the outcome of the litigation.

During pretrial proceedings, the following facts were established. In 1982, Joseph Brenna gave respondent approximately $240,000 to purchase the home that she and her three children have occupied ever since. Respondent is the sole owner of the property. From 1981 until their separation in 1987, she maintained an intimate personal relationship with Brenna. There is probable cause to believe that the funds used to buy the house were proceeds of illegal drug trafficking, but respondent swears that she had no knowledge of its origins.

Among the grounds advanced in support of her motion for summary judgment was the claim that she was an "innocent owner" within the meaning of §881(a)(6). The District Court rejected this defense for two reasons: First it ruled that "the innocent owner defense may only be invoked by those who can demonstrate that they are bona fide *purchasers for value*" (emphasis in original).[4] Second, the court read the statute to offer the innocent owner defense only to persons who acquired an interest in the property before the acts giving rise to the forfeiture

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[4]"I find that the claimant cannot successfully invoke the `innocent owner' defense here, because she admits that she received the proceeds to purchase the premises as a *gift* from Mr. Brenna. More particularly, I find that where, as here, the government has demonstrated probable cause to believe that property is traceable to proceeds from drug transactions, the innocent owner defense may only be invoked by those who can demonstrate that they are bona fide *purchasers for value*." 738 F. Supp. 854, 860 (NJ 1990).

took place.[5]

Respondent was allowed to take an interlocutory appeal pursuant to 28 U. S. C. §1292(b). One of the controlling questions of law presented to the Court of Appeals was:

> "Whether an innocent owner defense may be asserted by a person who is not a bona fide purchaser for value concerning a parcel of land where the government has established probable cause to believe that the parcel of land was purchased with monies traceable to drug proceeds." 742 F. Supp. 189, 192 (NJ 1990).

Answering that question in the affirmative, the Court of Appeals remanded the case to the District Court to determine whether respondent was, in fact, an innocent owner. The Court of Appeals refused to limit the innocent owner defense to bona fide purchasers for value because the plain language of the statute contains no such limitation,[6] because it

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[5]"In particular, the `innocent owner defense' at issue provides that `no property shall be forfeited . . . to the extent of the interest of *an owner*, by reason of any act or omission . . . committed or omitted without the knowledge or consent of *that owner*.' 21 U. S. C. §881(a)(6) (emphasis supplied). This language implies that the acts or omissions giving rise to forfeiture must be committed *after* the third party acquires a legitimate ownership interest in the property." *Ibid.* (Emphasis in original.)

[6]"Despite the appeal of this analysis, the plain language of the innocent owner provision speaks only in terms of an `owner' and in no way limits the term

read the legislative history as indicating that the term "owner" should be broadly construed,[7] and because the difference between the text of §881(a)(6) and the text of the criminal forfeiture statute evidenced congressional intent not to restrict the civil section in the same way.[8]

The Court of Appeals also rejected the argument that respondent could not be an innocent owner unless she acquired the property before the drug transaction occurred. In advancing that argument the Government had relied on the "relation back" doctrine embodied in §881(h), which provides that "[a]ll right, title and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to

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`owner' to a bona fide purchaser for value." 937 F. 2d 98, 101 (CA3 1991).

[7]"Furthermore, in *United States* v. *Parcel of Real Property Known as 6109 Grubb Road*, 886 F. 2d 618 (3d Cir. 1989), we determined, after reviewing the legislative history of section 881(a)(6), that `the term "owner" should be broadly interpreted to include any person with a recognizable legal or equitable interest in the property seized.' *Id.* at 625 n. 4 (quoting 1978 U. S. Code Cong. & Admin. News at 9522–23)." *Id.*, at 101–102.

[8]"Moreover, as the district court pointed out, the criminal forfeiture statute, section 853, is explicitly limited to bona fide purchasers for value, while in section 881 Congress omitted such limiting language. We believe that such a difference was intended by Congress." *Ibid.*

forfeiture under this section." The court held that the relation back doctrine applied only to "property described in subsection (a)" and that the property at issue would not fit that description if respondent could establish her innocent owner defense. The court concluded that the Government's interpretation of §881(h) "would essentially serve to emasculate the innocent owner defense provided for in section 881(a)(6). No one obtaining property after the occurrence of the drug transaction—-including a bona fide purchaser for value—-would be eligible to offer an innocent owner defense on his behalf." 937 F. 2d 98, 102 (CA3 1991) at 9a.

The conflict between the decision of the Court of Appeals and decisions of the Fourth and Tenth Circuits, see *In re One 1985 Nissan,* 889 F. 2d 1317 (CA4 1989); *Eggleston* v. *Colorado*, 873 F. 2d 242, 245–248 (CA10 1989), led us to grant certiorari, 503 U. S. ___ (1992). We now affirm.

Laws providing for the official seizure and forfeiture of tangible property used in criminal activity have played an important role in the history of our country. Colonial courts regularly exercised jurisdiction to enforce English and local statutes authorizing the seizure of ships and goods used in violation of customs and revenue laws.[9] Indeed, the misuse of

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[9]"Long before the adoption of the Constitution the common law courts in the Colonies—-and later in the states during the period of Confederation—-were exercising jurisdiction *in rem* in the enforcement of forfeiture statutes. Like the Exchequer, in cases of seizure on navigable waters they exercised a jurisdiction concurrently with the courts

the hated general warrant is often cited as an important cause of the American Revolution.[10]

The First Congress enacted legislation authorizing the seizure and forfeiture of ships and cargos involved in customs offenses.[11] Other statutes authorized the seizure of ships engaged in piracy.[12] When a ship was engaged in acts of "piratical aggression," it was subject to confiscation

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of admiralty. But the vice-admiralty courts in the Colonies did not begin to function with any real continuity until about 1700 or shortly afterward. See Andrews, Vice-Admiralty Courts in the Colonies, in Records of the Vice-Admiralty Court of Rhode Island, 1617–1752 (ed. Towle, 1936), p. 1; Andrews, The Colonial Period of American History, vol. 4, ch. 8; Harper, The English Navigation Laws, ch. 15; Osgood, the American Colonies in the 18th Century, vol. 1, pp. 185–222, 299–303. By that time, the jurisdiction of common law courts to condemn ships and cargoes for violation of the Navigation Acts had been firmly established, apparently without question, and was regularly exercised throughout the colonies. In general the suits were brought against the vessel or article to be condemned, were tried by jury, closely followed the procedure in Exchequer, and if successful resulted in judgments of forfeiture or condemnation with a provision for sale." *C. J. Hendry Co.* v. *Moore*, 318 U. S. 133, 139–140 (1943) (footnotes omitted).

[10]Writing for the Court in *Stanford* v.

notwithstanding the innocence of the owner of the vessel.[13] Later statutes involved the seizure and forfeiture of distilleries and other property used to defraud the United States of tax revenues from the sale of alcoholic beverages. See, *e.g.*, *United States* v. *Stowell*, 133 U. S. 1, 11–12 (1890). In these cases, as in the piracy cases, the innocence of the owner of premises leased to a distiller would not defeat a

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Texas, 379 U. S. 476, 481–482 (1965). Justice Stewart explained: "Vivid in the memory of the newly independent Americans were those general warrants known as writs of assistance under which officers of the Crown had so bedeviled the colonists. The hated writs of assistance had given customs officials blanket authority to search where they pleased for goods imported in violation of the British tax laws. They were denounced by James Otis as `the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English law book,' because they placed `the liberty of every man in the hands of every petty officer.' The historic occasion of that denunciation, in 1761 at Boston, has been characterized as `perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the mother country. "Then and there," said John Adams, "then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was

decree of condemnation based on the fraudulent conduct of the lessee.[14]

In all of these early cases the Government's right to take possession of property stemmed from the misuse of the property itself. Indeed, until our decision in *Warden v. Hayden*, 387 U. S. 294 (1967), the Government had power to seize only property that "`the private citizen was not permitted to

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born."' *Boyd* v. *United States*, 116 U. S. 616, 625."

[11]See *e.g.*, §§12, 36, 1 Stat. 39, 47; §§13, 14, 22, 27, 67, 1 Stat. 157–159, 161, 163–164, 176.

[12]See *The Palmyra*, 12 Wheat. 1, 8 (1827).

[13]"The next question is, whether the innocence of the owners can withdraw the ship from the penalty of confiscation under the act of Congress. Here, again, it may be remarked that the act makes no exception whatsoever, whether the aggression be with or without the co-operation of the owners. The vessel which commits the aggression is treated as the offender, as the guilty instrument or thing to which the forfeiture attaches, without any reference whatsoever to the character or conduct of the owner. The vessel or boat (says the act of Congress) from which such piratical aggression, &c., shall have been first attempted or made shall be condemned. Nor is there any thing new in a provision of this sort. It is not an uncommon course in the admiralty, acting under the law of nations, to treat the vessel in which or by which, or by the

possess.'"[15] The holding in that case that the Fourth Amendment did not prohibit the seizure of "mere evidence" marked an important expansion of governmental power. See *Zurcher v. Stanford Daily*, 436 U. S. 547, 577–580 (1978) (STEVENS, J., dissenting).

The decision by Congress in 1978 to amend the Comprehensive Drug Abuse Prevention and Control

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master or crew thereof, a wrong or offense has been done as the offender, without any regard whatsoever to the personal misconduct or responsibility of the owner thereof. And this is done from the necessity of the case, as the only adequate means of suppressing the offense or wrong, or insuring an indemnity to the injured party. The doctrine also is familiarly applied to cases of smuggling and other misconduct under our revenue laws; and has been applied to other kindred cases, such as cases arising on embargo and non-intercourse acts. In short, the acts of the master and crew, in cases of this sort, bind the interest of the owner of the ship, whether he be innocent or guilty; and he impliedly submits to whatever the law denounces as a forfeiture attached to the ship by reason of their unlawful or wanton wrongs." *United States* v. *Brig Malek Adhel*, 2 How. 210, 233–234 (1844).

[14]"Beyond controversy, the title of the premises and property was in the claimant; and it is equally certain that he leased the same to the lessee for the purposes of a distillery, and with the

Act of 1970, 84 Stat. 1236, to authorize the seizure and forfeiture of proceeds of illegal drug transactions, see 92 Stat. 3777, also marked an important expansion of governmental power.[16] Before that amendment, the statute had authorized forfeiture of only the illegal substances themselves and the instruments by which they were manufactured and

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knowledge that the lessee intended to use the premises to carry on that business, and that he did use the same for that purpose.

"Fraud is not imputed to the owner of the premises; but the evidence and the verdict of the jury warrant the conclusion that the frauds charged in the information were satisfactorily proved, from which it follows that the decree of condemnation is correct, if it be true, as heretofore explained, that it was the property and not the claimant that was put to trial under the pleadings; and we are also of the opinion that the theory adopted by the court below, that, if the lessee of the premises and the operator of the distillery committed the alleged frauds, the government was entitled to a verdict, even though the jury were of the opinion that the claimant was ignorant of the fraudulent acts or omissions of the distiller." *Dobbins's Distillery* v. *United States*, 96 U. S. 395, 403–404 (1878).

[15]"Thus stolen property—the fruits of crime—was always subject to seizure. And the power to search for stolen

distributed.[17] The original forfeiture provisions of the 1970 statute had closely paralleled the early statutes used to enforce the customs laws, the piracy laws, and the revenue laws: They generally authorized the forfeiture of property used in the commission of criminal activity, and they contained no innocent owner defense. They applied to stolen goods, but they did not apply to proceeds from the sale of stolen

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property was gradually extended to cover `any property which the private citizen was not permitted to possess,' which included instrumentalities of crime (because of the early notion that items used in crime were forfeited to the State) and contraband. Kaplan, Search and Seizure: A No-Man's Land in the Criminal Law, 49 Calif. L. Rev. 474, 475. No separate governmental interest in seizing evidence to apprehend and convict criminals was recognized; it was required that some property interest be asserted. The remedial structure also reflected these dual premises. Trespass, replevin, and the other means of redress for persons aggrieved by searches and seizures, depended upon proof of a superior property interest. And since a lawful seizure presupposed a superior claim, it was inconceivable that a person could recover property lawfully seized." *Warden* v. *Hayden*, 387 U. S. 294, 303–304 (1967).

[16]A precedent for this expansion had been established in 1970 by the Racketeer Influenced and Corrupt Organizations Act (RICO), see 18 U. S. C. §1963(a). Even

goods. Because the statute, after its 1978 amendment, does authorize the forfeiture of such proceeds and also contains an express and novel protection for innocent owners, we approach the task of construing it with caution.

The Court of Appeals correctly concluded that the protection afforded to innocent owners is not limited

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RICO, however, did not specifically provide for the forfeiture of "proceeds" until 1984, when Congress added §1963(a)(3) to resolve any doubt whether it intended the statute to reach so far. See S. Rep. No. 98–225, pp. 191–200 (1983); *Russello* v. *United States*, 464 U. S. 16 (1983).

[17]Section 511(a) of the 1970 Act, 84 Stat. 1276, provided:

"The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this title.

"(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this title.

"(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

"(4) All conveyances, including

to bona fide purchasers. The text of the statute is the strongest support for this conclusion. The statute authorizes the forfeiture of moneys exchanged for a controlled substance, and "all proceeds traceable to such an exchange," with one unequivocal exception:

> "[N]o property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission

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aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that—-

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this title or title III; and

"(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

"(5) All books, records, and research, including formulas, microfilm, tapes, and

established by that owner to have been committed or omitted without the knowledge or consent of that owner." 21 U. S. C. §881(a)(6).

The term "owner" is used three times and each time it is unqualified. Such language is sufficiently unambiguous to foreclose any contention that it applies only to bona fide purchasers. Presumably that explains why the Government does not now challenge this aspect of the Court of Appeals' ruling.

That the funds respondent used to purchase her home were a gift does not, therefore, disqualify respondent from claiming that she is an owner who had no knowledge of the alleged fact that those funds were "proceeds traceable" to illegal sales of controlled substances. Under the terms of the statute, her status would be precisely the same if, instead of having received a gift of $240,000 from Brenna, she had sold him a house for that price and used the proceeds to buy the property at issue.

Although the Government does not challenge our interpretation of the statutory term "owner", it insists that respondent is not the "owner" of a house she bought in 1982 and has lived in ever since. Indeed, it contends that she never has been the owner of this parcel of land because the statute vested ownership in the United States at the moment when the proceeds of an illegal drug transaction were used to pay the purchase price. In support of its position, the Government relies on both the text of the 1984 amendment to the statute and the common-law relation back doctrine. We conclude, however, that neither the amendment nor the common-law rule makes the Government an owner of property before forfeiture has been decreed.

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data which are used, or intended for use, in violation of this title."

In analyzing the Government's relation back argument, it is important to remember that respondent invokes the innocent owner defense against a claim that *proceeds* traceable to an illegal transaction are forfeitable. The Government contends that the money that Brenna received in exchange for narcotics became Government property at the moment Brenna received it and that respondent's house became Government property when that tainted money was used in its purchase. Because neither the money nor the house could have constituted forfeitable proceeds until after an illegal transaction occurred, the Government's submission would effectively eliminate the innocent owner defense in almost every imaginable case in which proceeds could be forfeited. It seems unlikely that Congress would create a meaningless defense. Moreover, considering that a logical application of the Government's submission would result in the forfeiture of property innocently acquired by persons who had been paid with illegal proceeds for providing goods or services to drug traffickers,[18] the burden of persuading us that Congress intended such an inequitable result is especially heavy.

The Government recognizes that the 1984 amendment did not go into effect until two years

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[18]At oral argument the Government suggested that a narrow interpretation of the word "proceeds" would "probably" prevent this absurdity, see Tr. of Oral Arg. 27. The Government's brief, however, took the unequivocal position that the statute withholds the innocent owner defense from anyone who acquires proceeds after the illegal transaction took place. See Brief for United States 10, 21, 25, 27.

after respondent acquired the property at issue in this case. It therefore relies heavily on the common-law relation back doctrine applied to *in rem* forfeitures. That doctrine applied the fiction that property used in violation of law was itself the wrongdoer that must be held to account for the harms it had caused.[19] Because the property, or "res", was treated as the wrongdoer, it was appropriate to regard it as the actual party to the *in rem* forfeiture proceeding. Under the relation back doctrine, a decree of forfeiture had the effect of vesting title to the offending res in the Government as of the date of its offending conduct. Because we are not aware of any common-law precedent for treating proceeds traceable to an unlawful exchange as a fictional wrongdoer subject to forfeiture, it is not entirely clear that the common-law relation back doctrine is applicable. Assuming that the doctrine does apply, however, it is nevertheless clear that under the common-law rule the fictional and retroactive vesting was not self-executing.

Chief Justice Marshall explained that forfeiture does not automatically vest title to property in the Government:

> "It has been proved, that in all forfeitures accruing at common law, nothing vests in the government until some legal step shall be taken for the assertion of its right, after which, for many purposes, the doctrine of relation carries back the title to the commission of the offence." *United States* v. *Grundy,* 3 Cranch 337, 350–351 (1806).[20]

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[19]See *Calero-Toledo* v. *Pearson Yacht Leasing Co.*, 416 U. S. 663, 680–684 (1974).

[20]In his dissent, JUSTICE KENNEDY advocates the adoption of a new common law rule that would avoid the need to construe the

The same rule applied when a statute (a statute that contained no specific relation back provision) authorized the forfeiture. In a passage to which the Government has referred us,[21] we stated our understanding of how the Government's title to forfeited property relates back to the moment of forfeitability:

> "By the settled doctrine of this court, whenever a statute enacts that upon the commission of a

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terms of the statute that created the Government's right to forfeit proceeds of drug transactions. Under his suggested self-executing rule, patterned after an amalgam of the law of trusts and the law of secured transactions, the Government would be treated as the owner of a secured or beneficial interest in forfeitable proceeds even before a decree of forfeiture is entered. The various authorities that he cites support the proposition that *if* such an interest exists, it may be extinguished by a sale to a bona fide purchaser; they provide no support for the assumption that such an interest springs into existence independently. As a matter of common law, his proposal is inconsistent with Chief Justice Marshall's statement that "nothing vests in the government until some legal step shall be taken," and with the cases cited by JUSTICE SCALIA, *post*, at 2. As a matter of statutory law, it is improper to rely on §881(a) as the source of the government's interest in proceeds without also giving effect to the statutory language defining the scope of that interest. That a statutory

certain act specific property used in or connected with that act shall be forfeited, the forfeiture takes effect immediately upon the commission of the act; the right to the property then vests in the United States, *although their title is not perfected until judicial condemnation*; the forfeiture constitutes a statutory transfer of the right to the United States at the time the offence is

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provision contains "puzzling" language, or seems unwise, is not an appropriate reason for simply ignoring its text.

JUSTICE KENNEDY'S dramatic suggestion that our construction of the 1984 amendment "rips out," *post*, at 7, the "centerpiece of the nation's drug enforcement laws," *post*, at 5, rests on what he characterizes as the "safe" assumption that the innocent owner defense would be available to "an associate" of a criminal who could "shelter the proceeds from forfeiture, to be reacquired once he is clear from law enforcement authorities." *Post*, at 6. As a matter of fact, forfeitable proceeds are much more likely to be possessed by drug dealers themselves than by transferees sufficiently remote to qualify as innocent owners; as a matter of law, it is quite clear that neither an "associate" in the criminal enterprise nor a temporary custodian of drug proceeds would qualify as an innocent owner; indeed, neither would a sham bona fide purchaser.

[21]See Pet. for Cert. 9–10; Brief for United States 17.

> committed; and the condemnation, *when obtained*, relates back to that time, and avoids all intermediate sales and alienations, even to purchasers in good faith." *United States* v. *Stowell*, 133 U. S., at 16–17 (emphases added).

If the Government wins a judgment of forfeiture under the common-law rule—which applied to common-law forfeitures and to forfeitures under statutes without specific relation back provisions—the vesting of its title in the property relates back to the moment when the property became forfeitable. Until the Government does win such a judgment, however, someone else owns the property. That person may therefore invoke any defense available to the owner of the property before the forfeiture is decreed.

In this case a statute allows respondent to prove that she is an innocent owner. And, as the Chief Justice further explained in *Grundy*, if a forfeiture is authorized by statute, "the rules of the common law may be dispensed with," 7 U. S., at 351. Congress had the opportunity to dispense with the common-law doctrine when it enacted §881(h); as we read that subsection, however, Congress merely codified the common-law rule. Because that rule was never applied to the forfeiture of proceeds, and because the statute now contains an innocent owner defense, it may not be immediately clear that they lead to the same result.

The 1984 amendment provides:

> "All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section." 21 U. S. C. §881(h).

Because proceeds traceable to illegal drug transactions are a species of "property described in subsection (a)," the Government argues that this provision has the effect of preventing such proceeds from becoming the property of anyone other than the

United States. The argument fails.

Although proceeds subject to §881(h) are "described" in the first part of subsection (a)(6), the last clause of that subsection exempts certain proceeds—proceeds owned by one unaware of their criminal source—from forfeiture. As the Senate Report on the 1984 amendment correctly observed, the amendment applies only to "property which is subject to civil forfeiture under section 881(a)."[22] Under §881(a)(6), the property of one who can satisfy the innocent owner defense is not subject to civil forfeiture. Because the success of any defense available under §881(a) will necessarily determine whether §881(h) applies, §881(a)(6) must allow an assertion of the defense *before* §881(h) applies.[23]

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[22]The Report provides:

"Section 306 also adds two new subsections at the end of section 881. The first provides that all right, title, and interest in *property which is subject to civil forfeiture under section 881(a)* vests in the United States upon the commission of the acts giving rise to the forfeiture." S. Rep. No. 98–225, p. 215 (1983) (emphasis added).

[23]The logic of the Government's argument would apparently apply as well to the innocent owner defense added to the statute in 1988. That amendment provides, in part:

"[N]o conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner." §6075(3)(C),

Therefore, when Congress enacted this innocent owner defense, and then specifically inserted this relation back provision into the statute, it did not disturb the common-law rights of either owners of forfeitable property or the Government. The common-law rule had always allowed owners to invoke defenses made available to them *before* the Government's title vested, and after title *did* vest, the

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102 Stat. 4324. That amendment presumably was enacted to protect lessors like the owner whose yacht was forfeited in a proceeding that led this Court to observe:

"It therefore has been implied that it would be difficult to reject the constitutional claim of an owner whose property subjected to forfeiture had been taken from him without his privity or consent. See, *id.*, at 364; *Goldsmith-Grant Co.* v. *United States*, 254 U. S., at 512; *United States* v. *One Ford Coupe Automobile*, 272 U. S., at 333; *Van Oster* v. *Kansas*, 272 U. S., at 467. Similarly, the same might be said of an owner who proved not only that he was uninvolved in and unaware of the wrongful activity, but also that he had done all that reasonably could be expected to prevent the proscribed use of his property; for, in that circumstance, it would be difficult to conclude that forfeiture served legitimate purposes and was not unduly oppressive. Cf. *Armstrong* v. *United States*, 364 U. S. 40, 49 (1960)." *Calero-Toledo* v. *Pearson Yacht Leasing Co.*, 416 U. S. 663, 689–690 (1974).

common-law rule had always related that title back to the date of the commission of the act that made the specific property forfeitable. Our decision denies the Government no benefits of the relation back doctrine. The Government cannot profit from the common-law doctrine of relation back until it has obtained a judgment of forfeiture. And it cannot profit from the statutory version of that doctrine in §881(h) until respondent has had the chance to invoke and offer evidence to support the innocent owner defense under §881(a)(6).

As a postscript we identify two issues that the parties have addressed, but that need not be decided.

The Government has argued that the Court of Appeals' construction of the statute is highly implausible because it would enable a transferee of the proceeds of an illegal exchange to qualify as an innocent owner if she was unaware of the illegal transaction when it occurred but learned about it before she accepted the forfeitable proceeds. Respondent disputes this reading of the statute and argues that both legislative history and common sense suggest that the transferee's lack of knowledge must be established as of the time the proceeds at issue are transferred.[24] Moreover, whether or not the

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(footnote omitted).

[24]See Brief for Respondent 31–32, 37–38; Tr. of Oral Arg. 38. The several *amici* make the same point, see Brief for American Bankers Association as *Amicus Curiae* 15; Brief for Federal Home Loan Mortgage Corporation as *Amicus Curiae* 11–12; Brief for American Land Title Association et al. as *Amici Curiae* 11–12;

text of the statute is sufficiently ambiguous to justify resort to the legislative history, equitable doctrines may foreclose the assertion of an innocent owner defense by a party with guilty knowledge of the tainted character of the property. In all events, we need not resolve this issue in this case; respondent has assumed the burden of convincing the trier of fact that she had no knowledge of the alleged source of Brenna's gift in 1982, when she received it.[25] In its order denying respondent's motion for summary judgment, the District Court assumed that respondent could prove what she had alleged, as did the Court of Appeals in allowing the interlocutory appeal from that order. We merely decide, as did both of those courts, whether her asserted defense was insufficient as a matter of law.[26] At oral argument, the Government also suggested that the statutory reference to "all proceeds traceable to such an exchange" is subject to a narrowing construction

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Brief for Dade County Tax Collector et al. as *Amici Curiae* 16–17.

[25]"The statute should be read to require that the owner assert his lack of knowledge of the criminal transaction at the time of the transfer. Since Goodwin did not have any knowledge of the alleged criminal transaction until long after the transfer, she should be protected by the innocent owner clause." Brief for Respondent 37–38.

[26]If she can show that she was unaware of the illegal source of the funds at the time Brenna transferred them to her, then she was necessarily unaware that they were the profits of an illegal transaction at the time of the transaction itself.

that might avoid some of the harsh consequences suggested in the various *amici* briefs expressing concerns about the impact of the statute on real estate titles. See Tr. of Oral Arg. 5–10, 19–25. If a house were received in exchange for a quantity of illegal substances and that house were in turn exchanged for another house, would the traceable proceeds consist of the first house, the second house, or both, with the Government having an election between the two? Questions of this character are not embraced within the issues that we granted certiorari to resolve, however, and for that reason, see *Yee* v. *Escondido*, 503 U. S. ___, (1992) (slip op., at 13–16), we express no opinion concerning the proper construction of that statutory term.

The judgment of the Court of Appeals is affirmed.

It is so ordered.