

Case No. 16,567. UNITED STATES v. TWENTY-ONE BARRELS OF HIGH WINES.  
[6 Int. Rev. Rec. 213.]

District Court, D. Iowa.

1867.

FORFEITURE OF PROPERTY—EFFECT.

[When a statute denounces a forfeiture of property as a penalty for the commission of crime, the forfeiture takes place when the offense is committed, if the denunciation is in direct terms, and then operates as a statutory transfer of the property to the government.]

This was a suit brought to forfeit the distillery, with its engine and other machinery, with 700 bushels of corn, with 21 bbls. high wines, and other property, of Louis Bange-mann, situated at Guttenburg, Iowa, for violation of internal revenue laws. B. H. Pelzer intervened for the distillery and all its machinery, and Henry Thorman intervened for the 700 bushels of corn. Pelzer claimed under a mortgage in which the land was described, and the words added “with the buildings thereon.” The government claimed that this mortgage did not cover the machinery in the distillery. The question was also raised as to the time the forfeiture of the property took effect. LOVE, District Judge, held that when a statute denounces a forfeiture of property as a penalty for the commission of crime, if the denunciation is in direct terms the forfeiture takes place at the time the offense is committed, and operates as a statutory transfer of the right of property to the govern-ment—following the decision of the United States supreme court therein—case of U. S. v. 1,960 Bags of Coffee, 8 Cranch [12 U. S.] 398. In this case Judge Story filed a dissent-ing opinion, claiming that the forfeiture did not take effect until actual seizure; but Judge LOVE adhered to the opinion of the majority of supreme court

The jury returned a verdict in favor of Pelzer, giving him all he claimed, and in favor of the government for the balance of the property, as the issue raised by Thorman was no claim against the United States for the corn.