

SCALIA, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 00–1831

UNITED STATES, PETITIONER *v.* SANDRA L. CRAFT

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

[April 17, 2002]

JUSTICE SCALIA, with whom JUSTICE THOMAS joins,
dissenting.

I join JUSTICE THOMAS’s dissent, which points out (to no relevant response from the Court) that a State’s decision to treat the marital partnership as a separate legal entity, whose property cannot be encumbered by the debts of its individual members, is no more novel and no more “artificial” than a State’s decision to treat the commercial partnership as a separate legal entity, whose property cannot be encumbered by the debts of its individual members.

I write separately to observe that the Court nullifies (insofar as federal taxes are concerned, at least) a form of property ownership that was of particular benefit to the stay-at-home spouse or mother. She is overwhelmingly likely to be the survivor that obtains title to the unencumbered property; and she (as opposed to her business-world husband) is overwhelmingly unlikely to be the source of the individual indebtedness against which a tenancy by the entirety protects. It is regrettable that the Court has eliminated a large part of this traditional protection retained by many States.