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 O'CONNOR delivered the opinion of the Court.

This case raises the question whether a tenant by the entirety possesses "property" or "rights to property" to which a federal tax lien may attach. 26 U. S. C. §6321. Relying on the state law fiction that a tenant by the entirety has no separate interest in entireties property, the United States Court of Appeals for the Sixth Circuit held that such property is exempt from the tax lien. We conclude that, despite the fiction, each tenant possesses individual rights in the estate sufficient to constitute "property" or "rights to property" for the purposes of the lien, and reverse the judgment of the Court of Appeals.

I

In 1988, the Internal Revenue Service (IRS) assessed $482,446 in unpaid income tax liabilities against Don Craft, the husband of respondent Sandra L. Craft, for failure to file federal income tax returns for the years 1979 through 1986. App. to Pet. for Cert. 45a, 72a. When he failed to pay, a federal tax lien attached to "all property and rights to property, whether real or personal, belonging to" him. 26 U. S. C. §6321.

At the time the lien attached, respondent and her husband owned a piece of real property in Grand Rapids, Michigan, as tenants by the entirety. App. to Pet. for Cert. 45a. After notice of the lien was filed, they jointly executed a quitclaim deed purporting to transfer the husband's interest in the property to respondent for one dollar. *Ibid.* When respondent attempted to sell the property a few years later, a title search revealed the lien. The IRS agreed to release the lien and allow the sale with the stipulation that half of the net proceeds be held in escrow pending determination of the Government's interest in the property. *Ibid.*

Respondent brought this action to quiet title to the escrowed proceeds. The Government claimed that its lien had attached to the husband's interest in the tenancy by the entirety. It further asserted that the transfer of the property to respondent was invalid as a fraud on creditors. *Id.,* at 46a–47a. The District Court granted the Government's motion for summary judgment, holding that the federal tax lien attached at the moment of the transfer to respondent, which terminated the tenancy by the entirety and entitled the Government to one-half of the value of the property. No. 1:93–CV–306, 1994 WL 669680, *3 (WD Mich., Sept. 12, 1994).

Both parties appealed. The Sixth Circuit held that the tax lien did not attach to the property because under Michigan state law, the husband had no separate interest in property held as a tenant by the entirety. 140 F. 3d 638, 643 (1998). It remanded to the District Court to consider the Government's alternative claim that the conveyance should be set aside as fraudulent. *Id.,* at 644.

On remand, the District Court concluded that where, as here, state law makes property exempt from the claims of creditors, no fraudulent conveyance can occur. 65 F. Supp. 2d 651, 657–658 (WD Mich. 1999). It found, however, that respondent's husband's use of nonexempt funds to pay the

mortgage on the entireties property, which placed them beyond the reach of creditors, constituted a fraudulent act under state law, and the court awarded the IRS a share of the proceeds of the sale of the property equal to that amount. *Id.,* at 659.

Both parties appealed the District Court's decision, the Government again claiming that its lien attached to the husband's interest in the entireties property. The Court of Appeals held that the prior panel's opinion was law of the case on that issue. 233 F. 3d 358, 363–369 (CA6 2000). It also affirmed the District Court's determination that the husband's mortgage payments were fraudulent. *Id.,* at 369–375.

We granted certiorari to consider the Government's claim that respondent's husband had a separate interest in the entireties property to which the federal tax lien attached. 533 U. S. 976 (2001).

II

Whether the interests of respondent's husband in the property he held as a tenant by the entirety constitutes "property and rights to property" for the purposes of the federal tax lien statute, 26 U. S. C. §6321, is ultimately a question of federal law. The answer to this federal question, however, largely depends upon state law. The federal tax lien statute itself "creates no property rights but merely attaches consequences, federally defined, to rights created under state law." *United States* v. *Bess,* 357 U. S. 51, 55 (1958); see also *United States* v. *National Bank of Commerce,* 472 U. S. 713, 722 (1985). Accordingly, "[w]e look initially to state law to determine what rights the taxpayer has in the property the Government seeks to reach, then to federal law to determine whether the taxpayer's state-delineated rights qualify as 'property' or 'rights to property' within the compass of the federal tax lien legislation." *Drye* v. *United States,* 528 U. S. 49, 58 (1999).

A common idiom describes property as a "bundle of sticks"—a collection of individual rights which, in certain combinations, constitute property. See B. Cardozo, Paradoxes of Legal Science 129 (1928) (reprint 2000); see also *Dickman* v. *Commissioner*, 465 U. S. 330, 336 (1984). State law determines only which sticks are in a person's bundle. Whether those sticks qualify as "property" for purposes of the federal tax lien statute is a question of federal law.

In looking to state law, we must be careful to consider the substance of the rights state law provides, not merely the labels the State gives these rights or the conclusions it draws from them. Such state law labels are irrelevant to the federal question of which bundles of rights constitute property that may be attached by a federal tax lien. In *Drye* v. *United States*, *supra*, we considered a situation where state law allowed an heir subject to a federal tax lien to disclaim his interest in the estate. The state law also provided that such a disclaimer would "creat[e] the legal fiction" that the heir had predeceased the decedent and would correspondingly be deemed to have had no property interest in the estate. *Id.,* at 53. We unanimously held that this state law fiction did not control the federal question and looked instead to the realities of the heir's interest. We concluded that, despite the State's characterization, the heir possessed a "right to property" in the estate—the right to accept the inheritance or pass it along to another—to which the federal lien could attach. *Id.,* at 59–61.

III

We turn first to the question of what rights respondent's husband had in the entireties property by virtue of state law. In order to understand these rights, the tenancy, by the entirety must first be placed in some context.

English common law provided three legal structures for

the concurrent ownership of property that have survived into modern times: tenancy in common, joint tenancy, and tenancy by the entirety. 1 G. Thompson, Real Property §4.06(g) (D. Thomas ed. 1994) (hereinafter Thompson). The tenancy in common is now the most common form of concurrent ownership. 7 R. Powell & P. Rohan, Real Property §51.01[3] (M. Wolf ed. 2001) (hereinafter Powell). The common law characterized tenants in common as each owning a separate fractional share in undivided property. *Id.,* §50.01[1]. Tenants in common may each unilaterally alienate their shares through sale or gift or place encumbrances upon these shares. They also have the power to pass these shares to their heirs upon death. Tenants in common have many other rights in the property, including the right to use the property, to exclude from third parties from it, and to receive a portion of any income produced from it. *Id.,* §§50.03–50.06.

Joint tenancies were the predominant form of concurrent ownership at common law, and still persist in some States today. 4 Thompson §31.05. The common law characterized each joint tenant as possessing the entire estate, rather than a fractional share: "[J]oint-tenants have one and the same interest . . . held by one and the same undivided possession." 2 W. Blackstone, Commentaries on the Laws of England 180 (1766). Joint tenants possess many of the rights enjoyed by tenants in common: the right to use, to exclude, and to enjoy a share of the property's income. The main difference between a joint tenancy and a tenancy in common is that a joint tenant also has a right of automatic inheritance known as "survivorship." Upon the death of one joint tenant, that tenant's share in the property does not pass through will or the rules of intestate succession; rather, the remaining tenant or tenants automatically inherit it. *Id.,* at 183; 7 Powell §51.01[3]. Joint tenants' right to alienate their individual shares is also somewhat different. In order for one tenant to alien-

ate his or her individual interest in the tenancy, the estate must first be severed—that is, converted to a tenancy in common with each tenant possessing an equal fractional share. *Id.,* §51.04[1]. Most States allowing joint tenancies facilitate alienation, however, by allowing severance to automatically accompany a conveyance of that interest or any other overt act indicating an intent to sever. *Ibid.*

A tenancy by the entirety is a unique sort of concurrent ownership that can only exist between married persons. 4 Thompson §33.02. Because of the common-law fiction that the husband and wife were one person at law (that person, practically speaking, was the husband, see J. Cribbet et al., Cases and Materials on Property 329 (6th ed. 1990)), Blackstone did not characterize the tenancy by the entirety as a form of concurrent ownership at all. Instead, he thought that entireties property was a form of single ownership by the marital unity. Orth, Tenancy by the Entirety: The Strange Career of the Common-Law Marital Estate, 1997 B. Y. U. L. Rev. 35, 38–39. Neither spouse was considered to own any individual interest in the estate; rather, it belonged to the couple.

Like joint tenants, tenants by the entirety enjoy the right of survivorship. Also like a joint tenancy, unilateral alienation of a spouse's interest in entireties property is typically not possible without severance. Unlike joint tenancies, however, tenancies by the entirety cannot easily be severed unilaterally. 4 Thompson §33.08(b). Typically, severance requires the consent of both spouses, *id.,* §33.08(a), or the ending of the marriage in divorce, *id.,* §33.08(d). At common law, all of the other rights associated with the entireties property belonged to the husband: as the head of the household, he could control the use of the property and the exclusion of others from it and enjoy all of the income produced from it. *Id.,* §33.05. The husband's control of the property was so extensive that, despite the rules on alienation, the common law eventually

provided that he could unilaterally alienate entireties property without severance subject only to the wife's survivorship interest. Orth, *supra*, at 40–41.

With the passage of the Married Women's Property Acts in the late 19th century granting women distinct rights with respect to marital property, most States either abolished the tenancy by the entirety or altered it significantly. 7 Powell §52.01[2]. Michigan's version of the estate is typical of the modern tenancy by the entirety. Following Blackstone, Michigan characterizes its tenancy by the entirety as creating no individual rights whatsoever: "It is well settled under the law of this state that one tenant by the entirety has no interest separable from that of the other . . . . Each is vested with an entire title." *Long* v. *Earle*, 277 Mich. 505, 517, 269 N. W. 577, 581 (1936). And yet, in Michigan, each tenant by the entirety possesses the right of survivorship. Mich. Comp. Laws Ann. §554.872(g) (West Supp. 1997), recodified at §700.2901(2)(g) (West Supp. Pamphlet 2001). Each spouse—the wife as well as the husband—may also use the property, exclude third parties from it, and receive an equal share of the income produced by it. See §557.71 (West 1988). Neither spouse may unilaterally alienate or encumber the property, *Long* v. *Earle, supra*, at 517, 269 N. W., at 581; *Rogers* v. *Rogers*, 136 Mich. App. 125, 134, 356 N. W. 2d 288, 292 (1984), although this may be accomplished with mutual consent, *Eadus* v. *Hunter*, 249 Mich. 190, 228 N. W. 782 (1930). Divorce ends the tenancy by the entirety, generally giving each spouse an equal interest in the property as a tenant in common, unless the divorce decree specifies otherwise. Mich. Comp. Laws Ann. §552.102 (West 1988).

In determining whether respondent's husband possessed "property" or "rights to property" within the meaning of 26 U. S. C. §6321, we look to the individual rights created by

these state law rules. According to Michigan law, respondent's husband had, among other rights, the following rights with respect to the entireties property: the right to use the property, the right to exclude third parties from it, the right to a share of income produced from it, the right of survivorship, the right to become a tenant in common with equal shares upon divorce, the right to sell the property with the respondent's consent and to receive half the proceeds from such a sale, the right to place an encumbrance on the property with the respondent's consent, and the right to block respondent from selling or encumbering the property unilaterally.

IV

We turn now to the federal question of whether the rights Michigan law granted to respondent's husband as a tenant by the entirety qualify as "property" or "rights to property" under §6321. The statutory language authorizing the tax lien "is broad and reveals on its face that Congress meant to reach every interest in property that a taxpayer might have." *United States* v. *National Bank of Commerce,* 472 U. S., at 719–720. "Stronger language could hardly have been selected to reveal a purpose to assure the collection of taxes." *Glass City Bank* v. *United States,* 326 U. S. 265, 267 (1945). We conclude that the husband's rights in the entireties property fall within this broad statutory language.

Michigan law grants a tenant by the entirety some of the most essential property rights: the right to use the property, to receive income produced by it, and to exclude others from it. See *Dolan* v. *City of Tigard,* 512 U. S. 374, 384 (1994) ("[T]he right to exclude others" is "'one of the most essential sticks in the bundle of rights that are commonly characterized as property'") (quoting *Kaiser Aetna* v. *United States,* 444 U. S. 164, 176 (1979)); *Loretto* v. *Teleprompter Manhattan CATV Corp.,* 458 U. S. 419, 435

(1982) (including "use" as one of the "[p]roperty rights in a physical thing"). These rights alone may be sufficient to subject the husband's interest in the entireties property to the federal tax lien. They gave him a substantial degree of control over the entireties property, and, as we noted in *Drye*, "in determining whether a federal taxpayer's state-law rights constitute 'property' or 'rights to property,' [t]he important consideration is the breadth of the control the [taxpayer] could exercise over the property." 528 U. S., at 61 (internal quotation marks omitted).

The husband's rights in the estate, however, went beyond use, exclusion, and income. He also possessed the right to alienate (or otherwise encumber) the property with the consent of respondent, his wife. *Loretto*, *supra*, at 435 (the right to "dispose" of an item is a property right). It is true, as respondent notes, that he lacked the right to unilaterally alienate the property, a right that is often in the bundle of property rights. See also *post*, at 7. There is no reason to believe, however, that this one stick—the right of unilateral alienation—is essential to the category of "property."

This Court has already stated that federal tax liens may attach to property that cannot be unilaterally alienated. In *United States* v. *Rodgers,* 461 U. S. 677 (1983), we considered the Federal Government's power to foreclose homestead property attached by a federal tax lien. Texas law provided that "'the owner or claimant of the property claimed as homestead [may not], if married, sell or abandon the homestead without the consent of the other spouse.'" *Id.,* at 684–685 (quoting Tex. Const., Art. 16, §50). We nonetheless stated that "[i]n the homestead context . . ., there is no doubt . . . that not only do *both* spouses (rather than neither) have an independent interest in the homestead property, but that a federal tax lien can at least *attach* to each of those interests." 461 U. S., at 703, n. 31; cf. *Drye, supra,* at 60, n. 7 (noting that "an

interest in a spendthrift trust has been held to constitute 'property for purposes of §6321' even though the beneficiary may not transfer that interest to third parties").

Excluding property from a federal tax lien simply because the taxpayer does not have the power to unilaterally alienate it would, moreover, exempt a rather large amount of what is commonly thought of as property. It would exempt not only the type of property discussed in *Rodgers*, but also some community property. Community property states often provide that real community property cannot be alienated without the consent of both spouses. See, *e.g.,* Ariz. Rev. Stat. Ann. §25–214(C) (2000); Cal. Fam. Code Ann. §1102 (West 1994); Idaho Code §32–912 (1996); La. Civ. Code Ann., Art. 2347 (West Supp. 2002); Nev. Rev. Stat. §123.230(3) (1995); N. M. Stat. Ann. §40–3–13 (1999); Wash. Rev. Code §26.16.030(3) (1994). Accordingly, the fact that respondent's husband could not unilaterally alienate the property does not preclude him from possessing "property and rights to property" for the purposes of §6321.

Respondent's husband also possessed the right of survivorship—the right to automatically inherit the whole of the estate should his wife predecease him. Respondent argues that this interest was merely an expectancy, which we suggested in *Drye* would not constitute "property" for the purposes of a federal tax lien. 528 U. S., at 60, n. 7 ("[We do not mean to suggest] that an expectancy that has pecuniary value . . . would fall within §6321 prior to the time it ripens into a present estate"). *Drye* did not decide this question, however, nor do we need to do so here. As we have discussed above, a number of the sticks in respondent's husband's bundle were presently existing. It is therefore not necessary to decide whether the right to survivorship alone would qualify as "property" or "rights to property" under §6321.

That the rights of respondent's husband in the entireties

property constitute "property" or "rights to property" "belonging to" him is further underscored by the fact that, if the conclusion were otherwise, the entireties property would belong to no one for the purposes of §6321. Respondent had no more interest in the property than her husband; if neither of them had a property interest in the entireties property, who did? This result not only seems absurd, but would also allow spouses to shield their property from federal taxation by classifying it as entireties property, facilitating abuse of the federal tax system. Johnson, After *Drye*: The Likely Attachment of the Federal Tax Lien to Tenancy-by-the-Entireties Interests, 75 Ind. L. J. 1163, 1171 (2000).

JUSTICE SCALIA's AND JUSTICE THOMAS' dissents claim that the conclusion that the husband possessed an interest in the entireties property to which the federal tax lien could attach is in conflict with the rules for tax liens relating to partnership property. See *post,* at 1; see also *post,* at 6, n. 4. This is not so. As the authorities cited by JUSTICE THOMAS reflect, the federal tax lien does attach to an individual partner's interest in the partnership, that is, to the fair market value of his or her share in the partnership assets. *Ibid.* (citing B. Bittker & M. McMahon, Federal Income Taxation of Individuals ¶44.5[4][a] (2d ed. 1995 and 2000 Cum. Supp.)); see also A. Bromberg & L. Ribstein, Partnership §3.05(d) (2002–1 Supp.) (hereinafter Bromberg & Ribstein) (citing Uniform Partnership Act §28, 6 U. L. A. 744 (1995)). As a holder of this lien, the Federal Government is entitled to "receive . . . the profits to which the assigning partner would otherwise be entitled," including predissolution distributions and the proceeds from dissolution. Uniform Partnership Act §27(1), *id.,* at 736.

There is, however, a difference between the treatment of entireties property and partnership assets. The Federal Government may not compel the sale of partnership assets

(although it may foreclose on the partner's interest, Bromberg & Ribstein §3.05(d)(3)(iv)). It is this difference that is reflected in JUSTICE SCALIA's assertion that partnership property cannot be encumbered by individual partner's debts. See *post,* at 1. This disparity in treatment between the two forms of ownership, however, arises from our decision in *United States* v. *Rodgers,* 461 U. S. 677 (1983) (holding that the Government may foreclose on property even where the co-owners lack the right of unilateral alienation), and not our holding today. In this case, it is instead the dissenters' theory that departs from partnership law, as it would hold that the Federal Government's lien does not attach to the husband's interest in the entireties property at all, whereas the lien may attach to an individual's interest in partnership property.

Respondent argues that, whether or not we would conclude that respondent's husband had an interest in the entireties property, legislative history indicates that Congress did not intend that a federal tax lien should attach to such an interest. In 1954, the Senate rejected a proposed amendment to the tax lien statute that would have provided that the lien attach to "property or rights to property (including the interest of such person as tenant by the entirety)." S. Rep. No. 1622, 83d Cong., 2d Sess., p. 575 (1954). We have elsewhere held, however, that failed legislative proposals are "a particularly dangerous ground on which to rest an interpretation of a prior statute," *Pension Benefit Guaranty Corporation* v. *LTV Corp.,* 496 U. S. 633, 650 (1990), reasoning that "'[c]ongressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction, including the inference that the existing legislation already incorporated the offered change'" *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.,* 511 U. S. 164, 187 (1994). This case exemplifies the risk of relying on such legislative history. As we noted in *United*

States v. *Rodgers,* 461 U. S., at 704, n. 31, some legislative history surrounding the 1954 amendment indicates that the House intended the amendment to be nothing more than a "clarification" of existing law, and that the Senate rejected the amendment only because it found it "superfluous." See H. R. Rep. No. 1337, 83d Cong., 2d Sess., A406 (1954) (noting that the amendment would "clarif[y] the term 'property and rights to property' by expressly including therein the interest of the delinquent taxpayer in an estate by the entirety"); S. Rep. No. 1622, 83d Cong., 2d Sess., 575 (1954) ("It is not clear what change in existing law would be made by the parenthetical phrase. The deletion of the phrase is intended to continue the existing law").

The same ambiguity that plagues the legislative history accompanies the common-law background of Congress' enactment of the tax lien statute. Respondent argues that Congress could not have intended the passage of the federal tax lien statute to alter the generally accepted rule that liens could not attach to entireties property. See *Astoria Fed. Sav. & Loan Assn.* v. *Solimino,* 501 U. S. 104, 108 (1991) ("[W]here a common-law principle is well established . . . the courts may take it as given that Congress has legislated with an expectation that the principle will apply except 'when a statutory purpose to the contrary is evident'"). The common-law rule was not so well established with respect to the application of a federal tax lien that we must assume that Congress considered the impact of its enactment on the question now before us. There was not much of a common-law background on the question of the application of federal tax liens, as the first court of appeals cases dealing with the application of such a lien did not arise until the 1950's. *United States* v. *Hutcherson*, 188 F. 2d 326 (CA8 1951); *Raffaele* v. *Granger*, 196 F. 2d 620 (CA3 1952). This background is not sufficient to overcome the broad statutory language Congress did enact, authorizing the lien to attach to "all property and

rights to property" a taxpayer might have.

We therefore conclude that respondent's husband's interest in the entireties property constituted "property" or "rights to property" for the purposes of the federal tax lien statute. We recognize that Michigan makes a different choice with respect to state law creditors: "[L]and held by husband and wife as tenants by entirety is not subject to levy under execution on judgment rendered against either husband or wife alone." *Sanford* v. *Bertrau*, 204 Mich. 244, 247, 169 N. W. 880, 881 (1918). But that by no means dictates our choice. The interpretation of 26 U. S. C. §6321 is a federal question, and in answering that question we are in no way bound by state courts' answers to similar questions involving state law. As we elsewhere have held, "'exempt status under state law does not bind the federal collector.'" *Drye* v. *United States,* 528 U. S., at 51. See also *Rodgers*, *supra*, at 701 (clarifying that the Supremacy Clause "provides the underpinning for the Federal Government's right to sweep aside state-created exemptions").

V

We express no view as to the proper valuation of respondent's husband's interest in the entireties property, leaving this for the Sixth Circuit to determine on remand. We note, however, that insofar as the amount is dependent upon whether the 1989 conveyance was fraudulent, see *post*, at 1, n. 1 (THOMAS, J., dissenting), this case is somewhat anomalous. The Sixth Circuit affirmed the District Court's judgment that this conveyance was not fraudulent, and the Government has not sought certiorari review of that determination. Since the District Court's judgment was based on the notion that, because the federal tax lien could not attach to the property, transferring it could not constitute an attempt to evade the Government creditor, 65 F. Supp. 2d, at 657–659, in future cases, the fraudulent conveyance

question will no doubt be answered differently.

The judgment of the United States Court of Appeals for the Sixth Circuit is accordingly reversed, and the case is remanded for proceedings consistent with this opinion.

It is so ordered.