ees and agents, filings which were made available to state and local law enforcement agencies. These requirements were upheld by the Court against self-incrimination challenges on the three grounds that (1) the privilege did not excuse a complete failure to file, (2) because the threshold decision to gamble was voluntary, the required disclosures were not compulsory, and (3) because registration required disclosure only of prospective conduct, the privilege, limited to past or present acts, did not apply.[264]

Constitutional limitations appeared, however, in *Albertson v. SACB*,[265] which struck down under the Self-Incrimination Clause an order pursuant to statute requiring registration by individual members of the Communist Party or associated organizations. "In *Sullivan* the questions in the income tax return were neutral on their face and directed at the public at large, but here they are directed at a highly selective group inherently suspect of criminal activities. Petitioners' claims are not asserted in an essentially noncriminal and regulatory area of inquiry, but against an inquiry in an area permeated with criminal statutes, where response to any of the form's questions in context might involve the petitioners in the admission of a crucial element of a crime." [266]

The gambling tax reporting scheme was next struck down by the Court.[267] Because of the pervasiveness of state laws prohibiting gambling, said Justice Harlan for the Court, "the obligations to register and to pay the occupational tax created for petitioner 'real and appreciable,' and not merely 'imaginary and unsubstantial,' hazards of self-incrimination." [268] Overruling *Kahriger* and *Lewis*, the Court rejected its earlier rationales. Registering *per se* would have exposed a gambler to dangers of state prosecution, so *Sullivan* did

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[264] United States v. Kahriger, 345 U.S. 22 (1953); Lewis v. United States, 348 U.S. 419 (1955).

[265] 382 U.S. 70 (1965).

[266] 382 U.S. at 79. The decision was unanimous, with Justice White not participating. The same issue had been held not ripe for adjudication in Communist Party v. SACB, 367 U.S. 1, 105–10 (1961).

[267] Marchetti v. United States, 390 U.S. 39 (1968) (occupational tax); Grosso v. United States, 390 U.S. 62 (1968) (wagering excise tax). In Haynes v. United States, 390 U.S. 85 (1968), the Court struck down a requirement that one register a firearm that it was illegal to possess. The following Term on the same grounds the Court voided a statute prohibiting the possession of marijuana without having paid a transfer tax and registering. Leary v. United States, 395 U.S. 6 (1969); United States v. Covington, 395 U.S. 57 (1969). However, a statute was upheld which prohibited the sale of narcotics to a person who did not have a written order on a prescribed form, since the requirement caused the self-incrimination of the buyer but not the seller, the Court viewing the statute as actually a flat proscription on sale rather than a regulatory measure. Minor v. United States, 396 U.S. 87 (1969). The congressional response was reenactment of the requirements, coupled with use immunity. United States v. Freed, 401 U.S. 601 (1971).

[268] Marchetti v. United States, 390 U.S. 39, 48 (1968).