

that, absent an emergency or lawful consent, a search warrant is required for an administrative inspection of private dwellings and, except for businesses that are extensively regulated, for business premises. For closely regulated businesses, the Supreme Court has held that a warrantless search is reasonable for a business that has a long history of regulation, as e.g., the liquor business, Colonnade Catering Corp. v. United States, 397 U.S. 72 (1970), and the firearms business, United States v. Biswell, 406 U.S. 311 (1972).

Most recently, in Donovan v. Dewey, ___ U.S. ___ (June 17, 1981), the Court permitted the warrantless inspection of a stone quarry on the basis that the statutory inspection program, in terms of the certainty and regularity of its application, provided a constitutionally adequate substitute for a warrant. The Court noted, in Donovan, that the pervasiveness and regularity of the federal regulation ultimately determines whether a warrant is necessary to render an inspection program reasonable under the Fourth Amendment.

As to private homes, absent consent or an emergency, a warrantless inspection is unconstitutional. Steagald v. United States, ___ U.S. ___ (1981); Payton v. New York, 445 U.S. 573 (1980).

There are also constitutional issues with regard to administrative search warrants, or inspection warrants. The Court of Appeals in Fred W. Allnutt, Inc. v. Commissioner of Labor and Industry, 278 Md. 35 (1980) in remanding the case to the circuit court for consideration of the merits of the appeal, reviewed the application of Fourth Amendment principles to administrative search warrants. In Camara v. Municipal Court, 387 U.S. 523 (1967), the Supreme Court had not permitted a warrantless administrative search of an apartment by a housing inspector, but in Camara and its companion case See v. City of Seattle, 387 U.S. 541 (1967), did indicate that probable cause in the criminal sense was not a constitutional requirement for obtaining a warrant. However, the Supreme Court "did not clearly indicate what showing of probable cause would comply with the reasonableness standard". Allnutt, supra, at 43. The Supreme Court in Marshall v. Barlow's, Inc., 436 U.S. 307 (1978), considered the administrative probable cause necessary for issuing an administrative search warrant. Barlow is interpreted to require for a finding of probable cause that: (1) a reasonable legislative or administrative inspection program exists; and (2) the proposed inspection comes within that program.

Allnutt, supra, at 53, indicated that Article 89, § 2A of the Code, which permits the issuance of certain inspection warrants not based on probable cause, would need to be examined to determine whether it is facially