

Secretary had to bring if consent was denied.⁹¹ The standard of a long tradition of government supervision permitting warrantless inspections was dispensed with, because it would lead to “absurd results,” in that new and emerging industries posing great hazards would escape regulation.⁹² *Dewey* suggests, therefore, that warrantless inspections of commercial establishments are permissible so long as the legislature carefully drafts its statute.

Dewey was applied in *New York v. Burger*⁹³ to inspection of automobile junkyards and vehicle dismantling operations, a situation where there is considerable overlap between administrative and penal objectives. Applying the *Dewey* three-part test, the Court concluded that New York has a substantial interest in stemming the tide of automobile thefts, that regulation of vehicle dismantling reasonably serves that interest, and that statutory safeguards provided adequate substitute for a warrant requirement. The Court rejected the suggestion that the warrantless inspection provisions were designed as an expedient means of enforcing the penal laws, and instead saw narrower, valid regulatory purposes to be served, such as establishing a system for tracking stolen automobiles and parts, and enhancing the ability of legitimate businesses to compete. “[A] State can address a major social problem *both* by way of an administrative scheme *and* through penal sanctions,” the Court declared; in such circumstances warrantless administrative searches are permissible in spite of the fact that evidence of criminal activity may well be uncovered in the process.⁹⁴

In other contexts, the Court has also elaborated the constitutional requirements affecting administrative inspections and searches. In *Michigan v. Tyler*,⁹⁵ for example, it subdivided the process by which an investigation of the cause of a fire may be conducted. Entry to fight the fire is, of course, an exception based on exigent circumstances, and no warrant or consent is needed; fire fighters on the scene may seize evidence relating to the cause under the plain view doctrine. Additional entries to investigate the cause of the fire

⁹¹ 452 U.S. at 596–97, 604–05. Pursuant to the statute, however, the Secretary has promulgated regulations providing for the assessment of civil penalties for denial of entry and *Dewey* had been assessed a penalty of \$1,000. *Id.* at 597 n.3. It was also true in *Barlow's* that the government resorted to civil process upon refusal to admit. 436 U.S. at 317 & n.12.

⁹² *Donovan v. Dewey*, 452 U.S. 594, 606 (1981). Duration of regulation will now be a factor in assessing the legitimate expectation of privacy of a business. *Id. Accord*, *New York v. Burger*, 482 U.S. 691 (1987) (although duration of regulation of vehicle dismantling was relatively brief, history of regulation of junk business generally was lengthy, and current regulation of dismantling was extensive).

⁹³ 482 U.S. 691 (1987).

⁹⁴ 482 U.S. at 712 (emphasis in original).

⁹⁵ 436 U.S. 499 (1978).