mentalities of crime. . . . But we cannot agree that the Fourth Amendment interests at stake in these inspection cases are merely 'peripheral.' It is surely anomalous to say that the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior."[84] Certain administrative inspections used to enforce regulatory schemes with regard to such items as alcohol and firearms are, however, exempt from the Fourth Amendment warrant requirement and may be authorized simply by statute.[85]

Camara and *See* were reaffirmed in *Marshall v. Barlow's, Inc.*,[86] in which the Court held to violate the Fourth Amendment a provision of the Occupational Safety and Health Act that authorized federal inspectors to search the work area of any employment facility covered by the Act for safety hazards and violations of regulations, without a warrant or other legal process. The liquor and firearms exceptions were distinguished on the basis that those industries had a long tradition of close government supervision, so that a person in those businesses gave up his privacy expectations. But OSHA was a relatively recent statute and it regulated practically every business in or affecting interstate commerce; it was not open to a legislature to extend regulation and then follow it with warrantless inspections. Additionally, OSHA inspectors had unbounded discretion in choosing which businesses to inspect and when to do so, leaving businesses at the mercy of possibly arbitrary actions and certainly with no assurances as to limitation on scope and standards of inspections. Further, warrantless inspections were not necessary to serve an important governmental interest, as most businesses would consent to inspection and it was not inconvenient to require OSHA to resort to an administrative warrant in order to inspect sites where consent was refused.[87]

---

[84] Camara v. Municipal Court, 387 U.S. 523, 530 (1967).

[85] Colonnade Catering Corp. v. United States, 397 U.S. 72 (1970); United States v. Biswell, 406 U.S. 311 (1972). *Colonnade*, involving liquor, was based on the long history of close supervision of the industry. *Biswell*, involving firearms, introduced factors that were subsequently to prove significant. Thus, although the statute was of recent enactment, firearms constituted a pervasively regulated industry, so that dealers had no reasonable expectation of privacy, because the law provides for regular inspections. Further, warrantless inspections were needed for effective enforcement of the statute.

[86] 436 U.S. 307 (1978). Dissenting, Justice Stevens, with Justices Rehnquist and Blackmun, argued that not the warrant clause but the reasonableness clause should govern administrative inspections. Id. at 325.

[87] Administrative warrants issued on the basis of less than probable cause but only on a showing that a specific business had been chosen for inspection on the basis of a general administrative plan would suffice. Even without a necessity for probable cause, the requirement would assure the interposition of a neutral officer to establish that the inspection was reasonable and was properly authorized. 436