ADMINISTRATIVE JUSTICE
IN THE
UNITED STATES
In Memoriam
Walter and Clark

and for the living
Joanna, Ben, Bethany, Noah and Lenox
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Preface

This book had its origin in a project under the editorship of the late Professor Aldo Piras of the University of Rome, to create a collection of essays describing the system of administrative justice in the United States and seven European democracies.\(^1\) His hope was that exposing the governmental law of our countries to professionals trained under other legal systems would both enrich understanding in an increasingly interdependent world, and provide helpful information about alternatives to jurisdictions considering changes in their public law. Professor Piras died before the project could reach completion, but the collection was published by the Guiffre Press. The first and second editions of this monograph were also published separately in the United States, by Carolina Academic Press.

The years following have confirmed the usefulness of this undertaking. In Asia, Europe and South America, this book, in English and in translation, has proved helpful to lawyers and law students seeking a basic introduction to American public law and, in particular, administrative law. It has been useful inside the United States as well, for law students and others seeking an overview of our administrative justice system or a jumping-off place into the voluminous literature on the subject. This new edition has been developed with both audiences in mind, after experiences teaching with it on four continents. It reflects significant changes that have occurred in American administrative law and government, as well as substantial elements of continuity.

Thanks are owing to many in any project like this. My late mentor, Walter Gellhorn, introduced me to Professor Piras, only one of many acts of kindness and support, and he comes first in place. My casebook colleagues Clark Byse, Cynthia Farina, Gillian Metzger, Todd Rakoff, and Roy Schotland, along with past and present colleagues here at Columbia, notably Jessica Bulman-Pozen, Jeremy Kessler, John Manning and Richard Pierce, Kevin Stack of Vanderbilt Law School, Paul Craig of Oxford University, Eberhard Schmidt-Assman of Heidelberg University, and my many friends in the American Bar Associa-

tion’s Section of Administrative Law and Regulatory Practice, have read and responded helpfully to my work, and added immeasurably to my knowledge of the subject and ability to see its many facets. The faculties of the University of Leiden, the University of Buenos Aires, Ludwig Maximilians University of Munich, Oxford University, Tokyo University, the European University Institute, and the Max Planck Institute of Comparative Public and International Law have been gracious and supportive hosts for weeks of visits that deepened my appreciation of alternative approaches to both the difficult business of securing fair, effective, and efficient government relationships with citizens and their businesses, and the strangenesses that many will find in American approaches. My students, at Columbia and abroad, have through occasional research and the work of our classes together equally helped me to understand what is not so obvious about American administrative law; for this edition, Columbia Law students Elizabeth Brody ’17 and Robbie Schwieder ’17 have been remarkably helpful research assistants. Ms. Brody has also prepared the index and Michael Roig the tables; Claire Merrill, my extraordinary assistant, cheerfully saw this text through countless revisions and authorial grumbles. Keith Sipe at Carolina Academic Press has been as supportive a publisher as one could wish, and Tim Colton a superb manager in converting this manuscript into print. And none of this, nor much else that is satisfying in my life, could have happened without the patience and love of my wife Joanna.

The present parlous state of American politics, reflected in matters pending on the Supreme Court’s docket and in a presidential election contest as I write, suggests that some subsequent events will have had a bearing on the analyses of this book that you, the reader, will need to consider. Although one expects its basic institutions and processes to endure, administrative law is subject to change at every moment, situated as it is on the dividing line between the worlds of law and politics. Yet the process of preparing a published account comes to an end on a date certain. No events occurring after mid-April 2016 could be accommodated here. The demerits of this book are wholly my own. I hope only that, given the vast landscape to be sketched, its temporal limitations and the occasional splotch or want of definition can be forgiven.

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