

THE SELECTED WRITINGS  
OF SIR EDWARD COKE



EDWARD COKE

THE SELECTED WRITINGS

AND SPEECHES OF

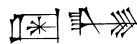
*Sir Edward Coke*

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*Volume One*

EDITED BY  
STEVE SHEPPARD



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This edition is dedicated to my teachers, the first and most influential of whom were my parents, William and Martha, all of whose care and dedication made this edition possible.

S.M.S.  
The University of Arkansas  
2003





## A Note on the Texts, Editions, and Translations

This anthology of the writings of Edward Coke is designed to present a sampling of the works that chronicle his career and its influence on issues of law, constitutions, politics, government, economics, and liberty. In culling from the vast corpus of his writings, some materials, such as cases dealing with the struggle for judicial independence and jurisdictional primacy in the courts of law, are overrepresented as a portion of his works. Other materials, such as his writings on English history, titles, and estates, are quite underrepresented. Regretably, argument and opinions of Coke's reported by others have been omitted owing to the limits of space and cost. It is hoped that a collected scholarly edition of his works may one day remedy these and the other omissions that were necessary to achieve an edition even as short as the present one. The emphasis of this edition being on the influence of his works, it is constructed largely from the writings as they were printed in his generation and the next, without regard to a new comparison to the references that will one day be mandatory for a thorough reappraisal of his works, when such an edition is attempted.

Thus, certain limitations have been accepted in the development of this edition of Coke's writings. The most important was to limit the project to the reproduction of printed materials, without attempting further comparisons of those sources with manuscripts. This limitation also means that certain of Coke's writings that have never been published are not within the scope of this edition.

The texts have been chosen preferring the following criteria: Editions without notes, editing, or annotations by later writers are preferred; later editions that would have been overseen by Coke and corrected by him or under his supervision take precedence over earlier editions; editions that were translated by Coke or by lawyers working in his tradition are preferred to those in French and Latin; and earlier translations are preferred to later translations in order

to diminish the degree of anachronism, although corrected editions of early translations have been consulted. Further, certain spelling and typographic conventions have been modernized in order to increase the clarity of the text for the modern reader, and some of these modernizations of the selected texts have been adopted in the light of modernizations employed in later editions. In particular, conventions adopted from the 1793 edition and from the preparation of the Coke volumes of the 1907 English *Reports* have been occasionally applied in the editing of the 1658 *Reports* here, the intent being to present an edition based predominately on the 1658 text, but including such improvements as may enhance its comprehensibility for the modern reader. The orthographic change that will most trouble specialists are the conversions of *i*, *j*, *u*, *v*, and the long *s* to modern usage.

The most significant alteration of the texts occurs in the quotations of statutes, particularly in the excerpts from the Second *Institute*. Coke's original editions quoted the Latin text of statutes in received forms from manuscript and printed editions. Here, the statutes have been replaced with translations from canonical sources produced in the generations following Coke's, which would have been consulted by lawyers employing Coke's materials. Magna Carta is taken from *Magna Charta* (Edward Cooke, trans., London, Printed by the assignees of R. and E. Atkins for T. Simmons, 1680), the translation by Edward Cooke, the barrister. The reader is cautioned that this edition is neither authoritative as a matter of current law nor the most accurate translation as a linguistic exercise, but its selection is consonant with translations that would have reflected the understandings of these texts in the generations immediately following Coke's work. Other statutes are taken from *The Statutes of the Realm*, 1810–28, a nine-volume edition of official, if not always precise, translations into English, or from *The Statutes at Large* of 1743, an edition edited by Owen Ruffhead that was the commercial predecessor to the official edition of 1810.

All other translations are relegated to the notes and have been provided newly for this edition.

Applying these principles, selections have been taken from the following texts:

### I. Selections from *The Reports*

Prefaces Vols. I–II

The various first London editions

- Reports Vols. 1–11            1658 London edition (with additional text  
from 1680 and 1793)  
 Preface & Reports Vol. 12   1655 Bulstrode edition  
 Preface & Reports Vol. 13   1659 Roycroft edition

## II. His Speech and Charge at the Norwich Assizes

From the second edition, 1607

## III. Excerpts from the Early Treatises

- The Compleat Copyholder            1644 edition  
 Little Treatise on Baile & Mainprize   1635 edition  
 Book of Entries                            1671 edition

## IV. Excerpts from the *Institutes*

- First Part    1639 edition  
 Second Part   1642 edition (see note above regarding statutes)  
 Third Part    1644 edition  
 Fourth Part   1644 edition

## V. Speeches in Parliament

- 1593    *Cobbett's Parliamentary History of England*, I (London, 1806)  
 1621    *Cobbett's Parliamentary History of England*, I (London, 1806), supplemented with private accounts recorded anonymously in *A Journal or Diary of the Most Material Passages in the Lower House of the Parliament Summoned to be Holden the Sixteenth Day of January Anno Domini 1620 but by Prorogation Adjourned Till the 23th and then again to 30th of the Same Month*, along with *The Notes by Sir Thomas Barrington of the House of Commons in 1621*.  
 1625    *Cobbett's Parliamentary History of England*, II (London, 1807), supplemented with official manuscript sources for the *H. of C.*, *Draft Journal*, MS. 3409, H.L.R.O. and *Committee Book*, MS. 3410, H.L.R.O. Also supplemented with private accounts detailed in *Bedford MS. 197* and *Petyt MS. 538/8*.