

"The Common Law of England, founded on and indeed embodying the principles of justice and liberty, and brought from the old world to the new, now prevails not only in the English-speaking part of the British Empire but also throughout the United States, except in Louisiana. It is not necessary for my purposes here to trace further the history of the Virginia Charter from which I have quoted, or to state in detail the steps to what was effectively described by Sir Frederick Pollock, one of the great jurists of our time, as the expansion of the Common Law.

"While I prefer the Common Law, I am not criticizing the Civil Law, or the Roman Law on which it was founded. The Code of Justinian and the Napoleonic Code are among the noblest and most beneficent achievements of the human intellect. The principles of the Roman Law now govern a large part of the civilized world, not by reason of imperial power but by the imperial power of reason, if we may so paraphrase the famous saying of Portalis:

*"Non ratione imperii, sed imperio rationis."*

"The Common Law, as I have said, is founded on the principle of liberty. Now private property is an essential attribute of liberty, as of personality. If you eliminate profit, according to one of the current fallacies which has already done much mischief, you necessarily eliminate private property, and you destroy the very basis and foundation of our civilization, indeed its very structure. Further, if you abolish private property, you necessarily abrogate the prohibition, 'Thou shalt not steal.' And if you bear in mind that the moral law is one and indivisible, you will perceive that if you eliminate profits and private property, you abrogate and eliminate the whole moral law and destroy the very foundations of society.

"I have also said that the Common Law embodies the principles of justice. Some draw a sharp distinction between law and justice. The story is told that an eastern corporation in the United States retained an idealist lawyer to defend an action against it. The lawyer, being young and inexperienced, believed the directors who informed him that the action was an unscrupulous attempt to defraud the corporation. He won,