During the decade before the American Civil War, the question of whether there is a higher law was one of the most controversial questions facing the United States. Opponents of slavery challenged the pro-slavery positive law on the basis of a higher law. Supporters of slavery generally opposed the notion of a higher law, though some argued that the higher law supported slavery.

At the beginning of the 20th century, Justice Oliver Wendell Holmes ridiculed the notion of a higher law as "that brooding omnipresence in the sky." In general, American legal theorists followed Holmes, with the Critical Legal Studies movement's claim that all law is merely power and the Law and Economics claim that all good law is merely a matter of efficiency. But there were 20th century movements grounded on the notion of a higher law, notably the Nuremberg trials and the American civil rights movement.

Join us as we consider whether the notion of a higher law has any significance for the future of American law.

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