

## Government of Laws?

High Government officials are often afflicted with strange advice, but one of the most bizarre submissions to a Cabinet officer in recent years must be the recommendation from Justice Department lawyers to Attorney General Levi that the Government not prosecute the Central Intelligence Agency officials responsible for "Operation HT Lingual." To those unfamiliar with the agency's secret lingo, "HT Lingual" is the code name for the C.I.A.'s 20-year program of opening mail in transit between the United States and Communist countries. Under Federal law, tampering with first-class mail in this country is a criminal offense; but under a theory concocted by Justice Department lawyers, "a continuum of Presidential authority" gave legality to the program, no matter what the law said.

This notion amounts to the assertion that Presidential knowledge of a crime is sufficient to revoke the operation of the law, or in other words, a crime is a crime except when a number of Presidents wink at it.

Not even Richard Nixon *in extremis* went that far. When the Supreme Court ruled that his claim of executive privilege was subordinate to the requirements of the criminal processes of the United States, he turned over tapes that he had clearly been advised would sink him. Indeed, it is hard to imagine any President making the power-grab that Justice Department lawyers are now upholding: that the Chief Executive had the authority to exercise secretly a power that has no basis in the Constitution or the law and that he would not have dared to claim publicly. Thus to place the President above the law is an unacceptable extension of the American constitutional system.