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Bibliographic Cover Sheet

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| Title       | <b>Fifth Estate Charged With Fraud</b>  |
| Publication | <i>Fifth Estate</i>   |
| Date        | 1974-09-26  |
| V/I/P       | p. 2  |
| Abstract    | Charges filed against Fifth Estate by Michigan Bell for publication of article detailing construction of mute box and listing credit card codes. Overview of charges and defense. |
| Keywords    | Fifth Estate; Michigan Bell Telephone Co. (MB); mute box; black box; credit card fraud; credit card codes; Ramparts; Liberation News Service; Dennis Mollura                      |

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# Fifth Estate Charged With Fraud

Criminal charges of fraud have been lodged against the Fifth Estate by the Michigan Bell Telephone Co. as the result of an article published in this newspaper's August 22 edition which detailed information on "ways to beat the phone company and reduce or eliminate your phone bill."

Michigan Bell had threatened two weeks ago to file the charges if the Fifth Estate did not agree to desist from publishing any such similar information in the future.

The Fifth Estate, a non-profit collective owned and operated by its working staff, refused to enter negotiations with the telephone company as the staff felt that any resulting agreement would compromise the freedom and integrity of this and possibly other journalistic media.

During its near-ten years of publishing, the Fifth Estate has never been prosecuted for a criminal complaint as a result of articles or features published.

The article which precipitated the criminal complaint by the phone company detailed plans for the construction of devices and the use of secret codes which could be used to fraudulently avoid long-distance phone charges. The article gave detailed instructions on constructing a "mute box" which could allow incoming long-distance phone calls to circumvent the phone company's computer billing system.

Also published was the 1974 secret telephone credit card codes, which could allow someone to make a long-distance call and fraudulently charge the call to a non-existent phone number.

Three weeks after the published article entitled "Taming The Telephone Beast," Michigan Bell Telephone filed a formal complaint against the Fifth Estate charging the newspaper "did sell, give or transfer instructions or plans for making or assembling an instrument which could be used to fraudulently avoid the lawful charge for telecommuni-

ication service, having reason to believe that such plans were intended to be used in making or assembling such an instrument."

The "illegal" information referred to by the phone company was taken, in parts, directly from articles already published in national magazines and news services such as Ramparts and Liberation News Service. Furthermore, the article specifically stated that "some of the following information is illegal to implement (and) we would not, of course, encourage such activity."

When Ramparts magazine first printed the details on the "mute box" two years ago, the phone company had responded then by threatening the national distributors of the publication with legal action if that issue was allowed to be distributed. The national distribution company complied with the phone company and that issue of Ramparts was taken off the stands across the coun-

try—except in Detroit. That issue did get distributed locally by an independent distribution company here in Detroit which refused to be intimidated by Bell. That distribution company also distributes the Fifth Estate.

Since the details for constructing the mute box and the illegal use of credit card calls have already been published by Ramparts, LNS and scores of alternative newspapers across the country, it is unclear why the phone company has singled out this newspaper for prosecution.

One explanation for the phone company's behavior is that they may not only have been angry over revelations of their technology and secret codes, but also within the article was severe criticism of the phone company's current requests at the Public Service Commission for additional rate increases as well as commentary supporting the Communication Workers of America in their recent negotiations with the phone company.

As for the specific legal charges leveled at this newspaper, Fifth Estate's legal council lawyer Ken Mogill, when first reading the warrant, fell back in his seat, resounded with a highly audible laugh and immediately summoned one

of his law partners to share in the humor of it all.

"They've got to be kidding," said Mogill to his partner after reading the complaint.

Apparently the criminal codes cited under which this newspaper is being charged relates more to the actual purchase and use of the "illegal" devices but little about simply publishing information which may or may not be used for criminal activity. The one other section of the criminal code cited has to do with obscene phone callers and breathers or people who "terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person" over the telephone. "They've got to be kidding," repeated Mogill.

Attorney Ken Mogill has been active in representing political defendants and prisoners. He is currently defending Hayward Brown who is on trial for the fifth time for the same series of incidents, this one involving the bombing of the Planned Parenthood office (Brown was acquitted on all charges so far). Mogill also handled the recent "Miranda" case which went to the Supreme Court over the possible future legality of forced confessions made by police. He is also active in the Attica defense.