

Counterfeit currency

This file contains directions for possessing and tendering counterfeit notes.

Counterfeit currency notes (custody or control)

These counts involve having custody or control of counterfeit currency notes.

Someone is guilty of this offence if without, lawful authority or excuse, he has in his custody or under his control a thing which was and which he knew or believed to be a counterfeit of a currency note.

You can see what the prosecution have to prove by looking to the particulars of each offence.

Before you could convict the prosecution have to make you satisfied so that you are sure of four things

1. “without lawful authority or excuse”. There is no suggestion that the defendants had any lawful authority or excuse. So you do not need to consider these words.
2. “had in his custody or under his control” “Custody” means physical custody. “Control” involves the power to direct what happens to the things – i.e. the notes. As a matter of law, unless there are unusual circumstances which do not apply in this case, if someone has something in his pocket or somewhere else on his person, it is within his custody and under his control. Whether or not something which is in a car is under the custody or control of the car’s driver or passenger depends on all the circumstances. So it is a matter for you to decide, but there are two things about which I can direct you. Firstly it is impossible to have something in one’s custody or control without knowing about it. Secondly, if something belongs to someone or he has placed it in the car and he is able to take it out or has the power to deal with it, it is within his custody or control. So the first question which you must answer in relation to each defendant and each count is “Are you sure that he had the notes in his custody or under his control?”
3. “a thing which was a counterfeit of a currency note”. A currency or bank note is counterfeit if it is not a bank note, but resembles one to such an extent that it is reasonably capable of passing for a bank note. That is not in dispute. It is agreed by the defence that all the £** notes found by the police, which are said by them to be counterfeit, were counterfeit. So you do not have to consider this.
4. “which he knew or believed to be false” This is probably the most important issue in this case. To be guilty a defendant must have known or believed the note or notes to be false. These are ordinary English words which bear their ordinary day to day meaning. So the second question which you must answer in relation to each defendant and each count is “Are you sure that he knew or believed that the notes were not real, genuine bank notes?”

So, the key questions for you to answer in relation to each count and each defendant, having regard to all the evidence and the directions which I give you are Did D** have the notes in his custody or under his control?

Did he know or believe that the notes were not real, genuine bank notes?

If you are sure that the answer to both questions is “yes”, he is guilty of that count. If the answer to either question may be “no”, he is not guilty of that count.

Counterfeit currency note (tendering)

This count involves tendering a counterfeit of a currency note.

Someone is guilty of this offence if he tenders as genuine a bank note which is, and which he knows or believes to be, a counterfeit of a currency note.

You can see what the prosecution have to prove by looking to the particulars of the offence.

Before you could convict the prosecution have to make you satisfied so that you are sure of four things

1. “without lawful authority or excuse”. There is no suggestion that the defendants had any lawful authority or excuse. So, you do not need to consider these words.

2. “tendered as a genuine thing” There must be a tendering – that is a giving or offering - of a thing without lawful authority. The prosecution case is that D** used a forged £20 note to pay for a meal at **’s restaurant. D** when giving evidence accepted that he paid for the meal in **’s with one of the £20 notes from his pocket. Nevertheless, the first question that you have to answer in relation to this count is “Did D** use a forged £20 note in **’s restaurant?”

3. “a thing which was a counterfeit of a currency note”. This is not in dispute. It is agreed that the note which DC ** found in the till at **’s was counterfeit.

1. “which he knows or believes to be a counterfeit”. This is probably the most important issue in this case. To be guilty a defendant must have known or believed the note or notes to be false. These are ordinary English words which bear their ordinary day to day meaning. So, the second question which you must answer is “Did he know or believe that the note was not a real, genuine bank note?”

So, the key questions for you to answer in relation to Count *, having regard to all the evidence and the directions which I give you are

Did D** use a forged £20 note in **’s restaurant?

Did he know or believe that the note was not real, genuine bank notes?

If you are sure that the answer to both questions is “yes”, he is guilty of Count *. If the answer to either question may be “no”, he is not guilty of that count.