

R. v. Weber, [2001] O.J. No. 6103 (Ontario Court of Justice)
5 years and 2 months pre-trial custody for making \$3 ½ million in counterfeit notes

Mr. Weber pled guilty to one count of making over \$3.5 million in counterfeit \$100 bank-notes contrary to s.449 and two counts of uttering a total of 26 counterfeit \$100 bills contrary to s.452(a). He also pled guilty to several counts of possession of property obtained by crime, uttering forged documents, and breaching his bail and his conditional sentence.

Mr. Weber was 22 years old when he was convicted in 1987 of uttering and possession of forgery instruments. He had used a computer to create false cheques which he had cashed at various places. Mr. Weber was sentenced to 8 months concurrent on each offence.

In 1999 Mr. Weber was charged with cultivating and making counterfeit \$20 bills (for which he later pled guilty to possession and was fined \$3,000). On April 13, 2000 he pled guilty to the cultivation of marijuana charge and received an 18 month conditional sentence. The sentence required him to stay at his parent's house except in specific circumstances. While serving this sentence, he breached this requirement and a similar term in his earlier bail release when he knowingly uttered five forged \$50 gift certificates. In addition, Mr. Weber uttered 20 counterfeit \$100 bills as part payment for \$2,700 tire rims. Mr. Weber uttered a further 5 counterfeit \$100 bills to purchase a computer printer. After it was discovered that these bills were counterfeit, Mr. Weber was arrested and released on bail again.

The counterfeit \$100 bills passed by Mr. Weber were identified by the RCMP laboratory in Ottawa as being a unique type of counterfeit that had been showing up regularly in commerce. As a result, an extensive investigation was launched into Mr. Weber's activities. This investigation showed that Mr. Weber had been purchasing large quantities of masking film, air brush extenders, tinting paint, computers, and high quality printing paper. Ultimately a search warrant was executed on the residence where Weber and his accomplices were making counterfeit \$100 bills. A total of \$233,900 in counterfeit \$100 bills were seized along with supplies that could have been used to generate several thousand more. The RCMP lab in Ottawa created a report which showed that a total of 35,787 (or \$3.5 million) of the unique Weber counterfeit \$100 bank-notes had been passed in Canada. The report, which showed when the bills were passed and in which province, was filed as an exhibit. In addition, a victim impact statement from the Bank of Canada was filed.

The defence conceded that general deterrence should be paramount in view of the fact that offence of making counterfeit money was sophisticated, substantial, required planning, and had a significant impact on the economy. The defence suggested a total sentence of 5 years.

The Crown noted that the statement from the Bank of Canada showed that counterfeiting was increasing. The Bank statement also indicated that counterfeiting in general, and the Weber \$100 note in particular, had a significant impact on the economy. The Crown indicated that more businesses refused to accept \$100 bills because of their concerns about counterfeiting. However, the Crown agreed that the guilty plea was significant and also suggested 5 years imprisonment.

The court accepted the joint submission and imposed a sentence of five years imprisonment on the charge of making counterfeit money in addition to the two months pre-trial custody the offender had already served. Various concurrent terms were imposed for the other offences. The court noted that this was a highly sophisticated and profitable offence and the sentence would have been higher but for the guilty plea.

Information Nos. 2817/00, 13929/00,
5444/01,
5726/01, 6554/01, 6555/01, 6571/01, 9489/01,

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN
v.
WESLEY WAYNE WEBER

PROCEEDINGS AT GUILTY PLEA

BEFORE THE HONOURABLE MR. JUSTICE G. DEMARCO
on October 23, 2001 at WINDSOR, Ontario

CHARGE: s. 449 C. C. (2 counts)
- Make counterfeit money
s. 450 (b) C. C. (2 counts)
- Possess Counterfeit Money
s. 458 (d) C. C. (2 counts)
- Possess Counterfeit Instruments
s. 368 (1) C. C. (5 counts)
- Utter Forged Document
s. 139 (1) C. C. - Obstruct Justice
s. 354 C. C. (3 counts)
- Possess Property
s. 465 (1) (c) C. C.
- Conspiracy of an Indictable
Offence

APPEARANCES:

D. Harrison
R. DiPietro

Counsel for the Crown
Counsel for the accused

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ONTARIO COURT OF JUSTICE

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TUESDAY, OCTOBER 23, 2001

COURTROOM CLERK: Wesley Wayne Weber.

5 MR. DIPIETRO: Your Honour, this is Mr. Weber before
the court. If I can just have a moment? He's
prepared to enter the pleas that were agreed upon
at pre-trial, Your Honour. I believe he is going to
plea to count one the multi-count information.

10 MR. HARRISON: If you could deal with - I think the
informations are in order. If we could deal with
9489, a guilty plea to count one.

THE COURT: Go ahead, Mr. Harrison. What else?

MR. HARRISON: Do you want to deal with them one at
a time?

15 THE COURT: No, I think it is best if we get all
the pleas in...

MR. HARRISON: Okay.

THE COURT: ...at one time.

MR. HARRISON: Yes.

20 THE COURT: I will deal with the facts and
findings one at a time.

MR. HARRISON: I appreciate that. Okay, well
then they're in order in 13929, guilty plea.

THE COURT: Just a minute, please.

MR. HARRISON: That's a London

THE COURT: 13929. Yes?

25 MR. HARRISON: That's a charge transferred from
London for guilty plea, four counts.

THE COURT: Yes, is he pleading guilty to all four
counts?

30

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MR. HARRISON: Yes.

THE COURT: And those are what, all - I see. I do not know where count four is. Madam Clerk you are going to have to dig that out somewhere. Alright?

MR. HARRISON: 2817, five counts.

THE COURT: All five counts?

MR. HARRISON. Yes, 5444, I believe that's one count. Yes.

THE COURT: Yes.

MR. HARRISON: And, 5726, two counts.

THE COURT: There are some other charges, they will not be dealt with?

MR. HARRISON: There's other informations there that will be withdrawn, or won't be dealt with, yes. There's duplications or conspiracy and some other matters.

THE COURT: Thank you. Do you want to take a sip of water first? This is Wesley Wayne Weber?

MR. DIPIETRO: Yes.

COURTROOM CLERK: Information number 01-5444 you stand charged on or about the 11th day of July in the year 2001, in the town of Lakeshore, in the Southwest Region, did have in your possession property, namely a Chevrolet Tahoe motor vehicle of a value exceeding \$5,000 knowing that all or part of the property had been obtained by the commission in Canada of an offence punishable by indictment, contrary to Section 354 of the Criminal Code. How does the Crown elect to proceed?

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THE COURT: No, it is straight indictable. The accused has the election.

COURTROOM CLERK: On the allegation before the court you have the option to elect to be tried by a judge of the Ontario Court of Justice without a jury and without having had a preliminary inquiry or you may elect to have a preliminary inquiry and to be tried by a judge of the Superior Court of Justice without a jury, or you may elect to have a preliminary inquiry and to be tried by a judge of the Superior Court of Justice and a jury. If you do not elect now you shall be deemed to have elected to have a preliminary inquiry and to be tried by a court composed of a judge of the Superior Court of Justice and a jury. How do you elect to be tried, sir?

WESLEY WAYNE WEBER: Judge of the Ontario Court of Justice.

THE COURT: Thank you. For those other remaining indictable charges against the accused, does your client waive re-reading of the election?

MR. DIPIETRO: Yes, Your Honour. Same election and uh-

THE COURT: Is that correct, Mr. Weber?

WESLEY WAYNE WEBER: Yes.

THE COURT: Alright, thank you.

COURTROOM CLERK: How do you plea to count one; guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: Information number 01-5726, on or about the 8th day of April in the year 2001, at

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the City of Windsor, in the Southwest Region, did have in your possession property, namely a Tremec transmission of a value not exceeding \$5,000 knowing that all or part of the property had been obtained by the commission in Canada of an offence punishable by indictment, contrary to Section 354 of the Criminal Code.

Further, that count two, you stand charged on or about the 8th day of April in the year 2001, at the City of Windsor, in the Southwest Region, did have in your possession property, namely tire rims of a value not exceeding \$5,000 knowing that all or part of the property had been obtained by the commission in Canada of an offence punishable by indictment, contrary to Section 354 of the Criminal Code. How do you plead to count one, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count two, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

THE COURT: What was the Crown's election there?

COURTROOM CLERK: Straight indictable.

MR. HARRISON: Proceeding by indictment on that one. It's absolute jurisdiction.

THE COURT: Thank you.

COURTROOM CLERK: Information number 01-9489, count one, you stand charged between the 19th day of June 2000 and the 11th day of July 2001, at the town of Lakeshore, in the said Region and

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elsewhere in the Province of Ontario, did make counterfeit money to wit counterfeit one hundred-dollar Bank of Canada notes, contrary to Section 449 of the Criminal Code.

THE COURT: He has indicated his election in this court?

MR. DIPIETRO: Yes, judge of the Ontario Court of Justice.

COURTROOM CLERK: How do you plead to count one, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: Information number 00-2817, you stand charged on or about the 26th day of December in the year of 1999, at the City of Windsor, in the Southwest Region, did knowingly use a forged document to wit, Devonshire Mall fifty-dollar gift certificate at Precision Optical, Devonshire Mall as if it were genuine, contrary to Section 368(1) of the Criminal Code.

And further, that count two, you stand charged on or about the 26th day of December 1999, at the City of Windsor, in the Southwest Region, did knowingly use a forged document to wit, Devonshire Mall fifty-dollar gift certificate at La Vie en Rose, Devonshire Mall as if it were genuine, contrary to Section 368(1) of the Criminal Code.

And further, that count three you stand charged on or about the 26th day of December 1999, at the

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City of Windsor, in the said Region, did knowingly use a forged document to wit, Devonshire Mall fifty-dollar gift certificates at Athletes World, Devonshire Mall as if they were genuine, contrary to Section 368(1) of the Criminal Code.

And further, that count four you stand charged on or about the 26th day of December 1999, at the City of Windsor, in the said Region, did knowingly use a forged document to wit, Devonshire Mall fifty-dollar gift certificates at Toys `R Us, Roundhouse Centre Windsor as if they were genuine, contrary to Section 368(1) of the Criminal Code.

And further, that count five you stand charged on or about the 26th day of December 1999, at the City of Windsor, in the said Region, did knowingly use a forged document to wit, Devonshire Mall fifty-dollar gift certificates at Battery Plus, Devonshire Mall as if they were genuine, contrary to Section 368(1) of the Criminal Code.

The Crown has elected to proceed summarily on all counts. How do you plead to count one sir, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count two, guilty or not guilty?

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WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count three, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count four, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count five, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: Information number 00-13929, you stand charged on or about the 21st day of July in the year 2000, at the City of London, in the said Region, did having been entered into an undertaking given to a peace officer or an officer in charge pursuant to Subsection 499(2) or 503(2.1) of the Criminal Code, and being bound to comply of the condition thereof, namely remain within Essex County, failed without lawful excuse to comply with that condition contrary to Section 145(5.1) of the Criminal Code.

And further, that on count two, you stand charged on or about *the* 21st day of July 2001, at the City of London, in the said Region, did without lawful justification or excuse utter a bus - utter at Business Depot Limited, 332 Wellington Road South, counterfeit money, namely five Bank of Canada one hundred dollar bills as if they were genuine, contrary to Section 452(a) of the Criminal Code of Canada.

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And further, that count three, you stand charged on or about the 20th day of May 2000, at the City of London, in the said Region, did without lawful justification or excuse utter at R. C. O.

Enterprises Incorporated, 12-3051 Osler Road, counterfeit money, namely 21 Bank of Canada one hundred dollar bills as if they were genuine, contrary to Section 452(a) of the Criminal Code of Canada.

And further, that count four, you stand charged on or about the 20th day of May in the year 2000, at the City of London, in the said Region, did having been entered into an undertaking given to a peace officer or an officer in charge, pursuant to Subsection 499(2) or 503(2.1) of the Criminal Code, and being bound to comply with the condition thereof, namely remain within Essex County, failed without lawful excuse to comply with that condition, contrary to Section 145(5.1) of the Criminal Code.

THE COURT: Crown election on counts one and..

COURTROOM CLERK: Counts one and four by indictment.

THE COURT: Were they? Alright, thank you.

COURTROOM CLERK: How do you proceed Mr. Harrison on the counts two and three?

MR. HARRISON: By indictment.

THE COURT: They are indictable. Thank you.

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COURTROOM CLERK: How do you plead to count one, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count two, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count three, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

COURTROOM CLERK: How do you plead to count four, guilty or not guilty?

WESLEY WAYNE WEBER: Guilty.

THE COURT: Is not there one more charge?

COURTROOM CLERK: No, four.

THE COURT: Is there not one more information?

COURTROOM CLERK: No. That's all I have.

THE COURT: Okay, go on.

MR. HARRISON: First of all, I'll file a copy of the...

THE COURT: Did he not - did he plead to a charge of making counterfeit money? I did not hear it?

COURTROOM CLERK: I think so.

MR. HARRISON: ... of the record in the name of Wesley Weber, Your Honour and I'd like to deal with these in somewhat of a chronological order to put the - all these informations and facts in context. As you'll note from the record, in August of 1997, he was convicted in Windsor of offences in relation to both uttering and possession of forgery instruments and received eight months in jail on each charge concurrent. In brief for those charges related to the accused

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using a computer to create business cheques apparently drawn on the accounts of local businesses and the City of Windsor Social Services that were presented at various places and as genuine and cashed.

He was eventually obviously released from jail and April 30, 1999 he was being investigated with regard to the growing of drugs and the production of counterfeit \$20-bills. That culminated in an arrest warrant at a Windsor property on April 30th in which they found evidence of a hydroponic lab and a number of marijuana plants and they found evidence of computer printers, papers, and other instruments capable of manufacturing counterfeit \$20-bills. He was eventually released on bail on those charges, with a surety of \$15,000 and a number of conditions including, residing at Third Concession in Amherstburg, Ontario with the surety, remaining within Essex County and other conditions related to those charges. On December 26th, 1999 - I'm now dealing with information 2817.

THE COURT: Yes, just give me a minute to locate that, please.

MR. HARRISON: That's five counts of using a forged document and those were gift certificates from the Devonshire Mall and this was Boxing Day, December 26, 1999. A number of counterfeit certificates were used at the mall. that day at various stores. The police were called and

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commenced an investigation and they were able to through photo lineups and fingerprints uh, found on certificates, link this accused to the uttering of the five certificates set out in that information at the various stores and receiving cash and/or merchandise of at least \$50 in value.

THE COURT: Are those all the facts that you want to allege?

MR. HARRISON: Yes.

THE COURT: In regard to information 00-2817 are those facts acknowledged?

MR. DIPIETRO: They are, they're acknowledged. Yes, Your Honour.

THE COURT: Very well, the accused is found guilty of all counts on that information.

MR. HARRISON: Your Honour, on April 13th, 2000, the accused pled guilty and was convicted in this court by Justice Bondy of the charge relating to the producing of the marijuana plants referred to back - dating back to April 30th '99. He was sentenced by way of an 18-month community served sentence by Justice Bondy with - including community service order and a number of conditions, including that he be confined to the residence of his parents at 3691 Third Concession, Amherstburg and remain there except for school, employment, medical, religious and legal obligations and there's other conditions of that community served sentence. That's April 13th, 2000.

On May 20th and I'm now referring to the London charges. . .

THE COURT: Please, just one moment. Yes?

MR. HARRISON: . . . those both deal with using counterfeit money to obtain merchandise. Very briefly, on May 20th, the accused was at a business in London, R. C. O. Enterprises. He discussed the purchase and eventually agreed to buy four automobile rims of quite expensive \$2,732. In completing the purchase, he produced uh, 20- \$100-bills that were used towards the purchase price.

On July 20th, 21st on the second, the other count, he attended at the business set out in the information and eventually bought a computer printer for \$459 and used five counterfeit \$100- to complete that purchase. On both those purchases obviously he was in London and in violation of the terms of his release and his conditional sentence.

Those companies processed those purchases and eventually the bills were returned to them, identified by the bank to be counterfeit and as a result of that information and further investigation and photo lineups, he was connected to those purchases and arrested on October 23rd, 2000 and released. Those bills, along with a number of other bills that we'll be referring to in this matter have been described for

investigative purposes by the Central Bureau for Counterfeit Forensic Laboratory in Ottawa, as Inkjet OSD004 and I file with the court a - two pages of a colour information pages dealing with their material that that laboratory provided reproducing this - copies of this bill and pointing out the areas of identification.

THE COURT: Okay, that will be exhibit number one.

MR. HARRISON: Thank you.

COURTROOM CLERK: Exhibit number one.

EXHIBIT NUMBER 1 - Detection of Counterfeit Currency (Central Bureau for Counterfeit Currency, Ottawa, ON).

- Produced and Marked.

MR. HARRISON: That bill is given that designation by the Bureau and there's an extensive database compiled by the - by the Bureau that I'll be discussing in a few minutes. But, the important thing is, upon his arrest in October and the use of these bills which had been showing up in commerce since June of 2000, he became a target for investigation and over time, various police methods of investigation, including surveillance, tracking devices and search warrants were executed.

THE COURT: Mr. Harrison, just before you carry on, have you told me everything you were going to tell me concerning the London charges, because

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there are two counts of fail to comply with undertaking that I have not heard?

MR. HARRISON: Yes, and that fail, as I indicated, was that he was in London outside of Essex County in violation of the court order.

THE COURT: What was the undertaking, for the...

MR. HARRISON: That was the release that I mentioned earlier...

THE COURT: From April?

MR. HARRISON: In April, on the drug charge and the counterfeiting charges. He had dealt with the drug charges, but the counterfeiting charges were still outstanding.

THE COURT: Oh, the counterfeit - the counterfeit charges were still outstanding. I see. Alright. Are those facts admitted then?

MR. DEPIETRO: Yes they are, Your Honour.

THE COURT: Then there are findings of guilt on the four counts of information 00-13939 from London. Just give me a minute to catch up with my note taking here, please. Yes, thank you. So, you said he was the subject of surveillance and other investigative techniques?

MR. HARRISON: Yes, and I'll summarize. It was determined that Weber had leased a condominium in Windsor at 1547 Grand Marais West and was seen numerous times coming and going from that

location with a number of other people and again, that was in violation of his conditional sentence order where he was supposed to be living on the Third Concession with his parents.

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The police were following him on a number of occasions and in November and a number of other occasions he was observed attending at an art supply store in London called Loomus and Toles, and he attended and identified himself with another name and bought large quantities of material, including masking film, air brush extenders, tinting paint, other paint, and this occurred on a number of times in the next number of months.

He at one point was followed from that store and went to a location in Bright's Grove at a house there and he was connected to that house by the police a number of times. He was observed moving computer accessories in and out of the Grand Marais Road address. He purchased a large quantity of what's described as Mohawk Eggshell paper, which is of superior quality and can be used in the production of counterfeit money. He was seen purchasing items in a store in Scarborough under another name.

In February of 2001, the residence in Bright's Grove was searched with regards to a drug investigation. Seized at that time along with a number of drugs were, compact discs, three compact discs and computer equipment. Those compact discs were sent to the laboratory in Ottawa and it was found that in those discs was

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the computer program that produced these OSD004 bills.

Again, in February, he was observed himself attending at the store in London and purchasing various items, including this masking film and during this time he was observed driving this Chevrolet Tahoe that I'll be discussing in a few, in a few minutes.

In March of 2000, the owner of 985 Lakeshore, in Lakeshore Miss Valeras (ph) of Lakeshore in Essex County rented out her house there, the house that faces Lake St. Clair on Lakeshore - to a fellow who shortly after that subletted to the accused who took over the lease and the payments.

In March, again, he was observed removing computer equipment out of the condominium. He was observed a number of occasions traveling to the 985 Lakeshore, in the County of Essex. That place was eventually put under surveillance by the police and on numerous occasions, he and the co-accused in various combinations of vehicles and people were seen coming and going from that location.

In June of 2001, early June, he was observed with one of the co-accused in the parking lot of the Grand Marais condominiums and they were observed to retrieve what's described as bundles of

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currency from the trunk of the vehicle and take them into the condominium.

In late, mid to - or in June again, the police eventually obtained tracking device warrants, tracking the vehicle of this accused and other parties and the device had the accused's vehicle attending at 985 Lakeshore apartment on a number of occasions. Surveillance of that house by the police confirmed that. This culminated, Your Honour, and the police obtained a - first of all, a general warrant on July 9th of 2001, which allowed them to examine uh, that residence at 985 and it - they found - observed material and items consistent with the production of counterfeit money with computers and printers.

With that information, on July 11th they obtained a search warrant and a number of officers from the task force attended at that address. On that day the accused's blue Chevrolet Tahoe was there. An arrest team had been put together. They attended and entered the residence and they found Weber, Caporale, Hodare and Kossom. All four were in the residence and they were caught in the process of manufacturing these counterfeit bills.

They were taken into custody and an examination of the residence revealed that there was little evidence that it was being used to live in. There were some sleeping bags in one bedroom.

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However, in a number of rooms were found computers connected to printers that were producing through the printer these counterfeit notes. The actual printing was taking place as the police arrived and continued to print as they conducted their investigation. There were a number of computers and printers producing these bills. Once the bills were produced on the computer, front and back, there was a process after they were cut and made into a bill. There was press machines in a room that first allowed them to apply foil to simulate the optical security device on the bill and a second press that allowed them to imprint ridges on the paper to simulate the actual paper used by the mint.

The masking film that was bought in large quantities - by this accused and others was used to cover the note in the next stage with a small space where the optical security device would be located and they used coloured inks to replicate that security device and then removed the masking tape, which would leave the rest of the bill intact and unaffected.

There was a room, a laundry room set up with an exhaust fan with cans of a clear coat which was used to spray the notes to make them ultraviolet dull, which would be a way of inhibiting the ability to determine if they were counterfeit. There was also chemicals found that allowed them

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to stimulate the fluorescent dots or planchets that occur on real notes.

All these computers, printers and items were seized. At that time on that day there was \$233,900 worth of these counterfeit notes seized in various states of completion as going through the process that I described that once the computers were used, it was a fairly labour extensive process that required each bill to be dealt with through the presses and the other operations. They also found a large number of boxes of this computer paper that I referred to earlier, that it's estimated that if all that paper were used successfully, it would have generated thousands and thousands of these bills. So, Weber was arrested and kept in custody. The others were arrested and eventually released.

I filed with the court, and I have before me if the court wishes to examine, a large folder headed "Counterfeit Bank of Canada \$100 Note Inkjet OSD004", and that's prepared by an examiner at the, at the Centre of Bureau for Confederates Forensic Laboratory in Ottawa and I provided the court with the first few pages and the last page, and that's a running total of these bills that had been passed and seized by banks or enforcement agencies and submitted to the Laboratory, and it's as of - toward the end of September of this year the total number of

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bills of this designation passed in Canada amounts to \$35,787, the last page of those two pages stapled together. That translates obviously to \$3.5 million worth of currency.

The first bills started to show in June of 2000 and I produced the first couple of pages of that - of that database that shows the bills being seized in Toronto in small numbers initially. The second page of that...

THE COURT: Yes the report will be marked as exhibit two, Mr. Harrison, thank you.

MR. HARRISON: Thank you.

COURTROOM CLERK: Exhibit two.

EXHIBIT NUMBER 2 - Report prepared by Centre of Bureau for Confederates Forensics Laboratory. Produced and Marked.

MR. HARRISON: The second page has a breakdown by province of the - where these bills were seized and as you can see, the large majority were seized in Ontario and Quebec and smaller numbers in the other provinces.

Upon the accused - during this investigation and at his arrest - and I'll deal now with information 5444.

THE COURT: Is that the evidence that you are offering on information 01-9489?

MR. HARRISON: Yes.

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MR. DEPIETRO: The facts are admitted, Your Honour.

THE COURT: Thank you. There was a plea of guilty to count one only. He is found guilty on that count. The remaining counts?

MR. HARRISON: Counts two and three on that indictment can be withdrawn.

THE COURT: Thank you.

MR. HARRISON: The conduct is assumed in count one, in my view.

THE COURT: Withdrawn at the Crown's request against Weber only. It is already been withdrawn against Kossom and Caporale.

MR. HARRISON: Yes.

THE COURT: Thank you.

MR. HARRISON: Now dealing with information number 5444, that relates to the Chevrolet Tahoe that the accused is observed driving on numerous occasions during this investigation. It was seized upon his arrest on July 11th. An examination of that vehicle revealed that the true V.I. number matched a Chevrolet Tahoe that was stolen in London in 1999, with an estimated value of \$48,000 dollars. The V.I. number that is on the dash and readily apparent and most people know about was a different number. It was examined and found to match a vehicle that had been purchased in Michigan as a wreck. Mr. Weber was driving that vehicle with the two numbers on it and - as it, as if it was his. Many times when he was driving it, he had access to dealer

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plates that would hang on the back license plate area and drive it around Southern Ontario.

That's the facts.

THE COURT: Are those facts...

MR. DIPIETRO: The facts are admitted, yes, Your Honour.

THE COURT: Thank you. There is a finding of guilt on that charge.

MR. HARRISON: Finally, information number 5726.

THE COURT: Yes.

MR. HARRISON: That count relates to a Mustang vehicle - a vintage Cobra Mustang that was connected to the accused and was eventually - was seized on April 8th and examined. The count two deals with the rims that were purchased in London by the uttering of counterfeit bills in May of 2000, and count one relates to a transmission that this accused purchased in Woodstock in September of 2000 for approximately \$3,500 and he paid for that with 35 hundred-dollar counterfeit notes and those motor vehicle parts were found on this Mustang. Those are the facts in relation to that information.

MR. DIPIETRO: The facts are admitted, Your Honour.

THE COURT: I am just wondering if count two can, can be - a conviction can be registered in light of the fact that there was - yes, I guess they are separate delicts. Alright, thank you.

MR. HARRISON: I think they are at a separate time and place and location.

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THE COURT: Yes, alright. Thank you. There are findings of guilt on counts one and two. We have information 6555, which I thought was withdrawn in its entirety. Yesterday. Maybe I am wrong about that.

MR. DIPIETRO: I think that was , a duplicate information, Your Honour.

THE COURT: That was withdrawn against Caporale and Kossom only, pardon me.

MR. HARRISON: That can be withdrawn at this time.

THE COURT: Against all. accused?

MR. HARRISON: Yes. You've made findings of guilt on all these matters, I understand?

THE COURT: Yes, I have not dealt with Hodare yet. I do not know if you want to have the charges...

MR. HARRISON: With regard to Mr. Weber, you've made findings of guilt on all these matters?

THE COURT: Yes.

MR. HARRISON. Yes. That information can be withdrawn.

THE COURT: Thank you, and there is information, an RCMP information 6571, obstructing justice by having someone else do his community service?

MR. DIPIETRO: I believe he's entered a guilty plea to a breach about three weeks ago relating to the same set of facts, Your Honour and was sentenced on that.

THE COURT: So, are you requesting that to be withdrawn?

MR. HARRISON: Yes, that can be withdrawn.

R. v. Weber

THE COURT: Alright, thank you. That information is withdrawn at the Crown's request, as well. We have the record that you presented. Did you want that marked as the next exhibit?

MR. HARRISON: It can be.

THE COURT: Exhibit three.

COURTROOM CLERK: Exhibit three.

EXHIBIT NUMBER 3 - Criminal Record of Wesley W. Weber.

- Produced and Marked.

MR. DIPIETRO: Your Honour, is there an information involving conspiracy involving Amy - or was that the one that was withdrawn?

THE COURT: No, the conspiracy has not - oh, I am sorry, it is a conspiracy that I have before me, 6555. The conspiracy is between the five parties and that is the information that you asked me to withdraw a moment ago and that is the one that you want withdrawn against all parties?

MR. HARRISON: Yes.

THE COURT: Alright.

MR. DIPIETRO: Thank you.

THE COURT: So, that information is withdrawn against Amy Elliott (ph)...

MR. DIPIETRO: Thank you.

THE COURT: ...who is present in court, so I gather. Yes, so when did you want the sentencing to take place?

R. v. Weber

MR. DIPIETRO: I don't know, Your Honour. Mr. Schwalm is here. I don't know if Your Honour was going to entertain a pretrial this morn - this afternoon or at the break.

MR. SCHWALM: It will be brief, sir, if you can schedule it?

THE COURT: Mr. Harrison? Should we put the matter over to this afternoon to see if we can manage it then?

MR. HARRISON: I have a problem with this afternoon. I have a commitment - I think it's 1:30 or two o'clock, probably for the rest of the afternoon.

THE COURT: The difficulty is that - that I have a chambers day tomorrow, I am in Leamington Thursday and then I do not sit again until the following week or the week after that, actually. I do not sit again until the 6th of November.

MR. HARRISON: Well, when did you want to do this pre-trial?

THE COURT: I can do it at a convenient time, say at about - I was thinking I would do it at the end of the lunch hour which would ordinarily be at about 2:15, but it seems that you are not available then, Mr. Harrison, is that right?

MR. HARRISON: The problem with that is at 1:15 there's a, there's a meeting of the - Justice Rawlins' committee with regard to the video equipment in number one court, a demonstration and discussion of that and that's a lunch hour meeting and then at 2:30 I have another meeting.

R. v. Weber

THE COURT: Well...

MR. HARRISON: I - would you entertain the pre-trial at 2:15 and then come right back into court if it's resolved at 2:30?

THE COURT: Alright, you are put over until 2:30. Yes, stand up please, Mr. Weber. Your matter is put over until 2:30.

MR. DIPIETRO: Thank you.

MR. SCHWALM: We'll call the Leo Lalonde matter.

THE COURT: I think that just for the record, before Mr. Weber goes away, he has been in custody since the 11th of July, is that right?

MR. HARRISON: Yes.

THE COURT: Thank you. Alright.

R E C E S S

U P O N R E S U M I N G

MR. HARRISON: Call Weber.

COURTROOM CLERK: Recalling Wesley Weber.

THE COURT: You can be seated Mr. Weber. Is there any need for me to get a presentence report?

MR. DIPIETRO: No, Your Honour. We're prepared to waive the preparation of a presentence report.

THE COURT: The record was marked as exhibit three. Mr. DiPietro. Do you wish to make submissions?

MR. DIPIETRO: Yes, yes, Your Honour. The uh...

THE COURT: Can I see it Madam Clerk?

Submissions by Mr. DiPietro

MR. DIPIETRO: The accused, Your Honour, is 26 years of age. There is numerous informations before you. Obviously, in dealing with the aspect of sentencing, Your Honour, you are obviously going to balance out the aggravating and the mitigating factors of sentencing. Obviously, the aggravating factor of sentencing in this particular case is the - certainly the amount of charges that you have before you, the fact that these offences were, sophisticated in the - particularly the, the making of the counterfeit money is the nature of the offence, the sophistication of the operation and the planning, obviously in the planning the premeditation of the particular offence is aggravated. But, I think what certainly makes it even more aggravating is the fact that it was done while he was serving a community sentence. Obviously, the paramount consideration on sentencing in this particular case would be one of general deterrence. It's not an offence which is an offence of violence. It's what has been considered as a white collar crime, although it has a significant or a drastic impact on the economy when these types of - when the amount of bills exceeds that which, as in this particular case.

The fact that the accused being 26 years of age, he is somewhat a little bit more gifted than

Submissions by Mr. Harrison

other individuals that come before the court. He has a couple of years of university education. He is highly intelligent. He - unfortunately had he focused his, his academic ability in a positive direction now, he would certainly become a positive, productive member of our community. This particular offence which - that Your Honour, needs to sentence him on, particularly on all these offences, obviously he received eight months on a similar offence and one that's probably graduated to a significant term of incarceration.

These types of offences, looking at the case law that was provided to you at the pre-trial, certainly calls for a significant penitentiary term.

The matter was discussed with Your Honour and given all the circumstances, the aggravating and the mitigating factors of an early guilty plea and the matter being brought to an end, I would ask if Your Honour felt that a total sentence of five years would be the appropriate disposition given all of the factors, the aggravating, the mitigating factors, the early guilty pleas and the factors that are before you. But, I think in the circumstances that would be a fit and just sentence as Your Honour will have consider in all the circumstances.

THE COURT: Thank you, Mr. DiPietro. Mr. Harrison?

Submissions by Mr. Harrison

MR. HARRISON: Your Honour, I'd like to bring to your attention, I filed with counsel and with you a statement from the Bank of Canada that I just received this morning and it's a general statement from Mr. Spencer, who works there, to describe the impact and the concern that the Bank of Canada has over counterfeiting in general and...

THE COURT: Yes, thank you. That will be marked as exhibit four, Madam Clerk.

COURTROOM CLERK: Exhibit four.

EXHIBIT NUMBER 4 - Statement from Mr. Spencer, Employee with the Bank of Canada. Produced and Marked.

MR. HARRISON: ...and counterfeiting in particular and the point that - the fact that's being pointed out that with the change in technology from the printing press to the computer production of counterfeit money, it appears that the problem has grown and is a significant concern generally, to the Bank of Canada with regard to its impact on the economy, and the effect that the production of this particular \$100 note has had is summarized in that document as well. It's important to remember that when a person receives a \$100-bill, whether it be for a tire or a meal and they can't get rid of it. If they turn it to the bank and the bank determines it counterfeit, that's a loss to the business person. The Bank of Canada, the government does

Submissions by Mr. Harrison

not reimburse the victims of counterfeit money. So, we have to look at the substantial loss suffered by business people who accepted counterfeit bills across this country.

Secondly, as pointed out and the court may have experienced, a number of businesses, because of their concern, for that very concern of losing that - those funds refused to take one hundred dollar bills and as part of commerce, which has obviously a concern on business and shows retailers' concern across this country.

So that the impact on the economy, on the business practice for any counterfeit money is significant but for the rise of bills to this magnitude is extremely significant and obviously an extremely aggravating factor. I was not able to find one case in which amounts in this range are even discussed by the court. This is a significant and sophisticated counterfeit operation. Mr. DiPietro has set out a number of the aggravating factors.

In my submission there is but one mitigating factor, and that is the fact that this accused has been prepared to admit his involvement and plead guilty to a number of charges and at a relatively early time and save the cost and time of the State and the court system to prove his guilt and I think that's been recognized by

Submissions by Mr. Harrison

courts and I've recognized it in the position I've taken with regard to the appropriate sentence range. Other than that, the fact that he has a record for this - for this from 1997 and as you will recall in my summary this morning, he was charged in April of '99 with possession of counterfeit twenties. That was outstanding for a long time and he eventually pled guilty to that in June of this year and was able to convince, I assume, a prosecutor and the court that a \$3,000 fine was an appropriate disposition and he was fined the \$3,000 for possession of counterfeit twenties.

THE COURT: Let me guess who he entered that plea in front of.

MR. HARRISON: Well I don't know, but-

THE COURT: was it in this division, Mr. DiPietro?

MR. DIPIETRO: I'm sorry?

THE COURT: Was it in this division or the other division?

MR. DIPIETRO: This division, Your Honour.

MR. HARRISON: It's in this division and that was being done at the same time this man was actively involved at 985 Lakeshore in the production of counterfeit hundreds. In my submission, it just shows a complete disregard for the court, for court orders while on bail, for court orders while on conditional sentence. This court and other courts in this jurisdiction are considering conditional community served sentences and this is - this is what makes that sentence of great

Submissions by Mr. Harrison

concern, totally disregarded by the accused and involved in a very sophisticated criminal operation.

In light of his record, the facts and all those aggravating factors, in my submission, a sentence in the range of five years in the penitentiary is appropriate. I think it reflects the aggravating factors and gives significant credit to this accused both for his early guilty plea and to his time served upon his arrest.

As well, with regard to the informations - with regard to the stolen - the property obtained by crime, information 5276, I'd like an order of restitution.

THE COURT: 5726?

MR. HARRISON: Yes.

THE COURT: Do you want that to go by way of compensation order or...

MR. HARRISON: No, the vehicle has been seized and I'm advised that the rims and the transmission can be salvaged by the owners and that they be returned to the, to the owners of those rims and the...

THE COURT: How did you want me frame that order, Mr. Harrison?

MR. HARRISON: Pursuant to 491.1(2).

THE COURT: 491?

MR. HARRISON: 491.1(2).

THE COURT: Yes?

Submissions by Mr. Harrison

MR. HARRISON: And, information 5726.

THE COURT: Yes, I have the information in front of me, I am just...

MR. HARRISON: With regard to count one, the Tremec transmission, be ordered returned to - it's Sean Hyland Motor Sports, S-E-A-N H-Y-L-A-N...

THE COURT: S-E-A-N H-?

MR. HARRISON: H-Y-L-A-N D.

THE COURT: Yes?

MR. HARRISON: Motor Sports.

THE COURT: Yes?

MR. HARRISON: Of Woodstock, and the count two being the rims, ordered returned to R. C. O., capital "R", capital "C", capital "O" Enterprises Incorporated, London.

THE COURT: Thank you.

MR. HARRISON: Thank you, Your Honour.

THE COURT: Is it your suggestion, Mr. Harrison, that the sentences all be concurrent?

MR. HARRISON: Yes, in my view, the five years is a global term and it would be very difficult to parse these down into consecutive sentences that would reflect the seriousness of each one. I think it can be concurrent on every one but the posses- or the - that information with the possession under, which I think is a maximum.

THE COURT: Yes, the maximum..

MR. HARRISON: ...two years, I think?

THE COURT: Well also the undertaking counts.

Reasons for Sentence -
DeMarco, J. - O. C. J.

MR. HARRISON: And the summary - and the five counts of uttering the forged gift certificates was a summary matter.

5 THE COURT: Thank you. Mr. DiPietro, anything you want to say?

MR. DIPIETRO: No, Your Honour.

THE COURT: Mr. Weber will you stand now. Did you want to say anything?

10 WESLEY WAYNE WEBER: No.

R E A S O N S F O R S E N T E N C E

DEMARCO, J. - O. C. J.: (Orally)

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Mr. Weber you, in regard to the counterfeiting currency offence, you were engaged in a highly sophisticated activity which was abundantly remunerative. You were committing those acts at a time when you were serving a sentence for a related offence in the community and while you were on bail for a related offence. It is that obviously the case you are an unrepentant criminal in regard that type of activity and if I had been asked, and indeed I was asked what my opinion was as to what an appropriate sentence was during the pre-trial conference and I thought it should be a little longer than was suggested, but because of your guilty plea and your willingness to plead guilty and because also of the fact that you have spent approximately two

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Reasons for Sentence -
DeMarco, J. - O. C. J.

months in custody, I am of the view that a sentence in the range of five years, while somewhat lenient, is within an acceptable range and accordingly, on count one on information number 01-9489, I sentence you to a term of five years in the penitentiary.

In regard to the two counts contained in information number 01-5726, on each of those counts you will be sentenced to a term of two years penitentiary concurrent.

There will be orders made pursuant to section 491.1(2) of the Criminal Code in regard to count number one that the Tremec transmission be returned to Sean Hyland Motor Sports of Woodstock, Ontario. In regard to count number two, that the tire rims seized as a result of that charge be returned to R. C. O. Enterprises Incorporated of London, Ontario.

In regard to information number 01-5444, the charge of being in possession of a Chevrolet Tahoe motor vehicle, you are sentenced to a term of five years concurrent.

In regard to the charges from London, Ontario, two counts of uttering counterfeit money and the two counts of fail to comply with undertakings, firstly, in regard to the two counts of

Reasons for Sentence -
DeMarco, J. - O. C. J.
Certification

undertaking, counts one and four, you are sentenced to two years on each of those counts concurrent. On counts two and three, you are sentenced to five years on each of those counts concurrent.

Finally, with regard to the charges of uttering forged documents in Windsor on the 26th of December of 1999, the Crown proceeded by way of summary conviction on those counts. On each of those counts, one, two, three, four, and five, you are sentenced to six months concurrent on each count. That is all sir, thank you.

MR. DIPIETRO: Thank you, Your Honour.

THIS IS TO CERTIFY THAT the-
foregoing is a true and accurate
transcription from recordings made
herein, to the best of my skill
and ability.

C. Tenuca
Court Reporter

"C.T."
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