



HIGH COURT OF AUSTRALIA

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Details of Filing

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**IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY**

No. M36 / 2026

BETWEEN:

CONNOR YEATES (A PSEUDONYM)

Appellant

and

10

THE KING

Respondent

RESPONDENT'S SUBMISSIONS

PART I: PUBLICATION ON THE INTERNET

1 These submissions are in a form suitable for publication on the internet.

PART II: CONCISE STATEMENT OF ISSUE

2 Is Bitcoin “property” within the meaning of s 71(1) of the *Crimes Act*
1958 (Vic)?¹

PART III: SECTION 78B NOTICES

3 Notice under s 78B of the *Judiciary Act 1903* (Cth) is not required.

PART IV: FACTS

4 The respondent agrees with the recitation of facts at AS [7]-[10] about the
10 alleged offending.

5 The appellant makes a number of other factual assertions throughout his
submissions which are also addressed here.

The Crown case against the appellant

6 The appellant is charged on indictment with one count of abusing a public office
contrary to s 142.2(1) of the *Criminal Code* (Cth), and one count of theft
contrary to s 74(1) of the *Crimes Act*.

7 In January 2019, the appellant was a Federal Agent in the Cybercrime Division
of the Australian Federal Police. On 25 January 2019, Federal Agent Jesse
Whyte, who was at that time one of several officers executing a search warrant,
20 sent text messages to the appellant. The respondent alleges that in the text
messages, Federal Agent Whyte sent the appellant a picture of a Trezor-branded

¹ Whether any other credit type entry in software would be characterised as “property” will depend on the features of the system, how that system interacts with the world, and the characteristics of the credit entries in question. For example, in *R v Lakeman* [2026] 2 WLR 696, the English Court of Appeal held that credit

cryptocurrency “wallet” and two versions of an identical list of 24 words, which were items that had been seized. Federal Agent Whyte asked the appellant whether those items related to cryptocurrency. The appellant replied (the respondent says incorrectly) that each was a “private key”.

- 8 Instead, the respondent alleges the list of 24 words was a “seed phrase”. A seed phrase functions as a backup of a private key in the form of a simple to read mnemonic, often a series of 12 to 24 words. A seed phrase enables the reconstruction of both the public and private keys associated with the relevant “Bitcoin”, which are then used to rebuild (i.e. unlock) the wallet, enabling a person to control any Bitcoin contained within the wallet, and the value thereof.²
- 10
- 9 The respondent alleges that the appellant used the seed phrase to reconstruct both the public and private keys associated with the 81.61677759 Bitcoin, and rebuild the wallet, enabling him to take control of 81.61677759 Bitcoin, then valued at AU\$492,607. The respondent alleges that the appellant stole that Bitcoin by transferring it to another wallet, and, through a series of cryptocurrency transactions, ultimately exchanging the Bitcoin for Australian dollars which were deposited into his bank account.
- 10 The case against the appellant is circumstantial. It relies on evidence linking him to many of the transactions and on evidence of his financial position, which improved substantially within a short time after the 81.61677759 Bitcoin was allegedly stolen, and in an amount that accords with the value of Bitcoin and other cryptocurrencies at relevant times.
- 20

How Bitcoin functions

- 11 The respondent agrees with the facts set out in **AS [12]** save for the statement that “Bitcoin is **nothing more** than a string of code in a distributed computer database”.³

² The nature of Bitcoin is described by the Court of Appeal in its reasons, *Connor Yeates (A Pseudonym) v The King* [2025] VSCA 288 (CA), at **CAB 34-35**, [23]–[28]. As to “seed phrases”, see **CAB 35**, CA [28].

³ Emphasis added.

- 12 The respondent agrees with the facts asserted in **AS [13]-[17]** (in Part VI(1) – Introduction – Bitcoin).
- 13 Contrary to **AS [60]**, a Bitcoin “transfer” does, in substance, assign something to another person. Putting aside a situation where a person transfers Bitcoin to a public key they control (that is, they transfer the Bitcoin to themselves), when Bitcoin is transferred between two parties, the second party is assigned practical control over the relevant UTXOs, through their knowledge of the relevant public key and their possession of the associated private key.
- 14 It is not disputed that “[t]he distributed ledger may collapse, or the entries may
10 be rolled back by those controlling the ledger” (**AS [62]**).⁴

The primary judge’s findings about Bitcoin

- 15 Based on the following key findings (none of which is challenged), the trial judge concluded⁵ that Bitcoin is property within the meaning of s 71 of the *Crimes Act* and is therefore capable of being stolen.

15.1 Bitcoin is a type of cryptocurrency.⁶

15.2 Bitcoin transactions occur when alphanumeric sequences, called “keys”, are married together. There are two keys: a public key and a private key. A public key identifies the address of a Bitcoin on a public ledger maintained electronically on computers, known as the “blockchain”.

20 A private key authorises the transfer of the associated Bitcoin.⁷

15.3 Within the software that runs Bitcoin, a public key is associated to its matched private key. When the keys are entered correctly into the Bitcoin software (and thus married together), the Bitcoin can be moved from one

⁴ cf. paragraph 51 below.

⁵ On an examination prior to the trial pursuant to s 198B of the *Criminal Procedure Act 2009* (Vic), in *Director of Public Prosecutions (Cth) v [Yeates] [No 1]* (County Court of Victoria, Judge O’Connell, 21 March 2025) (TJ), **CAB 8-24**.

⁶

place (called a public address or wallet) to another place, where such transfer (or movement) is secured by cryptography.⁸

15.4 The blockchain records every transaction, ever, of Bitcoin. The Bitcoin blockchain is public. The blockchain does not record the identity of the parties to the transaction.⁹

15.5 Bitcoin is readily exchangeable for money. Bitcoin is itself a medium of exchange, and also serves as a store of value. There exist cryptocurrency exchange businesses, facilitating trading in Bitcoin.¹⁰

10 15.6 Bitcoin is treated as property by many persons, and exhibits characteristics that distinguish it from mere information, being analogous to money.¹¹

The Court of Appeal's reasoning

16 The Court of Appeal observed that, unlike mere information, or knowledge, which does not change when it is shared or traded,¹² Bitcoin is rivalrous,¹³ “cannot be double spent”¹⁴ and changes upon any trade because the parties to the transaction do not simultaneously share or have access to the value of the Bitcoin.¹⁵ While Bitcoin is in the form of intangible software, it is traded commercially, is valuable, has a wide functionality,¹⁶ and is distinguishable from information stored in an electronic database.¹⁷

⁸ **CAB 11-12**, TJ [13]–[14].

⁹ **CAB 12-13**, TJ [16]. See, also, **CAB 34-35**, CA [21]–[28].

¹⁰ **CAB 13-14**, TJ [19]–[20]. See, also, **CAB 22-23**, TJ [56].

¹¹ **CAB 23-24**, TJ [57].

¹² **CAB 41-42**, CA [66]–[68].

- 17 The Court of Appeal assessed whether Bitcoin possessed the qualities of property described by Lord Wilberforce in *National Provincial Bank Ltd v Ainsworth*.¹⁸
- 18 The first *Ainsworth* criterion is that the property is **definable**. The Court of Appeal found that Bitcoin (or quantities of it) is definable, as an intangible thing which is associated with, and manifested by, unique individual public and private keys.¹⁹
- 19 The second *Ainsworth* criterion is that the property is **identifiable** by third parties. The Court of Appeal found that Bitcoin is identifiable because the
10 person in control of the private key associated to the public key is empowered to control and exclude others from dealing with it.²⁰
- 20 The third *Ainsworth* criterion is that property is **capable of assumption by third parties**. The Court of Appeal noted that while Australian law does not treat alienability as an indispensable attribute of property, Bitcoin satisfies this criterion because it can be traded.²¹
- 21 The fourth *Ainsworth* criterion is that the property has **some degree of permanence and stability**. The Court of Appeal found that Bitcoin is permanent because it will exist as a public address on the blockchain, until it has been spent.²² It cannot be deleted. It cannot be double spent. Although the
20 “spending” of a Bitcoin creates a new public address or public key attached to the “spent” Bitcoin, this reflects the change in ownership, and not the creation of a new Bitcoin.²³

¹⁸ [1965] AC 1175, 1247–1248.

¹⁹ **CAB 47-48**, CA [95]–[97].

²⁰ **CAB 48**, CA [98]–[100].

²¹ **CAB 48-49**, CA [101]–[105].

²² **CAB 49**, CA [107].

²³ **CAB 49-50**, CA [106]–[113].

Part V: ARGUMENT

22 The appellant's submissions develop, in effect, two points:

22.1 by reference to various domestic and international authorities relating to Bitcoin and cryptocurrencies (**Part VI(2)**), that Bitcoin is not property; and

22.2 that Bitcoin is mere information and therefore not capable of being property (**Part VI(3)**).

23 Neither is made out.

24 The authorities (both domestic and international) are all against the appellant.

10 25 The appellant's argument that Bitcoin is mere information failed before the trial judge and the Court of Appeal – as it must here – because it ignores the functional manifestation of the string of code: that string of code exists within a system that was expressly designed to, and which does, enable secure transfer of Bitcoin (represented by that code) in a way that means Bitcoin is rivalrous. Though intangible, Bitcoin, defined and identified by that code, is comfortably understood as property; one can “have” or own Bitcoin, and trade it, and steal it.

26 As the Court of Appeal observed (**CAB 44**, at [75]):

20 ... viewing Bitcoin as nothing more than the mere data manifesting its existence ignores its larger functionality in the same manner as treating a physical coin as a mere metal disc ignores its economic and legal significance.

27 The suggestion that because Bitcoin “was intended to be free of any state or legal system” (**AS [53]**) is a point in favour of denying its characterisation as property, is circular and inconsistent with the rule of law. If Bitcoin is property, it is subject to Australian law in relation to property, including the proscription on stealing property. Bitcoin's intention, to sit outside legal control, is immaterial.

- 28 These submissions first address the statutory definition and the argument that Bitcoin is mere information, before considering the *Ainsworth* qualities, the various authorities and the other matters upon which the appellant relies to submit that Bitcoin is not property capable of being stolen.

Property within the meaning of s 71(1)

- 29 This appeal starts – and ends – with the statutory language under consideration. Section 71(1) of the *Crimes Act* relevantly provides:

property includes money and all other property real or personal including things in action and other intangible property.

- 10 30 In *R v Lakeman*,²⁴ the English Court of Appeal recently considered that definition,²⁵ and explained its breadth in the following terms:

The starting point is the language of section 4. It is an inclusive not exhaustive definition. It is in wide terms so as to be capable of applying to anything intangible provided it can be properly described as property. ... [I]t is directed to criminalising something which someone “steals”. It is aimed at property in the sense of a thing which someone can steal. The expansive nature of the definition and the criminal context suggests as a starting point that property should be construed as capable of applying to any thing which can as a matter of normal use of language be described as capable of being stolen, unless there are good reasons why such a thing should be excepted.

- 20 31 Taking that starting point, Bitcoin is property capable of being stolen. Any person with access to the public and private keys could transfer to themselves (or others) the Bitcoin. The transferee will then have control over the UTXOs formerly associated with those keys. Once transferred, the person who controlled that public and private key is no longer in control of the UTXOs that were formerly associated with the original public and private keys. Control over the functional manifestation of Bitcoin – UTXOs – has been removed from one

²⁴ [2026] 2 WLR

person and appropriated by (transfer to) another person. And, as such, the person has appropriated property belonging to another.

32 That analysis is enough to dispose of the appeal.

Bitcoin is not mere information

33 The appellant’s argument takes as its premise that the law does not regard “information” as property, and seeks to characterise Bitcoin as information (or mere information) (AS [49]-[54]). However, the difference between information (or mere information), and its functional manifestations, can readily be discerned. In the case of Bitcoin, the information embedded in the computer code generates credit entries with particular characteristics. The functional manifestation of the information (in the form of the private and public keys), though intangible, is still property.

34 The appellant submits that “[e]ither all knowledge is property or it must be possible to state a criterion to distinguish between knowledge that is property, and that which is not property” (AS [49]). The concept of “property” does not admit of any such neat statement. That does not undermine the conclusion that Bitcoin is property. The question before this Court in this case is not to define what “all knowledge” might be, but whether Bitcoin falls within the definition of property in s 71(1) of the *Crimes Act*.

20 35 Recourse to principles applicable to the protection afforded to confidential information is not useful (*cf.* AS [52]). Bitcoin is software that is published and its ledger is available to anyone who wishes to inspect it. Bitcoin is not – and cannot, therefore, be – confidential information.

36 The appellant submits that the keys at play in the Bitcoin ecosystem are no different from passwords or PINs (AS [58]) and therefore are only information and not property. The appellant is not accused of stealing the private or public keys. The property the subject of the charge is the Bitcoin itself that was transferred: see **CAB 45**, CA [83]. The status of the public keys or private keys themselves is not raised by this appeal.

Bitcoin has the qualities of property identified in *Ainsworth*

37 Notwithstanding the observations in *R v Lakeman* about the utility of these civil law factors when assessing “digital assets” in the criminal law context,²⁶ they remain helpful indicia.

38 The Court of Appeal’s analysis of Bitcoin by reference to the qualities identified in *Ainsworth*,²⁷ which we respectfully adopt, is consistent with Bitcoin being property.

Bitcoin is definable

10 39 The Bitcoin ledger (or blockchain) records all transfers of Bitcoin since its inception.²⁸ This means that every entry in the Bitcoin ledger represents a discrete sequence of code which is identifiable within the Bitcoin software as a UTXO.

40 The UTXO, which is the “Bitcoin” that can be spent, is thus readily defined. It is a credit entry within a specified system. That system makes entries of this type (i.e. the UTXO) transferable, rivalrous, and secure.

41 Any entry in the Bitcoin ledger which relates to the UTXO, is identified in the ledger in a way that is distinct from all past entries and transfers.²⁹

20 42 The appellant appears to concede that Bitcoin is definable (**AS [58]**), but only “to the extent that it can be represented by such line item(s)” in the blockchain. It may be accepted that “[a] unique alphanumeric code on the blockchain does not make it a thing” (**AS [58]**), but it does indicate the quality of “definable” is present.

43 The Court of Appeal addressed this quality at **CAB 47-48**, [94]-[97].</

Bitcoin is *identifiable*

44 Bitcoin, or UTXOs, are identifiable by third parties, who can, by reading the ledger either directly or with the assistance of an online tool, see every public key and the particular amount of UTXOs associated with that key.

45 The Court of Appeal addressed this quality at **CAB 48**, [98]-[100].

Bitcoin is *capable of assumption by third parties*

46 Even though this third quality is not strictly necessary,³⁰ Bitcoin, or UTXOs within the Bitcoin system, are capable of assumption by third parties.

10 47 The express purpose of the Bitcoin system is to facilitate the transfer of UTXOs without the need for a formal institution. Picking up the processes of Bitcoin, the transfer occurs by the transferor matching the public key address of the UTXO with the private key, authorising the Bitcoin software to generate a new public key and new matching private key, which relates to the transferred Bitcoin. The transferor has thus diminished the amount of UTXO that they hold by the value of the transaction, and the transferee has received that amount of Bitcoin (less any transaction fee), and critically, a new private key over which the transferee has exclusive control.

48 The Court of Appeal addressed this quality at **CAB 48-49**, [101]-[105].

Bitcoin is *permanent and stable*

20 49 There can be no question that Bitcoin, or UTXOs, are stable and permanent. The ledger entry that records the association of a UTXO with a public key is published, accessible to anyone with an internet connection, and is not readily altered. The exchange value of Bitcoin for fiat currency might fluctuate from time to time, as with any article of commerce. That changes the value of the commodity; it does not affect its permanence or stability: *cf.* **AS [61]**.

50 That 20% of all Bitcoin has been “lost” (see **AS [61]**) is apt to confuse. It is not that the Bitcoin is “lost”, it continues to exist (i.e. it is stable and permanent) in the ledger. It is simply that the capacity to transfer it has been lost.

51 That “[t]he distributed ledger may collapse, or the entries may be rolled back by those controlling the ledger,” (**AS [62]**) overlooks that the capacity of property to be destroyed, or extinguished, does not deprive it of the characteristics of property.

52 The Court of Appeal addressed this quality at **CAB 49-50**, [106]-[108].

Authorities across the common law world

10 53 The respondent is not aware of any case in any common law jurisdiction where Bitcoin has been treated as, or found to be, anything other than property.

54 As at 17 May 2023, the UK Law Commission report, *Digital Assets: Final Report*,³¹ explained that “[i]n England and Wales, across the common law world, and in other jurisdictions, there is now a persuasive, clear, and well-reasoned body of case law that concludes that certain digital assets are capable of being objects of personal property rights”.³²

55 There have been no subsequent authorities that have come to a different conclusion.

20 56 In addition to the present case, there have been two other Australian cases that concluded (following argument) that cryptocurrency is property:

56.1 *Re Blockchain Tech Pty Ltd* (2024) 76 VR 578, a decision of a single judge of the Supreme Court of Victoria;

- 57 In other cases, the question was assumed but not formally determined.³³
- 58 There is nothing in the international authorities that assists the appellant. The Court of Appeal surveyed those authorities at **CAB 43-47**, CA [70]–[92]).
- 59 In *Ruscoe v Cryptopia Ltd (in liq)* [2020] 2 NZLR 809,³⁴ the New Zealand High Court found that cryptocurrencies including Bitcoin were “property” within the meaning of s 2 of the *Companies Act 1993* (NZ), a broad definition that includes “intangible” property. After assessing Bitcoin against the *Ainsworth* considerations and finding that Bitcoin satisfied each of them (at [104]–[121]), Gendall J also rejected the proposition that cryptocurrencies including Bitcoin were mere information having regard to the secure methods for transfer and assignment (at [127]–[128]).
- 60 In *Tulip Trading Limited v Bitcoin Association for BSV* [2023] EWCA Civ 83, the Court of Appeal accepted the parties’ collective position that Bitcoin is “property” (at least for the purpose of equitable remedies) (at [24]). See also, *D’Aloia v Persons Unknown* [2025] 1 WLR 821 (**CAB 44**, CA [74]).
- 61 In *ByBit Fintech Ltd v Ho Kai Xin* [2023] SGHC 199,³⁵ the High Court of Singapore held that the cryptocurrency assets were property amenable to the remedy of a constructive trust. The Court found that cryptocurrency satisfied the *Ainsworth* considerations (at [33]) and that it otherwise exhibited the characteristics of tradeability and value, analogously with money, that warranted the classification of property (at [36]).
- 62 In Canada, cryptocurrency has been assumed, without any detailed reasoning, to be property.³⁶

³³ See, most recently, this Court’s treatment of

The further characterisation of Bitcoin is irrelevant in this case

- 63 Lord Justice Fry’s obiter comments in 1885 in *Colonial Bank v Whinney*,³⁷ that
“all personal things are either in possession or action. The law knows no *tertium*
quid between the two”, are not to the point.
- 64 This dictum does not govern, nor relevantly inform, the construction of the
Crimes Act. That definition has been overtaken by human ingenuity and what
was thought possible in 1885. As the Court of Appeal correctly found, it was not
necessary to determine that issue to dispose of the appeal.³⁸
- 10 65 The appellant submits that treating Bitcoin as property is to give digital tokens
“greater status than money in a bank” (AS [66]). It is unclear what hierarchy the
appellant relies on in asserting a “greater status”, but in any event, the
submission is distracting. The cases cited by the appellant³⁹ relate to
fraudulently obtaining an advance of funds from a bank which would usually
involve the creation of a new chose in action in favour of the fraudster at the
point of the advance of funds. On that basis, the fraudster is not stealing
something that belonged to another (the chose in action did not exist until the
advance).
- 66 As the trial judge found, that is not how Bitcoin works.
- 20 67 In the case of Bitcoin, it is not that a new “thing” is created upon a transfer.
When there is a transfer of Bitcoin, or UTXO, it is not the case that a new
UTXO comes into existence. A UTXO is a functional manifestation, an idea,
representing a unit of value within the Bitcoin system. When there is a transfer,
the transferred UTXO is disassociated from one public key, and is associated
with a new public key. The unit of value has transferred; no Bitcoin is created or

destroyed. Unlike in orthodox banking transfers, there is no discharge of one thing and the creation of another thing.⁴⁰

68 The appeal ought be dismissed.

PART VII: ESTIMATE OF TIME

69 The respondent estimates that 1 hour will be required for oral argument.

Dated: 23 June 2026.



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BETWEEN:

CONNOR YEATES (A PSEUDONYM)
Appellant

and

10

THE KING
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ANNEXURE TO THE RESPONDENT’S SUBMISSIONS

Pursuant to Practice Direction No 1 of 2024, the Respondent sets out below a list of the constitutional provisions, statutes and statutory instruments referred to in these submissions.

No.	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates
1	<i>Crimes Act 1958</i> (Vic)	Historical version for 28 October 2018 to 1 March 2019	Section 71(1)	Act in force on the date of the offence	25 January 2019
2	<i>Companies Act 1993</i> (NZ)	Historical version for 13 January 2020 to 16 May 2020	Section 2	Act in force on the date of judgment in High Court of New Zealand	8 April 2020
3	<i>Theft Act 1968</i> (UK)	Current version	Section		

