

Money as a Technology

A legal view

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Paulus (3rd-2nd ct BC) (coins)

a material ... being given a stable value
by the state ...

struck in due form by the mint

demonstrates its utility and title not by
its substance as such but by its quantity

so that no longer are the things
exchanged both called wares but one of
them is termed the price

Mann (1939)

legal theory of money (fiat)

Chattel issued under the authority
of the law in force in the state of
issue

to serve as the universal means of
exchange in that state

denominated by reference to a unit
of account

Proctor (2012)

Functional theory of money

commonly and continuously to be accepted as payment in exchange for articles of commerce

fund transfers generally irrevocable

tor and tee think of themselves as
'possessing/owning' 'money'

funds standing to the credit of a bank account
should be regarded as "money" for legal
purposes

Do you own the cryptos in your 'wallet'?

One or more hosted digital currency wallets enabling you to store, track, transfer, and manage your balances of ... Digital Currencies

We securely store Digital Currency private keys, which are the means by which you can securely approve a Digital Currency Transaction.

We securely store private keys in our control in a combination of online and offline storage.

Contract

Naked promise to store keys

Claim damages

In the insolvency of the provider on a pro-rata basis

Bailment

Depositing an object in a warehouse

Provider maintains warehouse

You own the object

In the insolvency of the provider you
can claim the object

Do the terms mean bailment?

One or more hosted digital currency wallets enabling **you** to store, track, transfer, and manage your balances of ... Digital Currencies

We **securely store** Digital Currency private keys, which are the means by which you can securely approve a Digital Currency Transaction.

We **securely store** private keys in **our control** in a combination of online and offline storage.

Does this say that you are the owner of the keys?

Bailment

Identification – a matter for trust

Wallets are off the chain.

You cannot verify

- which publicly visible account/public key belongs to your wallet provider.
- how many wallets the wallet provider hosts
- if the wallet provider has enough private keys for the wallets that he holds.
- if an allocation of keys and wallets has taken place at an operational level

Bailment

Law envisages warehouses and tangible objects

Is bailment possible for digital storage of digital assets?

Trust

Custodian promises to hold assets for an investor

Custodian is the legal owner of the asset

Benefits belong to the investor

Investor can claim the assets if the custodian goes bust

Has the provider promised to hold the keys on trust?

One or more hosted digital currency wallets enabling **you** to store, track, transfer, and manage **your balances** of ... Digital Currencies

We securely store Digital Currency private keys ...

We securely store private keys in our control ...

Does this say that they are holding the keys on trust for you?

Trust

Identification

Bitcoin are not a chose in possession
or a chose in action

Are they digital property?

How to regulate digital currencies

Decentralisation

Wallet providers

- International co-operation
- Domestic connection point

Technology providers

A word on ICOs

Token representing securities

Token representing services

Token representing goods

Uncertificated Securities Regulation

Consensus mechanisms and time