Chapter Eight

SILICON VALLEY, WELFARE QUEEN

We ended the last chapter in a very dark place, with Silicon Valley fever dreams of an autocratic society organized like a company – a "high-IQ meritocracy" operating without democratic interference. But democracy gives people a non-violent way of expressing their concerns about the social impacts of technological innovations, and Silicon Valley's elites might come to miss the release valve of democracy if it disappears. During the Industrial Revolution, the Luddite rebels didn't start smashing machines until they had exhausted other avenues for addressing their concerns about technology's social impacts. In the century that followed the Industrial Revolution, it was legislative change (labor laws, environmental laws, and much more) that ended up making the dislocations of technological progress more acceptable to society. And so Silicon Valley has benefitted from the democracy from which it sprang, even if it doesn't want to admit it.

As we'll discuss in this chapter, Silicon Valley has also benefitted from the society from which it sprang in many other ways. While government support for technological innovation is

often good policy, Silicon Valley has benefitted from so much indiscriminate public support over the years that the tail now wags the dog. President Eisenhower foreshadowed this possibility back in 1961, warning that "in holding scientific research and discovery in respect, as we should, we must also be alert to the equal and opposite danger that public policy could itself become the captive of a scientific-technological elite." I think it's safe to say that a version of Eisenhower's fears has now been realized and that much of our public policy has, indeed, ended up the captive of the Silicon Valley elite and their techno-solutionist worldview. This chapter will tell the story of how handouts to Silicon Valley have brought us to a place where the tech elite have been able to weaponize our political processes and legal system against the public good.

Handouts to Silicon Valley

It's hard to know whether those downplaying the importance of government support to Silicon Valley are being willfully oblivious, or just plain lying. Either way, it's time for some real talk. While it's easier and neater to tell ourselves meritocratic stories about how the best tech businesses always win out, the truth is that there's not only a lot of luck involved but also a lot of other forces at work. Ronald Reagan demonized so many black women with the term "Welfare Queen," but if you want examples of people who've *really* benefitted from government largesse, you need look no further than Silicon Valley's billionaires.

In 2019, Margaret O'Mara published a history of Silicon Valley titled *The Code: Silicon Valley and the Remaking of America*. In an interview about the book, she explained that:

> *the Silicon Valley mythos of freewheeling, entrepreneurial cowboys allows little room for big-government involvement, and antipathy toward bureaucracies and politics-as-usual has been a hallmark of tech culture for a while. But the hidden history I trace in this book shows that the U.S. government has been present all along*.

What kinds of government support are we talking? Government contracts and subsidies and tax breaks, oh my!

Even when government support for technological innovation is good public policy, that doesn't negate the fact that it is, in fact, government support. As O'Mara chronicles in her book, over the years government funding (particularly defense spending and university grants) helped build many of the underlying technologies that Silicon Valley would ultimately commercialize. Most famously, the internet – the foundation for Silicon Valley's greatest success stories of the last thirty years – emerged from research at the Defense Advanced Research Projects Agency, part of the US Defense Department. And Silicon Valley continues to receive government contracts and subsidies today. Peter Thiel's Palantir, for example, received early investment from the CIA, and now has billions of dollars' worth of government contracts with agencies ranging from the FBI to the Army. Or take Elon Musk's companies. In 2025, his SpaceX and Starlink companies were reported to have billions of dollars' worth of contracts with the Department of Defense, and in the first quarter of 2025, Tesla received $595 million in regulatory credits, without which the company would have had to report a loss.

Now for the tax breaks. Silicon Valley is fueled by investment from venture capitalists, and the VC industry is itself a creature of tax and other friendly policies bestowed by the government. The birth of the VC industry as we know it can be dated to a period of much-lobbied for legal changes in the late 1970s and early 1980s. As historian M.R. Sauter describes:

> *the policy agenda advocated for…included large reductions in capital gains tax; revisions to SEC rules 144 and 146 to ease the secondary sale of unregistered securities; and the relaxing of ERISA investment guidelines to mark high-risk venture capital investments as permissible for pension funds.*

Implementation of these changes started in 1977, and while VC funds only received about $68 million in new investments that year, that number was around $5.097 billion by 1983.

Let me explain the capital gains taxation benefit in a little more detail, because it's both a big giveaway for Silicon Valley and a big political flashpoint (VC Marc Andreessen said in 2024 that a proposed change to capital gains taxation for people worth more than $100 million was "the final straw for me. This is the thing that tipped me hard" to support Trump and not the Democrats). VC funds typically operate on what is called the "2 and 20" model – they collect a fee of two percent of the amounts invested with the fund, as well as twenty percent of the profits generated by the fund. Only the 2% is taxed as income, and the 20% "carried interest" is taxed at a much lower capital gains rate.

Over the years, there have been attempts to increase the capital gains taxation rate and also to close this "carried interest loophole." In particular, the Inflation Reduction Act that passed in 2022 initially included provisions that would have made both the 2% and the 20% subject to the higher income tax rate. But Democrats could not afford to lose a single vote on that legislation given their narrow control of the Senate at the time. Arizona Senator Kyrsten Sinema courageously stood up for the interests of the VCs (and the hedge fund managers, law firm partners, and private equity executives) and insisted that the carried interest loophole be preserved. And so the Inflation Reduction Act passed with the loophole intact – and then, I can only assume, the lobbyists clinked their champagne glasses.

Please sir, may I have some law?

You can't really tell the story of Silicon Valley without mentioning the cocktail of legal dispensations served up to the industry at the dawn of the commercial internet in the 1990s. As legal scholar Anupam Chander describes:

> *In the face of calls for legal protections, the Clinton Administration promoted self-regulation by the Internet industry. Congress wrote a set of statutes that dealt with some of the principal concerns of both the content industry and the public, without placing too much in the way of burdensome constraints on Silicon Valley enterprise. The Courts, for their part, sought to protect speech and promote innovation by reading immunity statutes broadly and striking down statutes that might chill speech. At the same time, each of the branches*

checked the others when they proved less than friendly to Internet innovation.

Chander focuses in particular on the passage of Section 230 of the Communications Decency Act, which insulates tech platforms from liability for their users' posts. He also underlines that Silicon Valley has benefitted because copyright and privacy protections are weaker for Americans than they are for their European and Asian counterparts. Over the years, weak antitrust enforcement in the United States has also proved to be a huge boon for tech platforms, which were allowed to grow unmolested into huge monopolies. In her book *The Tech Coup*, Marietje Schaake notes that "[in 2013] the FTC sympathized with Google's argument that low competition was a necessary evil to ensure that consumers could get "better, faster, more valuable answers to their queries.""

Because all this legal largesse just kept on coming, we shouldn't be surprised that the Silicon Valley elite came to feel entitled to it – that as it was in the beginning, it is now, and ever shall be, amen. But whether you consider the United States' legal accommodation of Silicon Valley a good choice or a bad choice, it's important to recognize that it was *a choice* – and one that has proved enormously beneficial to the tech industry. The billion (trillion?) dollar question is, do we want to keep making the same choice going forward?

While the law is often seen as something that lags behind new technologies, the reality is that technological development and laws shape *each other* in an ongoing dance. Silicon Valley businesses are influenced by existing laws, by how their lawyers interpret those laws, and by how those laws are or aren't enforced.

When laws that protect the public are enforced against tech businesses, then that sends a signal to similar businesses that they should minimize their harms and fit within the four corners of those laws. If such laws aren't enforced, though, then that works as a green light for tech businesses to move fast and break things. That green light is a kind of subsidy, one that gives tech-based businesses a competitive edge over the industries they're trying to disrupt (which *do* have to comply with existing laws). These "green light subsidies" can prop up technologies and business models that might have little to recommend them on a level legal playing field.

Silicon Valley has often pushed hard for green light subsidies, hyping their technological innovations as so exceptional that they deserve, well, exceptions from fusty existing laws. After all, the techbros (and their lawyers) argue, old laws couldn't possibly have contemplated such earth-shattering technological developments. This is the playbook deployed by so many of the fintech businesses we saw in Chapters 2 and 3, manufacturing uncertainty about how the laws on the books apply by appealing to stories of "automation" and "disintermediation." If regulators are ready and willing to do Silicon Valley's bidding, they will simply swallow these stories whole and parrot them as they dismantle protections for the public. But even more public-minded regulators may be wowed by these stories, and put in place waivers or exemptions or "regulatory sandboxes" that are intentionally designed to accommodate tech-based businesses and help them thrive.

When regulators *do* apply old laws to new tech businesses (and honestly, technology isn't magic so it's usually quite feasible to do so), the techbros gaslight those regulators, blaming them for

stifling innovation and ridiculing them for being Luddites who just don't get how new technology has shattered past paradigms. Sometimes the attacks are just made in the press and on social media; sometimes they're waged in the courts by expensive lawyers acting on behalf of the tech businesses. Unfortunately, the Supreme Court has in recent years made life harder for regulators who want to apply existing rules to tech businesses (by making it easier to fire the leaders of regulatory agencies; ending long-standing deference to expert agency decision-making; and embracing doctrine that raises questions about whether an agency can tackle novel issues without express Congressional authorization). Against this backdrop, it's disappointing but not entirely surprising that even public-minded regulators often end up spending their time just trying to keep up with technological developments, rather than enforcing existing laws against them. These regulators end up accommodating tech businesses – and the harms they inflict – through their inaction.

Whatever the flavor of regulatory accommodation, it sends a message that tech businesses are indeed exceptional – superior to other types of business that don't get Silicon Valley's "get out of jail free" card. Eventually, though, as the harms pile up, the public will start to complain and the headlines will scream "where were the regulators?" In other words, all this accommodation can bite regulators in the ass, once it has bitten the asses of enough members of the public. The longer regulators wait to enforce the law, the harder it is for them to eventually crack down – both because their past behavior sent the message that cracking down on innovation is a bad thing, and because their accommodation helped legitimize and encourage the growth of the tech businesses they now want to crack down on. Once those businesses are bigger, more established and more politically

connected – and represented by more expensive lawyers – they aren't going to take the enforcement lying down.

In many respects, regulators' lives will be easier if they enforce existing laws from the get-go. Often, technology's harms are not particularly novel, or they at least rhyme with familiar harms in ways that allow us to apply existing laws by analogy. As the Consumer Financial Protection Bureau's former Chief Technologist Erie Meyer put it, "I think Americans give up a lot of power if we agree with the premise that new technology requires new rules of the road." It's easier for regulators to apply existing laws if they are neither dazzled nor terrified of the technology in question, which is why we need more public-minded technologists in regulatory agencies (and to be clear, I'm talking about more Erie Meyers, not more DOGE bros called Big Balls taking a sledgehammer to our government IT contracts).

Please sir, may AI have some law?

This ability to see through tech hype is critically important when it comes to figuring out how to regulate AI. We discussed the kind of ideological stew that breeds AI hype last chapter, and if we uncritically accept quasi-religious TESCREAList views about AI's promise, then there's no legal concession, no present harm (to the environment, to workers, to creators, to victims of fraud and hate speech, to democracy) that wouldn't be worth it. For example, there could be no environmental harm or community damage dire enough to justify impeding Elon Musk's xAI data centers, which are belching away pollution in Memphis, or any reason to stop Peter Thiel from developing a private nuclear facility in Kentucky. Permits be damned! And when Twitter co-founder Jack Dorsey posts "delete all ip law" and Elon

Musk replies "I agree," how could you *not* agree to subsidize the AI industry with free training data? The piddling rights of those who created the copyrighted material simply must be trampled upon to feed the models the data they need to bring about the rapture (or the singularity, as I believe the TESCREALists like to call it). The head of the US Copyright Office will just have to be fired for not bending to their whims...

Even during the Biden administration, AI hype was influencing policy. In 2023, Biden issued an AI Executive Order that started with the words "Artificial intelligence (AI) holds extraordinary potential for both promise and peril." Biden's Order didn't fall into the trap of AI doomerism – it focused on real AI harms like fraud, discrimination, disinformation, and worker dislocations, rather than the probability of annihilation at the hands of the Terminator. But the Order's initial boosterism set the scene for the kind of legal responses that law professor Woody Hartzog calls "half measures." Fears of stomping out AI's "extraordinary potential for promise" encourage limited interventions like transparency mandates, audits, and the adoption of ethical principles. These kinds of half-measures would not only be insufficient, they would also send a message to the public that cracking down on AI innovation is a bad thing that should be avoided at all costs. Any lawmakers or regulators who did try to proactively rein in AI's harms would face an even steeper climb.

But all of that is moot because Trump rescinded Biden's AI Order as he walked in the door in January 2025. The "America First" Trump administration is all in on GenAI hype (despite the fact that the GenAI industry is built on poorly-paid foreign labor, as we saw in Chapter 5). Standing next to Sam Altman, Trump

announced with great fanfare an OpenAI-led "Stargate" project, which plans to spend $500 billion to proliferate more data centers across the United States. He appointed PayPal Mafioso David Sacks as AI (and crypto) czar, and sent Vice President JD Vance to a global AI summit to scold global leaders about industry-killing AI regulations. The Trump administration published an "AI Action Plan" that takes the Biden Order's description of AI's "extraordinary potential for promise" and turns it up to "an industrial revolution, an information revolution, and a renaissance—all at once. This is the potential that AI presents." Trump's "One Big Beautiful Bill" almost included a 10 year moratorium on state regulation of AI – about as large a legal accommodation as one could imagine, and although it was taken out at the last minute, the Trump administration has not-so-subtly indicated that states "with burdensome AI regulations" may jeopardize their access to some federal funding.

To the extent that states do remain free to regulate AI, what would a good legal response to AI's harms actually look like? For starters, there are some important legal gaps that do need to be filled with new laws and regulations. Privacy harms – things like surveillance and data-fueled manipulation – are something we've never been particularly good at addressing in the United States, and the gaps left by Clinton-era decisions not to comprehensively address privacy harms are only being brought into sharper relief with the rise of AI. The Gramm-Leach-Bliley financial privacy protections enacted in 1999, for example, aren't up to the task of dealing with exploitation of financial data by AI tools, but frankly they weren't really up to the task of protecting financial data privacy even before AI came on the scene (you know that annual privacy notice you receive from your bank and throw away without reading? That's Gramm-Leach-Bliley in

action. When I was a baby lawyer, I used to write similarly disposable consumer disclosures for banks. Ah, the memories).

With that said, there are plenty of situations when AI's harms can *already* be addressed by full-bodied enforcement of existing laws, and failure to enforce those laws acts as a kind of green light subsidy for the AI industry. Sticking with financial regulation, years of financial scandals and crises have ensured that we are not only intimately familiar with the types of harms that financial regulators need to worry about, we also already have many laws on the books that are flexible enough to address new tech-fueled variants of financial services – if regulators and law enforcement officials are willing to apply them. Of all the financial regulators, the Consumer Financial Protection Bureau ("CFPB") was the most tech savvy and therefore best positioned to see through techno-solutionist BS. In a 2024 letter to then-Treasury Secretary Janet Yellen, the CFPB stated its views that "although institutions sometimes behave as if there are exceptions to the federal consumer financial protection laws for new technologies, that is not the case." I suspect this no-nonsense approach is part of the reason why Elon Musk's DOGE made it a priority to "Delete CFPB" (Musk's financial ambitions for his X platform suggest he also had strong personal incentives to make CFPB supervision go bye-bye). Before it was DOGEd, though, the CFPB would apply the Equal Credit Opportunity Act (which prevents businesses from unlawfully discriminating when they make credit decisions) even when lending decisions were generated by an AI tool.

When there are robust and flexible laws like these on the books, advocating for new AI-specific financial laws can undermine efforts to apply existing laws, ceding industry an

unregulated vacuum in which to experiment. While it's true that laws really do need changing sometimes – they can become outdated or superfluous – let's think about who currently has the biggest megaphone to broadcast narratives about existing laws being outdated and superfluous. Is it the people protected by those laws, or the people who stand to benefit financially by getting rid of them? If new technology-specific laws are indeed enacted to replace the old laws, they may very well end up being half-measures that offer the public fewer protections than the *status quo ante*. Silicon Valley will lobby heavily against including real protections in these new laws, and even technology-specific laws that start out strong will quickly become obsolete and easy to arbitrage as the underlying technology evolves. The absence of strong legal protections will, of course, make it easier for AI to make money – which, as we saw in Chapter 5, is something that many AI businesses are currently struggling to do. But that underlines a point we've made again and again in this book – that legal innovation, rather than technological innovation, is often the driving force behind Silicon Valley businesses.

How venture capital built crypto (with a little help from the Federal Reserve)

Which brings us back to crypto, an industry built on crappy technology and a whole lot of legal maneuvering. In my head, I often think of the crypto industry as "Philip Morris in a grey hoodie:" like two kids stacked in a trench coat trying to convince the world they're old enough to see a dirty movie, the crypto industry wears Silicon Valley's ubiquitous grey hoodie to try and disguise the fact that it delivers about as much social value as a cigarette company.

This crypto industry wouldn't exist without the efforts of Andreessen Horowitz and other VCs, and that should frankly make us think twice about how we subsidize the VC industry. Although Marc Andreessen assures us in his manifesto that "the techno-capital machine makes natural selection work for us in the realm of ideas. The best and most productive ideas win," it is really the VC industry who decided to build the crypto industry into a thing. As Nobel Prize winning economists Akerlof and Shiller explain in their book *Animal Spirits*, "capitalism does not just sell people what they really want; it also sells them what they think they want." What people think they want is influenced by the stories being told at the time, and this is especially true of Silicon Valley, which trades in ideas as much as products. Sometimes, it's possible for a crappy technology or business to succeed (at least in the short-term, which is what the VC model focuses on) simply by telling a good story – especially if VCs can tell a good story about why existing laws shouldn't apply to that business.

So let me interject with a story of my own – the story of how VCs built fundamentally flawed blockchain technology into a crypto industry that is now exploiting users, threatening our financial system, and perverting our politics. This story starts with the financial crisis of 2008. That crisis didn't just damage trust in the traditional financial industry, which VCs then exploited with hopeful narratives about a "decentralized" alternative. It also unleashed a prolonged period of low interest rates that acted as a subsidy for VCs. At the end of 2008, the Federal Reserve set interest rates as low as they could go to try and juice the economy. The Fed left them there through 2015, then made some small increases, then set them back to rock bottom once the Covid

pandemic hit in March 2020. And rock bottom they remained until 2022 when the Fed (along with central banks all around the world) started to increase interest rates in response to rising inflation.

During the decade-plus of low interest rates that preceded 2022, though, people with money couldn't get much of a return from more standard, stable investments. They went searching for yield in riskier investments that promised more of a return, and VC funds were a huge beneficiary. In 2021 alone, VCs had $330 billion to pump into tech startups (as a point of comparison, annual venture investment during the 1990s-era dotcom boom peaked at $100 billion). This easy money insulated many of the startups funded after 2008 from the need to profitably solve real-world problems.

> Andreessen Horowitz, which was founded in 2009, has spent most of its existence insulated from having to figure out how to operate when money isn't gushing in. One of my pet theories is that when the firm finally had to confront rising interest rates in 2022, it made business so unusual and (relatively) uncomfortable for Messrs Andreessen and Horowitz that they started seeking answers from the political right.
>
> Also, the fact that Silicon Valley made out so well post-2008 is yet another reason why we shouldn't let Silicon Valley control our financial system – they might be cool with causing another financial crisis if they see the low-interest rate aftermath of a fintech-inspired financial crisis as a profit opportunity. Anyways…

During the earlier dotcom boom, burning through money in the "blitzscaling" phase was a temporary step on a several-year journey to profitability (PayPal, for example, became profitable within four years; Amazon was the outlier from that period, taking ten years to become profitable). It is now much more common for "unicorn" startups to stay unprofitable for over a decade, and because VCs can now exit their investments before a startup reaches profitability, this has shifted what VCs look for in a startup. As Meredith Whittaker, President of the Signal Foundation, explains: "venture capital looks at valuations and growth, not necessarily at profit or revenue. So you don't actually have to invest in technology that works, or that even makes a profit, you simply have to have a narrative that is compelling enough to float those valuations." Particularly during the immediate post-Covid sugar high, the situation "quickly went from not enough capital to not enough ideas for the flood of capital to fund" and VCs invested in many questionable startups – ultrafast delivery companies, crypto, other fintechs – they could at least tell good stories about (AI startups also started to thrive during this easy money period).

Andreessen Horowitz really started the whole crypto mess with its 2013 investment in the Coinbase crypto exchange. By 2022, Andreessen Horowitz had raised more than $7 billion to spend on crypto and blockchain businesses. If a marquee name like Andreessen Horowitz thought that crypto was hot, then other VCs wanted in on blockchain too, and in the year of peak cryptomania that was 2021, the VC industry pumped about $33 billion into crypto businesses. Startups were implicitly encouraged to use blockchain technology even without any technical need for it, because that's what VCs wanted to see – at least until rising interest rates, the 2022 crypto market implosion,

and the shiny new object of GenAI dampened VC enthusiasm for new blockchain-based startups.

In addition to the run-of-the-mill herd behavior that drives VC investment, I suspect that some of blockchain's initial appeal can be explained by ideological groupthink. We saw in previous chapters that Silicon Valley's techno-libertarians often lack interest in historical precedents and share a contempt for regulation. If you're a VC who doesn't know anything about past financial scandals and crises and who is generally pretty contemptuous of government interference, I'm guessing it would be pretty easy to get you jazzed about the prospect of an alternative financial system designed to cut out central banks and regulatory oversight. Given the low costs of including a "loser" in your VC portfolio, ideological hope alone might be enough to get you to fund a blockchain-based startup, even if the underlying blockchain technology – and I cannot emphasize this enough – sucks.

But of course VCs also had more traditionally mercenary reasons for pouring money into these blockchain-based startups. Notwithstanding their crappy technological foundations, crypto businesses have a number of features that work very well within the confines of the VC funding model. Crypto projects don't need prolonged periods of time to develop or test any prototypes – growth can be ginned up pretty quickly for pure hype-based products, and in the wake of the 2008 financial crisis it was easy to tell a good (if highly misleading) story about blockchain disrupting those awful "tradfi" intermediaries. One former Andreessen Horowitz partner described the firm as "a media company that monetizes through VC," and the firm sang the praises of crypto decentralization far and wide: in media

appearances, policy whitepapers, partner Chris Dixon's book *Read Write Own*, podcasts, newsletters, and god knows where else.

But the ease of exit is really the pièce de résistance when it comes to VCs and crypto. With most startup investments, VCs can't cash out until someone's willing to buy the startup, or until equity in the startup can be sold to the public in an IPO. That can take quite a while (Marc Andreessen apparently railed against the challenges of exiting as the Biden-era Federal Trade Commission held up big tech's acquisitions of startups on antitrust grounds). Despite investing in 2013, Andreessen Horowitz couldn't fully reap returns on its equity stake in Coinbase until the crypto exchange had an IPO in 2021. But when VCs receive a type of crypto asset known as "tokens" from their startups instead of equity, then that offers a much quicker exit strategy – at least so long as the securities laws aren't being enforced against those tokens – because tokens can be dumped on the public after a year or so through crypto exchanges like Coinbase. Andreessen Horowitz, for example, was reportedly able to cash out of a portion of its crypto investments before the crypto bust in 2022 drove down token prices.

This ease of exit is great for the VCs; not so much for everyone else. That old adage "fuck around and find out" doesn't apply to VCs who can exit before finding out time arrives – this can end up hurting the startups themselves, as well as the people those startups hurt. As the head of one crypto asset management firm tweeted in September 2024:

> *Even if the token price goes down 85% from listing, the early VCs are still up multiples on their money...The*

> *crypto market has allowed VC's to return their funds (and raise new ones) based on investments that never did much of anything and will never do much of anything. This is a brutal case of misaligned incentives. You can hardly blame the VC's – people are gonna do what they're incentivized to do…Until the market collectively decides that opportunity will no longer be made available, you should hardly expect VC's to act any differently. They're getting private jet money off this whole deal.*

But the market isn't the only one with a say in this. VCs couldn't walk away with their private jet money so easily if their tokens were subject to the securities laws…

Crypto as regulatory arbitrage

…time for me to put my law professor hat back on. Selling a security to the public generally involves detailed public disclosures about the security itself and about its issuer (including audited financial statements), which are made as part of the required registration with the Securities and Exchange Commission ("SEC"). Although the SEC will never pronounce a security a "good" or "bad" investment, it will scrutinize the required disclosures before the public offering can proceed to ensure that investors have the information they need to make a decision for themselves. Lots of securities offerings skip this (admittedly costly and time-consuming) SEC registration process by relying on a private offering exemption for securities sold exclusively to institutional investors and wealthy individuals. That exemption won't work for anyone trying to reach lots of unsophisticated investors, though – offerings to the general public receive the full protection of the securities laws.

Other securities law provisions require securities exchanges, broker/dealers, and clearinghouses to register with the SEC, and this registration also brings with it many investor protections. Importantly, registered securities brokers have to keep customer assets separate from their own funds (something that the FTX crypto exchange failed to do – we all saw how that turned out), and no firm is allowed to act as broker, exchange, *and* clearinghouse, because of the conflicts of interest that would arise from housing all those businesses under one roof.

The term "conflicts of interest" can be a bit abstract, so let me use the Coinbase crypto exchange to illustrate what these conflicts might look like. In 2022, the crypto exchange Coinbase conceded that it sometimes buys crypto on its own exchange. When it buys, it's possible that it could process its own trades ahead of its customers (although it denies that it does this). There's also the possibility that Coinbase could be managing trades in ways that benefit its high-paying customers over other customers, particularly because Coinbase (as one of the top validators for transactions on the Ethereum blockchain) is in a position to dictate the order in which certain transactions are added to that blockchain. Coinbase also has its own venture capital arm, called Coinbase Ventures, that funds all kinds of crypto startups, some of which issue tokens that can be traded on the Coinbase exchange. This conflict of interest runs in both directions: Coinbase the exchange has incentives to pump Coinbase Ventures-funded startups (like the disastrous Terra stablecoin that we saw in Chapter 3) in order to increase demand for those startups' tokens; Coinbase Ventures has incentives to fund lots of projects that generate tokens that can then be traded

on the Coinbase exchange in order to generate more transactional fees for Coinbase.

Coinbase can be very litigious, so let me stress that those are all hypothetical possibilities. You get the gist, though. The securities laws outright prevent some of these kinds of conflicts of interest and require disclosures about others, but none of the securities laws will apply if something isn't a security. The crypto industry has fervently argued that tokens are *not* securities, and Coinbase has been particularly aggressive in pursuing this kind of regulatory arbitrage (if you're not familiar, "regulatory arbitrage" is an umbrella term describing the strategies that businesses use to exploit gaps and differences in legal treatment to their benefit). Coinbase has also provided support to other people pursuing regulatory arbitrage strategies: in 2022, the Treasury Department sanctioned the crypto mixer Tornado Cash because of its use in money laundering and sanctions evasion; Coinbase backed litigation by Tornado Cash users challenging the designation.

The stakes are high. As I've said time and time again in this book, crappy blockchains don't make the crypto industry money; using blockchain hype to justify not complying with the same laws as everyone else makes the crypto industry money. We saw in previous chapters that money laundering and sanctions evasion are big business for the crypto industry. In addition, the costs of an SEC-registered public offering are too high for tokens with no real long-term business model behind them, and private offering exemptions restricted to wealthy and sophisticated investors aren't all that useful because these offerings typically need access to unsophisticated investors (i.e. bagholders). If crypto exchanges were forced to disaggregate all the conflicted

functions I just highlighted, and if there were barely any tokens to trade because securities registration requirements were being enforced, then that would be an existential disaster for crypto exchanges like Coinbase (it would also be a huge – if slightly less existential – disaster for VCs like Andreessen Horowitz that have invested heavily in crypto businesses).

Coinbase has studiously curated its image as "good" crypto, but even for "good" crypto, regulatory arbitrage *is* the use case – and you don't have to take my word for it. Coinbase conceded that complying with the law would require it to:

> *overhaul its entire business model to register as an NSE and clearing agency, potentially requiring Coinbase to jettison its entire customer-facing business and overhaul its public company governance structure to conform to limits on concentrated voting control of NSEs and clearing agencies.*

Here, Coinbase is using "if you make us comply with the law we'll go out of business" as an argument for why the laws on the books *shouldn't* be enforced. But if we reject the techno-solutionist assumption that tech businesses have the right to operate even when doing illegal things, then we might understand this as an admission that Coinbase really shouldn't exist at all.

Fighting it out with securities regulators

In short, the crypto industry was built using excitement about new technologies to manufacture legal uncertainty about what counts as a "security," and lobbying regulators to go along with that perception. As the New York Times reported in a 2021

article titled *Big Hires, Big Money, and a DC Blitz: A Bold Plan to Dominate Crypto*, "delivering significant returns on all this investment, executives at [Andreessen Horowitz] quickly realized, would necessitate playing a major role in shaping rules for these companies." It's a strategy that has sometimes worked out for them, and sometimes hasn't.

SEC staff have occasionally bought into arguments that blockchain decentralizes economic control enough that tokens shouldn't count as securities: Division Director Bill Hinman notoriously regurgitated the Kool Aid in a 2018 speech when he said that tokens on "sufficiently decentralized" blockchains might not be securities. But by and large, the SEC wasn't convinced (at least, not before 2025). The SEC did, however, take a while to really start cracking down on the crypto industry's plentiful securities law violations, and that gave the crypto industry some room to grow.

During the first Trump Administration, the SEC brought some enforcement cases against unregistered securities offerings made as part of the 2017-2018 crypto boom, and in 2020, the SEC filed a high profile lawsuit against Ripple Labs alleging that it was engaging in the unauthorized offering of securities (this was back when Trump hated crypto, calling it a "scam against the dollar" – I guess he hadn't yet realized that it could be *his* scam). Following President Biden's victory, Gary Gensler took over as SEC Chair in 2021, and he made it clear that the SEC considered the vast majority of crypto assets to be securities. The SEC then started to ramp up enforcement actions against unregistered crypto activities, and it is impossible to overstate how much the crypto industry (and the VCs funding it) came to hate Gary Gensler.

The regulatory landscape was complicated by the fact that there was an alternative regulator available in the Commodity Futures Trading Commission ("CFTC"). Where crypto assets are ruled not to be securities, they are likely to be viewed as commodities regulated by the CFTC – an agency with far fewer resources than the SEC, no statutory mandate to protect newbie investors, and no real culture of doing so. The SEC and the CFTC have been butting heads over jurisdiction for decades, and crypto became the latest front. It has generally been conceded (although not by me) that bitcoin is not a security and therefore falls under the CFTC's jurisdiction rather than the SEC's, but jurisdiction over other kinds of crypto assets has been a more contentious issue. Unsurprisingly, Andreessen Horowitz, Coinbase, and other industry players (including pre-downfall Sam Bankman-Fried) preferred the prospect of CFTC regulation to SEC regulation.

Many CFTC Commissioners have been very crypto friendly: Chris "Crypto Dad" Giancarlo led the agency during the first Trump Administration, and former Commissioners Mark Wetjen, Heath Tarbert, Brian Quintenz, and Summer Mersinger have all gone on to work for the crypto industry in some capacity or other. It was announced that Summer Mersinger would be taking over as CEO of the industry Blockchain Association before she even stepped down from her role as CFTC Commissioner, and Brian Quintenz, who was nominated to serve as CFTC chair in 2025, worked at Andreessen Horowitz's crypto fund in the interim. When you lay it all out like that, that's really one hell of a revolving door.

Perhaps the most crypto friendly thing the CFTC ever did was to issue a "backgrounder" document in 2018 which stated that the agency lacked the authority to block commodities exchanges from listing bitcoin futures. That opened up a Pandora's Box of traditional financial products linked to bitcoin, kickstarting the integration of crypto and the broader financial markets. Once the CFTC had blessed bitcoin futures, that made it challenging for the SEC – which has jurisdiction over exchange traded products – to say no to exchange traded products based on bitcoin futures. And so the SEC didn't say no to those, but it did say no to exchange traded products based on bitcoins themselves. The crypto company Grayscale challenged this in court, and in 2023, the SEC was ordered to better explain why it had drawn a distinction between the two kinds of products. Instead of making its case, the SEC rolled over and authorized bitcoin exchange traded products, ensuring that crypto would become more enmeshed with the rest of our financial system. Sigh.

On a brighter note, in 2023, the SEC finally went after Coinbase (and several other crypto exchanges) for operating a "crypto asset trading platform as an unregistered national securities exchange, broker, and clearing agency." Coinbase fought back with extremely fancy lawyers, and so did many of the other crypto businesses subject to SEC enforcement actions. Amusingly, Coinbase cast aside all their soaring rhetoric about democratizing finance once they found themselves in a courtroom, and tried to argue that their business model was simply about facilitating the sale of digital beanie babies. Coinbase also accused the SEC of trying to create new law in the courts instead of adopting formal new rules, but as we've already discussed, new rules for new technologies aren't always necessary or advisable. Laws will always need to be interpreted,

because as Katharina Pistor describes in *The Code of Capital*, "a changing world will always leave even the most carefully crafted statutory or case law incomplete." That's just how the law works, and what the crypto industry called "regulation by enforcement," I would simply call enforcing the regulations on the books.

Because litigation is expensive and the SEC (which relies on funding from Congress) has limited resources to draw upon, the SEC has often tried to settle cases rather that going to court. But any admission that crypto assets were securities would have meant curtains on the crypto industry's regulatory arbitrage raison d'être, and the crypto industry and the VCs backing it had money to burn, so these cases were fought out tooth and nail in the courts. The SEC did sustain a partial loss in the Ripple Labs case, but other judges repudiated that decision. On the legal issue of whether the crypto assets in question were securities, the SEC otherwise won case after case after case (including the early stages of the Coinbase litigation). The media did a terrible job of reporting the SEC's wins, mind you: I guess a "both sides have won some and lost some" narrative gets more clicks. I'm still salty about one interview I did with a journalist where I was extremely clear about how successful the SEC had been in the courts, and even went so far as to email him a list of case citations – but a "both sides" article is what ultimately came of it. In my humble opinion, the true story is the better story. In a David versus Goliath battle (in terms of resources, the SEC is the David to the crypto industry's Goliath), David just kept winning.

Fighting it out with banking regulators

The SEC wasn't the only financial regulatory agency trying to protect the public from the crypto industry's harms;

crypto industry profitability has also depended on how accommodating banking regulators were willing to be. One banking regulator, the OCC, was pretty crypto curious under the leadership of Brian Brooks, who joined the agency straight from Coinbase in 2020. The OCC authorized US banks to hold reserves for issuers of stablecoins (a type of crypto asset whose value is pegged to the US dollar), but all of the banking regulators – the OCC, the FDIC, and the Federal Reserve – still frowned on banks making crypto investments themselves, and this stance continued into the Biden Administration.

As FTX and other big crypto players toppled like dominos during 2022's "crypto winter", everyone was celebrating the fact that banks weren't exposed to the crypto markets and that panic hadn't really spread to the broader financial system. In January of 2023, the banking regulators formalized their position with the following statement:

> *Given the significant risks highlighted by recent failures of several large crypto-asset companies, the agencies continue to take a careful and cautious approach related to current or proposed crypto-asset-related activities and exposures at each banking organization.*

The victory lap was a bit premature: three banks that catered to VCs and the crypto industry failed in the regional banking crisis of March 2023. But that crisis only underlined the wisdom of keeping crypto separate from banking.

We discussed this regional banking crisis, particularly the failure of Silicon Valley Bank, in Chapter 7. Jeff Hauser has argued in the New Republic that if government authorities hadn't

intervened to make Silicon Valley Bank's depositors whole, then that would have "posed an existential threat to the start-up economy." It also could have spelled the end of the USDC stablecoin issued by Coinbase's special friend Circle, which had $3.3 billion of its reserves deposited with Silicon Valley Bank. Instead of thankyous for bailing out the VC and crypto industries, though, we got Marc Andreessen fuming on Joe Rogan's podcast about how crypto had been locked out of banking in what he was calling "Chokepoint 2.0."

I have never watched any other Joe Rogan interviews, but if this is how they all go, it seems like Rogan's main job is to sit there and say "Whoa!" and "No Way!" and "Oh my God!" in response to increasingly wild assertions from his guests – kind of like a less benevolent Bill or Ted. Because Rogan didn't fact check Andreessen, I guess I'm going to have to. Andreessen starts the relevant portion of the podcast by calling the Consumer Financial Protection Bureau "Elizabeth Warren's personal agency" that acts at her behest (fact check: Congress founded the agency in 2010, although then-law professor Warren was hired to help establish it. Republican Senators refused to confirm her as the agency's first Director, and she ended up running for Senate instead). Then Andreessen says that Warren directs the CFPB to "terrorize finance, terrorize financial institutions, prevent fintech, prevent new competition, new startups that want to compete with the big banks" (not so much a fact check as an "are you serious?": I think that the big banks would be somewhat shocked to find out that Elizabeth Warren was secretly protecting them from fintech competition all along).

Andreessen then talks about how the CFPB has forced banks to debank the crypto industry, but I *think* what

Andreessen's actually mad about are the actions taken by banking regulators like the OCC, the FDIC and the Fed to discourage banks from getting into the crypto business themselves. I can't be sure, though, because then he starts talking about the SEC, which isn't a banking regulator at all, and then he seems to roll all these agencies up into one malevolent deep state "Eye of Sauron" (again not a fact check but more of a "the more you know," Sauron is the bad guy in the Lord of the Rings. J.R.R. Tolkein is huge in Silicon Valley – Peter Thiel's Palantir and his proposed Erebor Bank take their names from The Lord of the Rings, for example).

Anyway, there doesn't seem to be any real evidence that federal banking agencies directed banks to deny accounts to individuals just because they were linked to the crypto industry. Nor does there seem to be any real evidence that banks were directed to deny accounts to crypto businesses for their everyday business needs. And believe me, people were looking for real evidence – Coinbase sent the FDIC (not the CFPB, ahem, Mr. Andreessen) a Freedom of Information Act request regarding their communications with banks on crypto. Some of the communications that were released did indicate that regulators discouraged banks from entering into crypto business lines, but the federal banking agencies already told everyone they were doing this back in 2023, and it was generally regarded as a very good idea at the time.

While the CFPB wasn't really involved in those matters, right before it was DOGEd, it *did* propose an interpretive rule that clarified that the consumer protections of the Electronic Funds Transfer Act applied to crypto exchanges. Yet again, the CFPB was making it clear that there was no "fancy technology"

exception to the law. I really miss the CFPB. The Department of Labor, which oversees 401k plans, also helpfully discouraged fiduciaries from allowing crypto options in retirement plans in 2022 (although some went ahead and did it anyway). To sum up, while regulation of the crypto industry has never been perfect, many regulators were working to shield the public from crypto's harms.

Please sir, may I have some special crypto law?

Amidst this regulatory pushback, the crypto industry worked hard on getting favorable legislation passed in Congress. Starting in 2022, this became one of the most urgent priorities on Capitol Hill – and not because the public was demanding crypto laws. Although there have been many industry attempts to astroturf the issue, a recent Federal Reserve survey found that only 7% of Americans bought or held *any* crypto in 2024. It defies belief that many Americans care more about crypto than the cost of living, education, and healthcare, but Congress has been devoting a lot of its energies to crypto legislation over the last few years. And (with the exception of a few bills trying to address crypto's money laundering problem) these bills have all been crypto industry wish lists.

As I've already alluded to, one of the crypto industry's biggest wishes, one I'm sure it made every time it blew out the candles on its big boy birthday cake, was to be regulated by the CFTC rather than the SEC. In 2022, Senators Lummis and Gillibrand co-sponsored a bill that would do just that; Senator Stabenow had her own version. Both pieces of legislation were gathering steam in mid-2022, even as the crypto industry was collapsing around them. At the time, I felt like I was living in a

parallel universe: Congressmembers kept making grandiose public statements about the promise of crypto innovation without mentioning the fact the crypto intermediaries were falling like dominos at that very moment, and that people were losing their life savings left, right, and center.

Once the crypto exchange FTX filed for bankruptcy in November of 2022, though, Congressmembers could no longer ignore reality – even though some of them tried. Stabenow's legislation had been informally known as the "SBF Bill" because it had been championed by FTX's now disgraced CEO Sam Bankman-Fried, but Stabenow still held a hearing on December 1, 2022 for then-CFTC Chair Rostin Benham to keep pushing for the legislation. Bankman-Fried was arrested a few weeks later, and Congress finally downed tools. But the crypto industry kept on lobbying in the background, and the House of Representatives (by then under Republican leadership) had definitely upped tools again by 2024. A sprawling mess of a crypto bill known as the Financial Innovation and Technology for the 21st Century Act (or "FIT21" – I cannot tell you how much I loathe these cutesy legislative acronyms) was passed by the House of Representatives with bipartisan support.

As I've alluded to earlier in this book, another crypto industry big boy birthday cake wish has been to integrate crypto with banking and the rest of the traditional financial system (which just goes to show how hollow all their "decentralization" hooey is). Part of the reason the industry wants CFTC regulation instead of no regulation at all is to add a veneer of respectability that would encourage other financial institutions to invest in crypto. Alongside crypto futures and exchange traded products, stablecoins provide another path for integrating crypto into the

traditional financial system. Multiple stablecoin bills were introduced into Congress starting in 2022, but as the Biden Administration drew to a close in 2024, no crypto bill had yet gotten up off the steps of Capitol Hill and become a law.

The money cannon

Easy money-era dollars failed to secure most of the outcomes that Andreessen Horowitz, Coinbase, and the rest of the crypto industry wanted during the Biden Administration. I think it's fair to say that the Silicon Valley elite don't take kindly to not getting their way. In a 2024 podcast, Horowitz told Andreessen that crypto was "probably the most emotional topic" for him, bemoaning a Biden administration that he alleged "basically subverted the rule of law to attack the crypto industry." Reporting on that podcast, journalist Elizabeth Lopatto observed that when the two VCs talked about SEC Chair Gary Gensler, President Biden, and Senator Elizabeth Warren not meeting with them, "it's easy to get the impression that they are mostly insulted that they are being treated like ordinary constituents."

Andreessen Horowitz, Coinbase, and the rest of the crypto industry wagered that if the crypto industry could get a friend in the White House, then things would change. It would also really help them out if the industry could pick up some grateful members of Congress along the way, and unseat Senators like Elizabeth Warren and Sherrod Brown who had consistently gotten in the way of the crypto industry's legislative ambitions. And so in August 2023, Coinbase launched its "Stand With Crypto" rankings for politicians (I don't know precisely what black magic goes into crunching these rankings – much like the NRA's grades on gun policy, they seem to be a real-time

measurement of crypto friendliness based on things like public statements and voting records). Then in 2024 came the crypto industry Super PACs, making campaign donations that were breathlessly reported as "unprecedented." Even my jaw dropped when I heard that crypto industry Super PACs were responsible for 44% of *all* corporate expenditures on the 2024 election cycle. But I probably shouldn't have been surprised. Years of zero interest rate policy helped the industry and its VC backers amass one hell of a war chest, and if tens of billions of dollars had already been ploughed into trying to make the crypto industry a thing, why not spend a few hundred million more to buy Congress' support?

That SuperPAC money wasn't used for ads about crypto, so it appears the candidates knew that crypto wasn't really an issue that voters cared about. Instead, it was used to support pro-crypto candidates and attack perceived anti-crypto candidates on the issues that people *did* care about – things like healthcare costs and border security. The whole thing was just so nakedly cynical and made me so sad that I'm just going to mope for a second and leave it to the New York Times to summarize:

> *A group of crypto executives and political strategists formed Fairshake and two affiliated super PACs, Defend American Jobs and Protect Progress, which spent over $130 million to influence tight congressional races across the country. The spending was financed mostly by Coinbase, the digital currency business Ripple and the venture capital firm Andreessen Horowitz, which has financed more than 100 crypto start-ups.*

> *Candidates backed by the super PACs won 53 of 58 races. In Ohio, Defend American Jobs spent $40 million to support Bernie Moreno, a Republican crypto entrepreneur who unseated Senator Sherrod Brown, the Democratic chair of the Banking Committee and an outspoken crypto critic. Protect Progress spent $10 million to help Elissa Slotkin, a Democrat, win a Senate seat in Michigan. And another $10 million from the super PACs boosted [Arizona Senator] Mr. Gallego, who had spoken favorably about crypto in the past.*

Once I'm done moping, though, I get angry. If you've ever seen Mean Girls, you'll remember Regina George's Burn Book, where she names and shames her classmates. I'm now ready to go full Burn Book on all the elected officials who are helping to make crypto happen because – much like fetch – crypto was never going to happen on its own.

My Burn Book

Over the last few years, as industry wish list bills have wended their way through Congress, Republicans have proved to be pretty uniformly in the tank for the crypto industry. When I checked standwithcrypto.com in the Spring of 2025, there were only four Republican representatives who were ranked "anti-crypto." All the others were considered "pro-crypto." But even among Republicans, a few individuals have stood out over the years as being particularly crypto friendly.

Some of the early Republican crypto boosters have already departed politics and seem to be reaping the benefits of their former Congressional advocacy. Pat Toomey, Pennsylvania

Senator and Ranking Member of the Senate Banking Committee from 2021-2022, sponsored a stablecoin bill then retired from Congress to work for the financial firm Apollo. He was also appointed to Coinbase's Global Advisory Council. Patrick McHenry, North Carolina Congressman and Chair of the House Financial Services Committee from 2022-2024, shepherded FIT21 through the House then retired from Congress in 2025 and joined Andreessen Horowitz as an advisor.

Of those still serving in Congress, Wyoming Senator Cynthia Lummis is known for posting pictures of herself with cryptobro-style "laser eyes," owning a chunk of bitcoin, and introducing multiple crypto bills, including one that would establish a US strategic bitcoin reserve. She also took the highly unusual step of filing a brief in the SEC's case against Coinbase – the Senator wanted to "highlight the growing importance of digital assets to our Nation's economy" and decry what she described as the SEC's efforts to "legislate by enforcement." According to Lummis' telling, the SEC wasn't just guilty of "regulation by enforcement," it also usurped Congress' legislative powers. Well that escalated quickly…

Notable crypto friendly House Republicans include Arkansas Congressman French Hill and Minnesota Congressman Tom Emmer. Emmer has been a particularly conspicuous cheerleader for the industry: he was the lead signatory on a letter to then-SEC Chair Gensler, telling him to back off crypto enforcement in March of 2022 – you know, just a few months before $2 trillion of nominal value were wiped from the crypto markets in the "crypto winter." Emmer also joined Ritchie Torres (a Democrat we'll get to shortly) in launching a "Nonpartisan Congressional Crypto Caucus" in 2025. Emmer says "the caucus

was formed in response to the millions of U.S. voters that took to the ballot box in November to vote for candidates that would prioritize the advancement of digital assets and blockchain technology in the U.S." Sure, Jan.

I'm really focusing on federal legislators here, but I can't leave out state Republican legislatures in Arkansas, Louisiana, Montana, and Oklahoma that have passed "Right to Mine" legislation modeled on a bill prepared by the Satoshi Action Fund (a non-profit with reported links to the Koch Brothers' fossil fuel interests and the Project 2025-authoring Heritage Foundation). This legislation undermines local government efforts to require crypto mining companies to comply with noise and zoning ordinances, and prohibits state utilities from setting electricity rates for crypto miners that are different from other industrial rates – even though crypto mining can put severe stress on electrical grids and jack up energy prices for neighboring households (see also, data centers being used for generative AI). Or, if you prefer the spin version, these Right to Mine laws are "laws to protect miners from predatory electricity charges, zoning laws meant to prohibit mining operations in certain areas, and over-taxation." It's hard to see any public benefit from these laws, though. Despite the hype about job creation, bitcoin mining operations – much like data centers – don't employ many people once they've been built.

Because I just gave you one example of state Republicans backing crypto, let me be fair and balanced and give one example of how state-level Democrats also do techno-solutionism. California Governor Gavin Newsom signed an Executive Order in May 2022 that starts by saying that "blockchain technology has laid the foundation for a new generation of innovation" and has

"the potential to reconfigure the logic and structure of the World Wide Web and its place in modern society." It then gives a helping hand to a technology that has struggled to find real use cases by directing California's Government Operations Agency to "explore opportunities to deploy blockchain technologies to address public-serving and emerging needs." I'm sure overstretched government employees just *loved* having to come up with plausible-sounding blockchain use cases on top of everything else they had to do. Newsom followed up with an AI executive order in 2023, pushing agencies to try and come up with plausible-sounding AI use cases too – I think some people hope that California will be a bulwark against bad Federal policy, but we're probably kidding ourselves if we think establishment California Dems are going to do much to oppose the Silicon Valley elite.

Now back to the federal level. Some Democrats have pushed back against the crypto industry's BS techno-solutionism; others are as crypto friendly as any Republican. An unexpectedly high number of House Democrats voted to pass FIT21 in 2024, for example, particularly those representing districts in California (Silicon Valley's Congressman Ro Khanna was of course among them – you'll be shocked, shocked, to hear that the man representing Silicon Valley gets an A rating from standwithcrypto.com).

> Right before the vote on FIT21, Rep. Maxine Waters invited me, along with two of my brothers-in-crypto-skepticism, to give a briefing to House Democrats. The briefing was reported in the news, and curiously, the head of Government Affairs at the crypto VC fund Paradigm retweeted the report along with a gif of Professor

> McGonagall saying "Why Is It, When Something Happens, It Is Always You Three?" I say "curiously" because when Professor McGonagall says that, she is speaking to Harry Potter, Ron Weasley, and Hermione Granger – in other words, the heroes of the Harry Potter saga. If my colleagues and I were the heroes, what did that make Paradigm? Did they ever stop to ask, "are we the baddies?"

Anyway, as I said, lots of Californian Representatives voted for FIT21 anyway. Maybe my colleagues and I just weren't very compelling. Or maybe those Representatives were just really afraid of being on the wrong side of the crypto industry money cannon. The FIT21 vote was held just a few months after the 2024 primary to replace California Senator Diane Feinstein, and the crypto industry had devoted more than $10 million to defeating Rep. Katie Porter in that primary. Porter was seen as an anti-crypto Elizabeth Warren protégé; Adam Schiff, who has an A rating from standwithcrypto.com, got the seat instead. At a conference later that year, Paradigm's Justin Slaughter bragged that the Fairshake crypto PAC had knocked Porter out of the race, sending her "back to teaching."

When I checked in the Spring of 2025, standwithcrypto.com rated 159 Democrat federal representatives "anti-crypto," and 14 "neutral." But 89 were rated "pro-crypto." Rumor has it that Democratic Senate Minority leader Chuck Schumer (rated "strongly supportive" of crypto at the time) intentionally stacked the Senate Banking Committee in 2025 with newly-elected senators who would help smooth the passage of pro-crypto legislation through Congress. I can't verify the rumor, but it has been reported that Schumer told donors that "Crypto is

here to stay no matter what … we all believe in the future of crypto." I can also confirm that all four of the new Senators on the Senate Banking Committee (Angela Alsobrooks, Lisa Blunt Rochester, Andy Kim, and Ruben Gallego) were initially rated pro-crypto, and all four have already cast pro-crypto votes. But the crypto industry is a tough mistress – Blunt Rochester was swiftly downgraded to the scarlet "F" by standwithcrypto.com for opposing key crypto legislation, and Kim was downgraded to only "somewhat supportive" for failing to support a procedural vote.

The other two freshman Senators remain very much in the crypto industry's good graces, with Alsobrooks kicking off her Senate term by co-sponsoring the no good, very bad stablecoin legislation we discussed in Chapter 3 (more on that shortly). Gallego, who reportedly received $10 million from crypto super PACs in 2024, was promptly named Ranking Member of the Senate Banking Committee's Digital Asset Subcommittee. He then promptly announced that he was going to host a luxury donor retreat featuring none other than Marc Andreessen.

Gallego was elected to fill the Arizona Senate seat vacated by Kyrsten Sinema, who if you recall single-handedly saved VCs from having to pay more taxes, so I guess Arizona's got form in this regard (Sinema is now a lobbyist who sits on Coinbase's Global Advisory Council alongside former Republican Senator Pat Toomey). Even though Sinema's gone, crypto still has a longstanding Democrat Senate champion in New York's Kirsten Gillibrand, who has co-sponsored several crypto bills with Cynthia Lummis over the years. Gillibrand is also known for campaigning on women's rights issues, and yet her crypto bills have all studiously ignored the privacy dangers that blockchain-

backed payments pose for victims of stalking and intimate partner violence (an issue we discussed back in Chapter 3).

In the House, one of the most vocally supportive Democrats is Josh Gottheimer, who co-signed Tom Emmer's March 2022 letter pushing Gary Gensler to ease up on crypto enforcement. That letter was also signed by Ritchie Torres, co-founder (with Rep. Emmer) of the Congressional Crypto Caucus. Torres has been a consistent mouthpiece for the crypto "democratization" narratives that I have so painstakingly debunked in this book. He tells a compelling story…

> *I spent all my early life in poverty. As a policymaker, I think about how to use all technology to reduce racially-concentrated poverty. Blockchain technology can liberate the lowest income communities from the high fees of the traditional financial system,*

…but neatly skips over all the overwhelming evidence of blockchainsploitation we discussed in Chapter 2, as well as a reality we explored in Chapter 3 – that crypto won't bank the unbanked.

Beyond parody

In 2025, Congress is pushing crypto legislation as if it were America's number one priority. In July, a stablecoin bill titled the Guiding and Establishing National Innovation for U.S. Stablecoins Act, or GENIUS Act, was signed into law (as I said, I fricking hate these cutesy acronyms; I sometimes suspect that more work goes into the acronym than the actual legislative text). I spent a lot of time in Chapter 3 talking about how dangerous this

stablecoin law is, particularly because it is poised to allow the largest tech platforms to effectively become our banks, but also because it applies only light-touch regulation and makes bailouts all but inevitable. Members of Congress were made aware of these and other concerns, and a bipartisan majority voted to pass the GENIUS Act anyway.

For some Democrats, the fear of the crypto industry's money cannon was just too great for them to oppose the law. The Lever reported on an influential group chat among crypto industry and Democratic party insiders where the industry folks made it clear that "if Dems bail on this [bill], they will get 0 dollars going forward…It would be political suicide for them not to support it." The same group chat also featured a comment that Democrats "need to win the next election, which means we can not afford to alienate a very vocal and wealthy group of donors." No doubt some Dems genuinely believed they needed to compromise on crypto in order to be in a position to fight the rise of authoritarianism, but that approach seems kind of short-sighted in light of the reality we discussed in Chapter 7 – that the Silicon Valley elite are pursuing authoritarianism *through* crypto.

The next legislative battle will be in the Senate, over what's being called "crypto market structure legislation." Traditional financial institutions have noticed that some of the proposed legislative text, which was designed to create crypto-specific exceptions from the securities laws, will actually end up creating much larger loopholes. As we discussed in Chapter 4, there's nothing particularly special about crypto assets or blockchains, so it's very hard to tailor a loophole just for them – anyone can "tokenize" a traditional financial asset by slapping it on a blockchain, for example, and if that's all it takes to escape

the securities laws, then that's probably the end of the securities laws' investor protections. Traditional financial institutions will absolutely exploit these loopholes if Congress votes to open them up, but some of these institutions have enough sense to realize that the ensuing erosion of trust in the financial markets won't work out well for them in the long-run – and so they would rather Congress not open up these loopholes at all. The chance of crypto market structure bills becoming law is diminishing as more and more people are starting to worry about the unpredictable consequences of this hot legislative mess, but many people in the crypto industry want this legislation, so it could very well pass anyway. After all, they have a money cannon.

Even though Congress hasn't yet fully delivered the legislation the crypto industry paid for, I'd say the industry has already gotten plenty of bang for its buck during the second Trump administration. The Consumer Financial Protection Bureau was decimated by DOGE after Trump regained power in 2025, and the banking agencies withdrew their statement discouraging banks' crypto-related activities. Until the CFTC's replacement Chair is sworn in, the agency is being led by Commissioner Caroline Pham, known for, among other things, posting selfies with Sam Bankman-Fried and complimenting his hair. After Gary Gensler's departure from the SEC, interim leadership announced that a type of crypto asset known as "memecoins" were not securities, and the agency hastily dropped crypto enforcement lawsuits, most notably against Coinbase. Then Paul Atkins – who has done consulting and lobbying work for the crypto industry, reportedly owns up to $6 million worth of crypto personally, and was a contributor to Project 2025 to boot – was sworn in as SEC Chair. Atkins has already made noises about creating a special "innovation exemption" from the

securities laws for tokenized securities that have been slapped on a blockchain.

You would think that these changes at the SEC would fulfil all the crypto industry's big boy birthday cake wishes, but apparently it wasn't enough for some, who switched to revenge mode. Coinbase CEO Brian Armstrong, for example, allegedly urged the crypto industry to blacklist any law firm employing any former SEC attorney that had ever been assigned to a crypto case. A Winkelvoss twin apparently tweeted that it was the crypto industry, not investors, that needed protection, and wanted any crypto enforcement attorneys who remained at the SEC to be fired and have their names publicized on an online wall of shame (you might remember the Winkelvoss twins from the movie The Social Network where they were played by Armie Hammer, which is probably kind of awkward for them now. Anyway, the Winkelvoss twins are big into crypto these days).

Elsewhere in DC, the Department of Labor rescinded its guidance discouraging 401(k) plans from including crypto, and Trump issued an Executive Order directing the Department to take steps to facilitate such investments going forward. The Treasury Department dropped Tornado Cash from its sanctions list, effectively authorizing people to use a crypto mixing service best known for helping money launderers and sanctions evaders obscure the path of their payments on a blockchain. The Department of Justice (which handles all criminal violations of financial regulation) sent out an internal memo that started with the highly questionable assertion that "the digital assets industry is critical to the Nation's economic development and innovation," then characterized the Biden Administration's approach as weaponizing the Department "to pursue a reckless strategy of

regulation by prosecution" (if "regulation by enforcement" is just enforcing regulation, isn't "regulation by prosecution" just prosecuting….oh, I think I see where this is going). Yep, there it is: the memo states that the Department will no longer "target virtual currency exchanges, mixing and tumbling services, and offline wallets for the acts of their end users or unwitting violations of regulations." As finance blogger J.P. Koning helpfully summarizes, "according to the U.S. Department of Justice, when illicit activity is routed via crypto infrastructure, then it no longer qualifies as money laundering."

The Department of Justice certainly can't be accused of regulation by prosecution if it's not prosecuting anything at all. Although I can't verify it, by the spring of 2025, the word around Washington was that there wasn't a single federal government official dedicated to crypto investigations – not even to investigating "bad crypto" (and "bad crypto" is not a small problem: the FBI reported $9.3 billion in total crypto fraud losses in 2024, with nearly $3 billion of those being reported by Americans 60 and over). At least at the federal level, it appears we've gone straight past *caveat emptor* (buyer beware) to *copulatus emptor, cum omnibus* (which, if I got my Latin right, should translate as "the buyer is fucked, along with everyone else").

At the same time as protections for the public are being torched, other more overt handouts to the crypto industry are in the works. In particular, whackadoo proposals for the U.S. Government to create a strategic reserve of bitcoins are now being taken seriously. I regularly get asked questions about these proposals, and it's hard for me to answer them with a straight face. I want to reply by saying "it is patently ridiculous for the

United States to establish a strategic reserve of magic beans," dropping the mic, and walking off stage, but we have sadly reached the point where I have to dignify the suggestion with thoughtful and reasoned rebuttal. So here goes.

> The United States sometimes maintains strategic reserves of things that could be useful in an emergency, like medical supplies set aside for use during a future pandemic. But bitcoin is not practically useful in any way – it is simply a notation on a database and therefore has no real-world usage. While some have argued that a bitcoin reserve could be used to pay down debt or pay for other things if there were a problem with the dollar, as explored in Chapter 2, bitcoin has proven highly ineffective as a payment mechanism and its value has proved both highly volatile and highly correlated to other market movements. In a moment of national emergency, bitcoin's price is likely to be falling and even if that price were high to start with, if the US government held a large volume of this Ponzi-like asset then any attempt to sell off significant portions of bitcoin holdings would drive the price of bitcoin down and undermine its utility (not to mention that the US government would inevitably be front run by those paying bitcoin miners to let them sell ahead of the United States).

Well done me for managing to keep the literary equivalent of a straight face as I said all that. But really, there's just no serious justification for creating a Bitcoin reserve other than to juice the price for those who already hold it, and to ensure that environmentally destructive Bitcoin mining continues for years to come. Maybe there's also a hope that the strategic reserve will

help legitimize crypto in the eyes of the investing public – as we've already seen, that's been a crypto industry goal for a long time. The deep irony, though, is that the Trump administration's full-throated embrace of crypto may be undermining the industry's attempts to look less scammy.

I really cannot keep up with all the Trump crypto launches. Trump has launched his own memecoin, with his wife Melania following close behind with her own (remember that memecoins are now officially not securities – thanks Trump-era SEC!). Then there's the Trump family crypto company World Liberty Financial which has sold tokens to people around the world, including crypto exec Justin Sun, who was at one point being investigated by the SEC for fraud. Not long after Sun invested $75 million in World Liberty Financial tokens, the SEC dropped the case. Or, as journalist Jacob Silverman titled his analysis of the affair, "The President Took A $75 Million Bribe And We All Saw It." Then Trump offered a private dinner to top investors in his memecoin, presumably to juice investments. By all reports, the food was ghastly. And I'm sure there's much more that I've missed.

As one crypto lobbyist put it (speaking anonymously, of course), "this is a horrible look for the industry already trying to make the case that we're not a bunch of hucksters, scammers and fraudsters." For years, the crypto industry managed to weaponize its technological complexity to discourage most people from taking a closer look, and so most people didn't understand how bad even the "good crypto" really was. Now that Trump has embraced crypto so wholeheartedly, people may not feel the need to engage with crypto's technological complexity – all they need to know is that it walks and talks and quacks like a grift.

More techlash

The fact that Trump is bringing more media attention to crypto, and associating himself so closely with it, could chip away at Congressional support for the crypto industry. Thus far, many Democrats have remained willing to back the crypto industry – I'm guessing at least some of them calculated that it wasn't worth opposing the crypto industry over an issue that most voters didn't care about. But the crypto issue is looking less and less niche now that Trump keeps using crypto for personal gain and it's plastered all over the news; it could become less and less tenable for elected Democrats to keep supporting the industry. In the short-term, the crypto industry's money cannon has indeed proven victorious, but it may backfire in the longer run, exposing the industry as the Philip Morris in a grey hoodie it always was.

If the crypto industry's only competitive edge is regulatory arbitrage, does it lose that edge when federal financial regulatory agencies have been ransacked and there's no one left to hold their regulated competitors to account? In financial markets where no one trusts anything, will crypto really prosper? Will the crypto industry end up missing their former antagonist SEC Chair Gary Gensler now he's gone, now that there's no common enemy to unite the different industry factions? To paraphrase Jason Bateman's immortal words from the movie Dodgeball, "It's a bold strategy, Cotton. Let's see if it pays off for them."

The bigger picture takeaway from all of this, though, is that if crypto is what we get from supporting Silicon Valley, then it's past time for us to reconsider all the handouts we give it. If tax breaks and subsidies and legal accommodations are used to

keep bad technologies and business models from dying a natural death, perverting our politics in the process, then we are better off not bestowing those tax breaks and subsidies. A techlash against Silicon Valley is brewing, and maybe – just maybe – we can capitalize on that techlash to fire up our collective skepticism and figure out some non-Silicon Valley ways to solve our problems. That's what we're going to talk about in the next chapter, which is also the last chapter. We're almost at the finish line…