

History of Stand-Up Comedy and Expropriating Russian Assets What Happens Next – 03.27.2022

Larry Bernstein:

Welcome to What Happens Next. My name is Larry Bernstein.

What Happens Next is a podcast where the speaker gets to present his argument in just Six Minutes and that is followed by a question-and-answer period for deeper engagement.

Today's discussion will be on two topics: A History of Stand-Up Comedy and Expropriating Russian Assets.

Our first speaker will be Wayne Federman who will speak about his new book entitled the History of Stand-up. Wayne is uniquely qualified to tell the tale as he has been doing Stand-up for the past 40 years.

I hope to learn about how Stand-up got its start in America, the importance of premier booking venues, and how comedians break into the business now.

I want to find out why so much comedy ages poorly and why some acts are timeless. Wayne teaches the history of stand-up at USC and am looking forward to hearing about some of the techniques that Wayne teaches his kids to break down the essence of a great comedic act.

Our second speaker will be Lee Buchheit who is the leading specialist on sovereign debt restructuring. Biden and the EU have frozen the Russian Central Bank's investment in US Treasuries and European Government bonds. There have been rumors that Biden will confiscate these assets and give them to Ukraine to rebuild. Expropriating rogue states assets has consequences as Treasuries will no longer be seen as riskless assets for foreign central banks and that will undermine our desire to keep the US dollar as the world's reserve currency.

I hope to learn from Lee about how the expropriation will affect Russian nationals and their holdings of American real estate and other financial assets. And how the intricacies of sovereign debt mechanics will limit Biden's actions against Russia.

You can find transcripts for this program and all of our previous episodes on our website whathappensnextin6minutes.com, and you can listen on Podbean, Apple Podcasts and Spotify.

Let's begin with our first speaker Wayne Federman.

Wayne Federman:

I teach a class in the history of stand-up comedy. What is a stand-up comedy? What are we even talking about? Stand-up comedy is one person standing in front of an audience with the expectation of evoking laughter.

Laughter, it's the mission statement of the job. You have to stand there all by your lonesome trying to make them laugh. It's terrifying. When it doesn't go well, we refer to it as bombing. It's thrilling when you connect with a crowd and you go on this comedic journey together, and together is the key word. It's an interactive art form. It's very intense. I know because I've been doing comedy for over 40 years.

Now since stand-up has become commercialized, which is "oh I can make a living doing this," there's always been a premier booking. Back in the Vaudeville days, the premier booking was in New York City, the Palace Theatre. If you did well at the Palace Theatre, you could tour the country. It was a stamp of approval. After the Palace, there was the nightclub generation, the number one place to play during this era, that really would solidify you as a comedian that could go to Vegas and open for Mitzi Gaynor, if you did well at the Copacabana in New York City.

The Copa was the new Palace. And then television hits, The Ed Sullivan show, and then, Johnny Carson became the king of late night. David Letterman, Garry Shandling, Robin Williams, Jim Carrey, Jay Leno all converge on the Tonight Show with Johnny Carson.

Other new venues pop up, an HBO special, a whole hour on cable television. Then hosting SNL was a big thing. There's cable television, Evening at the Improv, and then the internet.

Starting in 2006 with Bo Burnham doing that little song from his bedroom in Hamilton, Massachusetts. He's more popular than thousands of comedians who have toured these clubs for decades. Now we have podcasting, Barack Obama is doing a podcast with Marc Maron on WTF. Little podcast shows, not out of Studio One at NBC, out of his garage. And then streaming specials on demand. The company that embraced stand-up right now is Netflix, we get Bill Burr, Ali Wong, John Mulaney.

I'm gonna leave you with this, before we get to the Q&A part of this with young Larry. Stand-up comedy is a generational art form. It's very ephemeral, it's for this time, and the power of it dissipates as time goes on. And that's because social norms, acceptable language, topics, and the way we speak changes.

Cutting-edge comedians were the funniest people ever, can seem out of touch, hackney or even unfunny to current generations. It's the nature of the art form. So there you go. The definition of stand-up, how stand-ups become popular and those destinations, and why stand-up comedy doesn't tend to age that well. It's sort of like milk. It goes bad.

Larry Bernstein:

Most old TV comedies taste like spoiled milk. An exception seems to be physical comedy. Take the I Love Lucy skit when Lucy takes a job at the chocolate factory. Few words are spoken, the machine starts to move faster, and we see the panic in her eyes when she starts to eat the chocolates. That is chocolate not milk. Why is this scene timeless?

Wayne Federman:

Great question. Physical bits do tend to have a little longer life. However, I feel like pie in the face, pie fights, I don't know if those are still funny. Stand-up, unlike a physical comedy bit like

what Chaplin does where he's dancing with the potatoes on the end of the fork, that sort of is still wonderful to watch. I wanna be very careful here. Because for someone to say, "That's not funny," maybe Larry, saying, "That's not funny to me anymore." As opposed to that's not funny as if you know what funny is and what funny isn't.

Larry Bernstein:

Is Chris Farley falling on the table timeless?

Wayne Federman:

Physical comedy tends to have a basic human reaction. It's like what Mel Brooks used to say, "If I cut my finger on a piece of paper it's tragedy, but if somebody else falls into a manhole and dies, that's comedy." I know you think I'm dodging this question, but I'm not.

Larry Bernstein:

Does successful stand-up require a long humorous story with a narrative arc?

Wayne Federman:

It can be. Usually, it's little comedy bits that are strung together as opposed to a long arc of a story. There are comedians that do long form. Mike Birbiglia does long form story.

And then, all the way through are great jokes. Others that do the complete opposite, one-liner comedians: Rodney Dangerfield. Steven Wright. Jokes aren't connected in any way. Henny Youngman was known as the king of one-liners. He started in the '30s, so that's been going on for a while.

Larry Bernstein:

In your book, you mention that in the 90s standup comedy clubs expanded dramatically and then fell on hard times. What happened?

Wayne Federman:

I just love how serious you are, Larry. It's killing me.

We were oversaturated with clubs and comedians and club owners both got super greedy. It was like the price of a movie. Now, it was three times that price with drinks.

Plus people could see standup at home on Evening at the Improv. There was definitely a retrenchment.

But, there's still comedy clubs in most major cities in the United States.

Larry Bernstein:

How does a young comic get discovered now?

Wayne Federman:

The internet. There's a new phenomenon called front facing comedians. They were comedians that use their cellphone and flip the camera around and just (laughs) literally just tape themselves doing a bit or doing a character, or in the case of one-woman lip-synced Donald Trump press conference about COVID, and she ended up getting a CBS show and a Showtime special.

The old school way of doing open mics, getting into a comedy club, and touring these clubs still exists, but there's myriad ways of getting in right now. Comedians do it every day. I love it.

Larry Bernstein:

In your opening remarks you mentioned that the premier booking locations used to act as gatekeepers. Who plays that role now?

Wayne Federman:

If you want to do SNL, you got to go through Lorne. If you want to be on The Tonight Show Starring Jimmy Fallon, there's a booker you have to please. There's still a lot of gatekeepers that you have to impress.

If you have enough fans and followers, people will want those fans to come to the clubs, and there's many comedians that tour on the strength of their podcast.

There's been SNL cast members that have gotten on the show because they put up a YouTube video of their impressions that was seen by SNL, and they got on the show.

Larry Bernstein:

Many of the great comedians pivoted from stand-up to TV sitcoms. Is that still the natural career progression?

Wayne Federman:

If we go back to Jack Benny and Fred Allen doing their standup acts in vaudeville, they jumped on the chance to do a radio show. Same with Bob Hope.

When you're a standup comedian, you've already proven that you know how to unlock laughter from audiences, and then they can put 'em into a sitcom.

Bob Newhart, who had incredible comedy records starting in 1960, got the Bob Newhart show, he was a perfect fit for it.

Don Rickles had a string of failed sitcoms.

Larry Bernstein:

In your book you mention that Don Rickles had three shows a night in Vegas at midnight, 230 am and 5 am which was called the breakfast show.

Wayne Federman:

Vegas was a very interesting experiment in how to keep people in a casino. That was the whole mission statement of Las Vegas. Every minute a customer was in the casino meant money for that building.

They would put these acts in the lounge to keep audiences there as long as possible.

Carson was headlining in the main room, he or Sinatra would come over to see Rickles in the lounge, a yokel from the Midwest could see this big headliner, "Oh, my god, there's Sinatra sitting next to me being made fun of by Don Rickles. This is incredible."

You never knew what was going to happen. Lounge performances were improvisational and Rickles had to work some crazy hours.

Larry Bernstein:

My dad once went to see a Don Rickles performance, and he told me that he was still laughing from two jokes ago. Rickles would be firing off so many jokes that the audience simply couldn't keep up with him.

Wayne Federman:

He was just a machine. He had a bunch of lines ready to go. On top of that, he was an extremely gifted improvisational comedian. No matter what the situation, he would have a sarcastic comment. It was a rapid-fire Gatling gun of comedy that came at you and people loved him.

Larry Bernstein:

How much does a stand-up comic rely on his writers?

Wayne Federman:

Yeah, that still happens. When we got to Carlin, "Everything I'm saying on stage is something I wrote." The writer became the performer.

They were called gag- (laughs) gag writers. Radio hits and the vaudeville gag writer was in huge demand 'cause there was so much material you had to create every week for your radio show as opposed to vaudeville, where you could tour for years, maybe decades, on the same act, the same bulletproof 12 minutes.

Most comedians now write their own material, but other comedians help them workshop jokes.

I did a show in Aspen with Jerry Seinfeld. I was his opening act. And then, afterwards, I gave him a few, what they're called tags, which are extra jokes on part of a premise, and he ended up using one of 'em.

That happens all the time in standup. "Oh, you're missing this little nugget here that you didn't think of. It just hit me. Let me give you that."

Larry Bernstein:

Making fun of politicians is core to the stand-up act, why is Trump a bigger target than Biden?

Wayne Federman:

Trump was singularly interesting because there was a lot you could really mock. The cadence of his voice. But, they parody Joe Biden on SNL. There'll always be political comedy. The guy who started it on stage was Will Rogers.

Any comedian that you see that does political comedy, whether it's Trevor Noah, Stephen Colbert, or John Stewart or any of the SNL update guys. They all work in the shadow of Will Rogers.

Larry Bernstein:

Why should people care about the history of stand up?

Wayne Federman:

(laughs)

Larry Bernstein:

(laughs) Why did you write this book?

Wayne Federman:

Yeah, that's a great, great, you know, (laughs), the way you say it. It's like I'm being interviewed by Mike Wallace. What? Why would you write something like that?

Larry Bernstein:

Why would you do such a thing?

Wayne Federman:

(laughs)

Larry Bernstein:

(laughs) Does your mother know you did this?

Wayne Federman:

I love it. I love it. No one has really written the history of stand up before. I thought I was uniquely qualified to do it in a very breezy, easy to digest style.

No one has really boiled it down to like, this happened, then this happened, and that's how we got to today. That's how Will Rogers is connected to Samantha Bee. This is how Bob Hope is connected to John Mulaney. This is how the whole thing is all one big narrative. Even though the venues change, standing alone on-stage getting laughs remains the core job description.

Larry Bernstein:

What is the future for stand-up?

Wayne Federman:

There are people that don't do it on stage. They do it on the internet at home. There will be a new technology that will change the nature of stand up, the way it did with records, the microphone, television, **and** the internet.

There will be a new technology that I will not invent, that I will probably miss buying stock in the company and that will change the nature of stand up. How's that for an answer?

Larry Bernstein:

Better than I expected.

What do you make of Jerry Seinfeld's decision to stop performing on college campuses out of fear?

Wayne Federman:

I teach on a college campus. I profess (laughs) on these campuses.

The student body is very sensitive about anything that might be offensive, even the most benign jokes.

There is definitely a virtue signaling from the audience of I don't appreciate you, making that kind of generality about women or children.

I did hundreds of colleges when I was starting out and at the end, I started getting topics you're not allowed to talk about.

We have a lot of free speech in stand up. Unfortunately, there's a little area around the edges where the walls are coming back in. Kind of like in Star Wars when they're in that garbage dump and the walls keep coming in.

When I was a kid, the walls kept expanding.

When Carlin came along, we could speak about anything that was the freedom even if sometimes you might get offended.

I produced an HBO documentary about him that'll be out in May. He used to say, the obligation of the stand-up is to find the line and then deliberately go over it.

I want a world where comedians find the line and go over it. That's where we get Sam Kennisons and Lenny Bruces.

Larry Bernstein:

For the first time in my life, I hear my friends consistently say that they cannot express their opinion in public on a whole host of topics.

Wayne Federman:

Most comedians understand that societal norms change over time. There used to be a bunch of jokes about hitting your wife. The Honeymooners. One of the big running gags on that show

was, "One of these days, Alice, I'm going to hit you so hard you're going to go to the moon."
There would never be a sitcom today with that.

Mainstream shows like Seinfeld or Friends, go to the internet and type in Seinfeld problematic. Those two words. And there's article after article about why these shows are offensive, why they're homophobic, why they're fat shaming.

I'm not even talking about an edgy comedian (laughs) in a nightclub. I'm talking mainstream, prime time television from the 90s is now considered problematic by people who are easily offended.

And personal behavior on and off the stage can be viewed as problematic.

Larry Bernstein:

Once a comedian is cancelled, can he make a comeback?

Wayne Federman:

Louis C.K. is still touring and he had problematic off stage behavior.

Larry Bernstein

What about Michael Richards who played Kramer on Seinfeld, can he ever return to stand-up?

Wayne Federman:

That's a hard one, 'cause that is a bit of the third rail.

Of like, (laughs) just that he's screaming the N-word on stage at somebody in anger, that's very tough to come back from in today's climate.

I bring this up with my class, we talk about Bill Cosby, and Woody Allen. But they don't really know them. All my students are born after the year 2000.

But they do know J.K. Rowlings who wrote Harry Potter.

Larry Bernstein:

Rowlings said publicly in a tweet that "I love trans people but erasing the concept of sex removes the ability of many to meaningfully discuss their lives."

Wayne Federman:

The class, most of them avoid getting money into her pocket. 25th anniversary of Harry Potter that she was disinvited from that event, they were all thrilled about that. A social cancellation because she said gender is a fact.

Larry Bernstein:

Why are there so many Jewish stand-up comedians and gag writers?

Wayne Federman:

In the late 1800s from Eastern Europe, Jews that started coming to the United States.

Show business was very much open. The primary focus of these comedians was to assimilate. Some of them got nose jobs. Milton Berle, I'm looking at you. But most of them changed their names. Milton Berle was Mendel Berlinger. Jerome Levitch, became Jerry Lewis. Leonard Schneider became Lenny Bruce.

They de-Jewed their names to get into mainstream Goyim society.

A Talmudic tradition of questioning and looking at things from a different way. Stand-up comedy is that. I'll give you a perfect example. The sign, no swimming allowed. You can look at it and go, "No swimming allowed." Or you can look at that sign and go, "No. Swimming allowed." (laughter)

And Jews have been debating this stupid Torah for thousands of years. It's ridiculous. And they're still doing this.

Larry Bernstein:

With little progress.

Wayne Federman:

Yeah, little progress. (laughter) Going over the minutiae. If you think about Jerry Seinfeld's bit about cotton balls. He is breaking down the minutiae, who makes them? Why do they exist? Looking at the world with a slightly different comedic lens. That's really all standup is.

Larry Bernstein:

How did Chris Rock become a superstar?

Wayne Federman:

He did something that was phenomenal, which was his big HBO special in 1996. He wrote some material that was so incendiary, so edgy. I would say almost overnight became a legend. That act lands him on the cover of Rolling Stone. He gets his own HBO series, relaunches his film career.

I've known him since he was stacking chairs at The Comic Strip hoping to get on late at night. Chris, off stage, he *is* a quiet, almost nerdy little skinny kid. But on stage, it's like a panther, pacing back and forth, doing incredibly forceful standup comedy.

Larry Bernstein:

Do you break down your jokes to understand why they succeed? Do you work on how to improve them to get more laughs? Humor is an art but it doesn't mean that there isn't some science.

Wayne Federman:

The basis of comedy is surprise. "Oh, I didn't think of that." That no swimming allowed is "I didn't think of that. It was right there in front of me."

But when it comes to the writing, I will give you this for free, and all your listeners, to what I call the CBS: clarity, brevity, and specificity. There **are** no extra words. It's very specific of what they're talking about. And it's a hundred percent clear what the joke is. It can't be ambiguous. Clarity, brevity, and specific. You just saved 6,000 dollars in tuition from USC to take my course.

Larry Bernstein:

What about bringing an aspect of a previous joke to a later one?

Wayne Federman:

I think audiences are onto that. There's actually a word for it, a call back.

Comedy dies when you dissect comedy, it dies on the operating table. So, let's do it. Let's kill some comedy right now.

Larry Bernstein:

Why does comedy die on the operating table? Why can't we treat it like an artistic work? When we look at Monet's waterlilies, we know it's a painting, and the more we learn about how Monet created the work, the more we can enjoy it and appreciate the artisan's craft.

Wayne Federman:

You absolutely can. And my class, I have them take a routine and transcribe it word for word.

Bill Maher when he first heard Robert Klein's album, Child of the 50's, he wrote down every word so he could see how many jokes, where the laughs were, how long the setups were.

I did that for the class. And they found it very informative. It wasn't particularly funny, but it's like a science. I definitely turn a standup comedy from a performance art into prose.

Larry Bernstein:

I end each episode on a note of optimism. What are you optimistic about?

Wayne Federman:

Everything. Standup comedy notwithstanding. The human condition continues to improve remarkably throughout the world. And I can't wait to see artificial intelligence, hopefully it won't be a Terminator situation where the machines take over.

I can't wait to see what we do next. People in 50 years who are listening to this podcast will have a much healthier life than we do right now.

Larry Bernstein:

Thanks Wayne. Let's move onto our second speaker Lee Buchheit who is an expert in sovereign debt restructuring.

Lee Buchheit:

Thanks, Larry. You're asking what is the ultimate fate of the Russian Federation assets that the United States and the European Union have frozen? In particular, whether President Biden could, if he wished, confiscate those assets and make them available to the Ukraine government to help them with reconstruction. Estimates are 300 billion dollars of Russian Federation assets have been frozen. I expect most of it is in Europe.

There's no question about the president's legal authority to freeze those assets. It's been done many times before Iran, North Korea and most recently Venezuela. There is some question about his ability to confiscate the assets.

I believe he has that legal authority. President Biden thinks he has that legal authority. He has indicated that he intends to take seven billion dollars of Afghan Central Bank assets that have been frozen and allocate half of them towards humanitarian work in Afghanistan but the other half he intends to give to the victims of 9/11 that have obtained court judgements against the Taliban.

There are a couple of crucial timing issues here. I expect the Biden team would resist earmarking the frozen Russian Federation assets for another purpose. If there were to be a settlement Putin will surely ask that the sanctions be lifted and his money returned. And were Mr. Biden to commit that money for another purpose that would take 300 billion dollars off of the negotiating table, and he might be reluctant to do that.

The problem is that the longer this goes on the greater the risk that private parties will sue the Russian Federation. If Russian bonds go into default, one could expect that there will be lawsuits by bondholders, and by investors who've had their property confiscated in Russia. And once those lawsuits begin and the frozen assets become subject to attachments by private litigants that vastly complicates the president's ability to dispose of them. The best historical example here was President Reagan's decision in 1981 with respect to frozen Iranian assets after the hostage taking in Tehran in 1979. 400 lawsuits had been commenced against Iran in this country and a proportionate number of attachments of Iranian assets.

The deal that Reagan cut with the Iranians was that all of those lawsuits were to be voided, all of the claimants sent to The Hague to present their cases before the US/Iran claims tribunal and all of the assets to be made available to the claim's tribunal. Reagan was sued for having done that. He went to the US Supreme Court and prevailed but it was a very narrow decision. The concern that the US Government would have is that if you void those attachments, does that constitute a taking of private property without just compensation in violation of the fifth amendment?

We have this situation right now in Venezuela. President Trump froze Venezuelan assets. Private litigants have attached those frozen assets. The freezing order prevails but at such time as it is lifted those attachments would bite. That's the timing issue. President Biden would be wise not to wait too long before deciding whether he is going to allocate frozen Russian Federation assets to some other purpose such as reconstruction activities in Ukraine.

Larry Bernstein:

Normally, if Russia were to default on its debt, its bondholders could not get an attachment on the Russian central bank's US Treasury portfolio. To clarify what you are saying, if Biden gave

Russia's assets to Ukraine, the US government would not be at risk from any attachments by creditors, but if the Russian frozen assets are held by the US government, then a US court could require that the Russian assets be given to Russia's private creditors.

Lee Buchheit:

Correct. If President Biden were to outright confiscate, would those assets remain property of the Russian Federation and therefore be subject to attachment by third party creditors of the Russian Federation? I would think not and let's say tomorrow, all frozen assets subject to US jurisdiction are transferred to the Ukraine government to be used for reconstruction. At that point I think, they would no longer belong to the Russian Federation and no longer be subject to attachment.

Larry Bernstein:

Surely, the Russia Central Bank assets must be part of any negotiated settlement.

Lee Buchheit:

If Mr. Putin were prepared to sit at a settlement table he would surely insist. "Give me my money back and lift the sanctions." But the timing issue, Larry, is important. The President has that discretion now but at the point that private litigants begin to file attachment orders on those assets while they remain assets of the Russian Federation at that point voiding the attachments raises the question of whether the US government has taken property from those private litigants. That was the issue that Mr. Reagan confronted. The Supreme Court dodged it. The Supreme Court said, any litigant in that position who wishes to file a claim before the court of claims where you sue the US government, you're free to go and do it.

Larry Bernstein:

Biden has some time. If Russia misses an interest payment, there would be a grace period before the default is official, then it takes time for the bondholders to start a lawsuit and get a judgment.

Lee Buchheit:

You're right. There's a 30 day grace period on these bonds. Then 25% of the bond holders would have to accelerate. Then someone would have to sue. Russia would have 60 days to answer that lawsuit in a court. It would take another nine months to get a judgment. Once they got a judgment they would then have the ability to attach.

Larry Bernstein:

In litigation against a sovereign state, the US State Department often goes to court and requests that the judge not take an action that is averse to the president's foreign policy objectives. Biden will have a very legitimate argument here if the attachment undermines peace negotiations with Putin.

Lee Buchheit:

Federal courts take that very seriously. It's a constitutional issue. Foreign affairs is principally the responsibility of the executive branch and the judiciary is very leery of taking actions that could interfere with the executive's conduct of foreign affairs. Were the president to come into a federal court and say, "This is a matter of acute interest to the foreign affairs of this country." The court is not bound to accept that but would certainly give it a great deal of deference.

Larry Bernstein:

Biden's decision to confiscate 100s of Billions of dollars of Treasuries is a big deal. Individual investors and governments have purchased billions of dollars of supposedly riskless Treasury bonds and now we are saying that if a nation engages in policies that the President finds objectionable, then the President can confiscate the central bank's bonds and bonds held by foreign nationals.

The US government has benefitted enormously from being the world's reserve currency and having foreigners and especially foreign central banks finance our debt. Why are we going to risk ending that practice?

Lee Buchheit:

Yeah. Yeah. It's a fair point, that's what made the decision of the US Treasury to go after the Russian Central Bank's assets so significant. It sends a message to any country that is not a fast friend of the United States that were they to find themselves on the wrong end of a political dispute with Uncle Sam, they may find that their international reserves are effectively frozen and potentially subject to outright confiscation.

That is a pretty significant step for the United States to have taken, because there are a number of countries, and China surely at the top of the list, that have enormous holdings of US government securities that I'm sure they felt were safe from this risk. How many basis points might the US Treasury have to pay in additional interest rates, if these large foreign government buyers become leery of holding US Treasury securities? The decision to go after the Russian Central Bank was very significant.

Larry Bernstein:

How broad is the President's power to confiscate US corporate stocks and bonds held by foreign governments or foreign citizens?

Lee Buchheit:

His authority extends to any property subject to US jurisdiction in which the foreign state has an interest. So if they owned Exxon Mobil bonds, gold at Citibank, all of those assets are potentially subject to being frozen.

Foreign national's assets could also be frozen. I think a different legal issue, if a foreign national comes in and says, you've frozen my assets, what is the foreign policy basis for that? Because all of these actions are taken under a statute that gives the president the authority to do these

things because they relate to foreign affairs of this country. An individual might have a better case to say, I'm scarcely a threat to the foreign policy of the United States.

Larry Bernstein:

Lee, you've participated in countless sovereign debt disputes, how do you think this situation will be resolved?

Lee Buchheit:

(laughs) It will eventually be settled sooner or later. Putin is so far committed, he has got to be able to show that he has won something with sufficient face saving. For example, I want Crimea to be recognized, I want the Donbas, I want a land corridor between Russia and Crimea, and I'll withdraw my troops. Maybe he could do that.

But there is a significant chance that Putin decides he's going to stay in Ukraine, the Ukrainian government does not acquiesce, and these sanctions remaining in place for a long time. The consequences on the Russian economy will be devastating. Look, (laughs) Cuba has been sitting there in isolation since 1960. It is possible for a country to become such a pariah that they are cut off diplomatically, economically, financially, even socially from the rest of the world. But you would not have thought a country as significant as Russia would wish that or could endure it for long.

Larry Bernstein:

I want to change the conversation to Russian individuals. Both the US and EU governments have been confiscating boats and homes in Belgravia owned by Russian nationals. I would have thought that personal property would be protected. And if this sort of action will become commonplace when a citizen's government is in conflict with the West, then the foreigner cannot hold personal property in the US or Europe? Would you recommend that Chinese nationals consider sale/lease backs, using non-recourse debt on property, or holding assets in complex offshore companies and trusts to disguise ownership?

Lee Buchheit:

Russian nationals rarely hold those assets in their own name (laughs). There will be a layer, upon layer, upon layer of holding companies often in jurisdictions that are not receptive to disclosure of beneficial owners. Could someone prove that the Russian national owns it? Even if they could, then the question would be become are those assets ostensibly in the name of an individual to be regarded as constructively Russian Federation assets and therefore subject to attachment by, let's say, Russian bondholders or the Ukraine government for damages to the Ukraine? That too is a big, big step. I would see that as a much more complicated process.

What are you gonna do with your money? How many New Zealand dollars can you buy? You've gotta put it someplace. And what this affair has shown is that in a situation where your home country does something that is regarded as truly outrageous by the Western world, those jurisdictions have the ability to freeze assets. Oligarchs would have to look hard to find places where they could put their money with absolute security.

Larry Bernstein:

If you were advising, the Central Bank of China that has trillions of dollars of US dollar and Euro denominated assets to reallocate its resources to prevent confiscation, what would you recommend?

Lee Buchheit:

It's a staggering amount of money. China, if they foresaw a situation in which there could be a rupture with the Western countries, they would draw down those positions. The Russians bought \$130 billion of their reserves in gold, and Biden just attempted to restrict even that. Maduro has been for the last few years attempting to sell his gold. He puts it on a private plane to Iran or Africa and tries to sell it. That's what Biden is trying to shut down with his latest round of sanctions.

Larry Bernstein:

This isn't the first time that the West has dealt with a rogue regime. What financial actions did we take against the Kaiser and Hitler's Germany?

Lee Buchheit:

We passed in 1917, the Trading with the Enemies Act. That statute gives this power to freeze foreign assets in the hands of the president. So we froze them. My recollection is that the Bayer pharmaceutical company, we may have actually (laughing) sold off their patents.

Larry Bernstein:

So far we've discussed state actions by our enemies, but sometimes we get into conflicts with our friends. For example, in 1956 the UK, France and Israel attacked Egypt over the nationalization of the Suez Canal. Eisenhower was blindsided and angry, and he limited the UK's ability to borrow money during a run-on Sterling forcing the UK to backdown. Do you think that the President could apply these powers over our friends and their citizens to force allies go get in line?

Lee Buchheit:

I think the provocation for the United States to take an action like this against a friend and ally has got to be pretty great. President Eisenhower expressed his severe disapproval of what was done in the Suez incident and that got those countries to back off it. But theoretically, if the president declares a situation to be of acute concern to the foreign policy of this country, it is not limited. In a practical sense, I think they would think hard about doing it without severe provocation.

Larry Bernstein:

This is a lot of power delegated to the President, what are the checks and balances from the Congress?

Lee Buchheit:

It is in the hands of the president. Congress authorized it by legislation, the Trading with the Enemy Act and then the international Emergency Economic Powers Act.

It is always up to Congress to pass legislation that would restrict what the president can do. But it's pretty much a discretion of the executive branch. It goes back to our constitutional allocation of foreign affairs principally in the hands of the executive branch.

Larry Bernstein:

Are there treaty protections for Russian individuals and their property?

Lee Buchheit:

I don't know whether the Russian Federation is a party to so-called bilateral investment treaties. These are treaties between two countries that give investors in each other's economy, the ability to pursue arbitration remedies in the event that their investments are confiscated.

If such treaties exist and I would expect they do exist, then that's probably the principle recourse. There are provisions in U.S. law permitting a cause of action where property has been taken in violation of international law. International law requires that if you expropriate property, you are obliged to pay prompt just and effective compensation. Over the last 25 years has been mostly private investors resorting to these arbitration remedies. Maduro's Venezuela has 30 some of these arbitration cases pending.

Larry Bernstein:

Russia successfully made an interest payment on its external debt a few days ago, but there was a lot of discussion about how the cash made its way through the financial system given the EU and US restrictions on Russia's money. What happened?

Lee Buchheit:

The payment went to JP Morgan and from there to Citibank acting as paying agent. JP Morgan, as you might expect, went back to OFAC and said, "We wanna be sure we can pass this through." The mystery here though, Larry, is where did that money come from? From a policy standpoint, OFAC logically should have said if that money is being sourced from unblocked accounts let it flow through because that just further drains Russia's FX reserves and amplifies the effects of the sanctions. But if they said the money could be debited from a blocked account, that strikes me as illogical. That allows Russia to use blocked money to service its debt. That's the mystery, where the money was sourced from.

Larry Bernstein:

I know the West is outraged by Putin's behavior, but does it make public policy sense to weaponize US Treasury bonds? This decision could have long-term implications on how we finance our debt and our role in the world, was this properly thought through?

Lee Buchheit:

I think they thought in through, Larry. They have previously refrained from acting as aggressively as they did in this case. They made the decision that the provocation was so outrageous that they would take that step.

But the three trillion-dollar question, what are you going to do with the money if you can't invest it in the world's most liquid and theoretically safe financial asset?

Larry Bernstein:

Lee, I end each episode on a note of optimism, what are you optimistic about?

Lee Buchheit:

I am optimistic that contrary to many people's expectations the Western nations have rallied together in the face of this that is some basis for optimism.

Larry Bernstein:

Thanks to Wayne and Lee for joining us today.

That ends today's session. I want to make a plug for next week's show.

Our first speaker will be Howard Husock who is a senior fellow at AEI. Howard will discuss his new book *The Poor Side of Town: And Why We Need It*. Howard believes that housing for the poor can best be offered by the private sector, like in the old days when the landlord lived on the floor below. Public housing failed, so let's figure out what works.

Our second speaker will be Irv Gellman who is a popular historian who has a new book entitled *Campaign of the Century: Kennedy, Nixon and the Election of 1960*. Irv disagrees with the historical narrative about this incredibly close presidential race. There is so much to discuss including Election fraud, JFK's mistresses, and the first Television Debates.

If you are interested in listening to a replay of today's What Happens Next program or any of our previous episodes or if you wish to read a transcript, you can find them on our website Whathappensnextin6minutes.com. Replays are also available on Apple Podcasts, Podbean and Spotify.

Thanks to our audience for your continued engagement with these important issues, good-bye.