

## Rachel Maddow presents: Burn Order

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Episode 4: 'Like An Ordinary American'

The cavalry was not coming.

*A principled politician puts his career on the line to stand up against the authoritarian actions of an emboldened federal government. While Americans largely sit by and watch their fellow Americans rounded up and stripped of their rights, a small group of brave resisters sets out to challenge the aggressive actions of the U.S. government and bring an end to them for good.*

### Transcript

**Rachel Maddow:** His career in electoral politics began at an unlikely place. It was, um... well, it was at a urinal.

**Adam Schrager:** Everybody knew in his family that Ralph was going to be the one who went to college and he was going to be the one who kind of escaped the mining world.

**Rachel Maddow:** Ralph Carr had grown up in Colorado. His father was a gold and silver miner. But it was pretty clear from the start that Ralph, this miner's son, he was not destined for the mines.

**Adam Schrager:** Maybe it was simply because he himself was kind of picked on as a child that he identified with those in society who were picked on. He found himself sympathetic to the individual who just needed a pat on the back.

**Rachel Maddow:** That's journalist and author Adam Schrager.

Ralph Carr is short, he's jowly, he's bookish. He's very much a conservative. He has a legendary temper. He grew up in the diverse, Wild West mining towns of the state of Colorado. He speaks fluent Spanish. He's comfortable with people of all races.

He spent a little time working at Colorado newspapers, but then he went back to school and got his law degree. He was an interesting guy. A capable guy. Well-regarded.

**Adam Schrager:** Ralph Carr always described being a country lawyer as the best of all worlds as a lawyer because you had to learn something about everything. Loved the opportunity to be able to help people in whatever problems they were facing.

**Rachel Maddow:** Having a good reputation as a country lawyer gets Ralph Carr a job as an assistant attorney general with the state. Having an even better reputation at that job gets him a federal appointment as U.S. attorney for Colorado. And soon enough, Republicans in the state have begun to

think about him as electable — as somebody they could maybe persuade to run for office as a Republican.

**Adam Schrager:** In 1938, the Republican Party did not have a candidate. And so Ralph Carr starts to hear rumblings. They like him, they think he has a good reputation. They think he could be the candidate that brings the party together.

**Rachel Maddow:** Now, to be clear, the Republicans are thinking about running Ralph Carr for office. But Ralph Carr himself does not share their enthusiasm.

**Adam Schrager:** And to that suggestion, even that hint, he says, “We’re going home. I don’t want any part of this conversation.” And drives the 70-plus miles back from Colorado Springs to Denver. Arrives home at two in the morning to have the phone ringing. And the phone won’t stop ringing. He’s got his pajamas on, he puts a sport coat on and his hat, and he drives back down to Colorado Springs and he starts getting lobbied: “You need to do this, you need to do this, you can unify the party.” Finally, the decision is made at the urinal of the hotel where they were, and it was basically an, “Ah, shucks, I guess I have to do this.”

**Rachel Maddow:** Ralph Carr really does not want to run for office. He only capitulates, finally, at the urinal of all places. But then when he stands for governor, he wins that race. He’s this miner’s son who becomes a country lawyer, and fairly soon thereafter, he becomes the governor.

**Announcer:** Ladies and gentlemen, here he is! You can hear him! Hear the applause! His excellency, the governor of Colorado, Mr. Ralph L. Carr!

**Adam Schrager:** He is the freest and most independent candidate who has come to this office in a long time because he does not come with baggage of being in the party.

**Gov. Ralph Carr:** Tonight I’m looking out over the most colorful, the kindest crowd that a man in my position has ever faced, and I want you to know how much I appreciate it. I’m very grateful to all of you. No man could go through it and fail to appreciate the fact that I was lucky enough to be elected. I hope that I may in some way justify your kindness, and I do thank you. Good night.

**Adam Schrager:** I think, philosophically, if we’re being blunt, this is the politician we all say we want — the one who’s not going to stick a finger in the wind to determine which current they should follow that day. And it’s really what attracts him to a national audience.

**Gov. Ralph Carr:** We have towns like Greeley and Fort Collins and Canyon City and the Western Slope countries. I don’t need to defend myself down here, it’s when I get back up there that I’ll have to take care of myself! (Crowd laughter)

**Adam Schrager:** He was being talked about in the newspapers of the day — the New York Times, Chicago Tribune, Los Angeles Times — as a potential future presidential candidate. That was his political star; it was rising at breakneck speed.

**Rachel Maddow:** Ralph Carr never wanted to be a politician, but now he is, and he is on the rise. He has a very successful first term as governor of Colorado. By the end of that term, in 1940, he is getting national attention. The Republican Party approaches him to potentially be a vice presidential candidate that year. He says no. He says he wants to stay in Colorado and run for a second term as governor instead. And he is re-elected as Colorado governor.

But then it's about halfway through his second term, it's December 1941, when everything changes.

**Radio Announcer:** Just 24 hours ago, the treacherous attack by the Japanese upon the United States began. Governor Ralph L. Carr steps up to a KFEL microphone to report to you of our listening audience on the first steps taken by the state of Colorado. Governor Carr?

**Gov. Ralph Carr:** People of Colorado, fellow Americans, we are different men and women from what we were 36 hours ago...

**Rachel Maddow:** In the immediate aftermath of the attack on Pearl Harbor, thousands of immigrants — citizens of Japan — are arrested under the Alien Enemies Act.

But then there is word that not just these Japanese immigrants — Japanese citizens — but also U.S. citizens of Japanese descent, they, too, should be rounded up and moved. Moved away from the West Coast. But to where exactly? Where will they go?

At the outset, before the plan to lock them all up in huge prison camps, the initial idea is to allow Japanese Americans to move inland, away from the coast, to other U.S. states.

And for a brief window of time, that's the policy that is allowed.

Colorado Governor Ralph Carr is inundated with letters and telegrams on that subject from his constituents. And they are speaking with one voice.

**Adam Schrager:** "We don't want Denver overrun by the yellow race," read one letter to the governor. A homemaker from Boulder pleaded with Governor Carr: "May God of heaven speak to your soul," she wrote. "No one wants Japanese here to see our bodies ravished and raped by the very devil himself." Many other people sent telegrams to Governor Carr suggesting that everybody simply of Japanese descent "be killed." That was the best way to solve the problem.

You have to understand the context of this to truly understand how powerful a stand it was that he took.

**Gov. Ralph Carr:** Our first duty this morning and today is to try to be calm. Our danger now is that our emotions may take too great control of our activities and our thoughts.

**Adam Schrager:** Three days after the attack at Pearl Harbor, Ralph Carr goes on statewide radio and says that he personally will not judge the loyalty of any man based on where their grandparents were born. He sends a letter to the Japanese American Citizens League newspaper, saying, "To the American citizen with Japanese parents, we offer you the hand of friendship."

Friendship.

While people are asking anyone of Japanese descent to be killed, Ralph Carr is extending the hand of friendship to these individuals.

**Rachel Maddow:** For Ralph Carr, this conservative Republican who had grown up in the mining towns of Colorado, who reveres the Constitution, this issue to him just doesn't even feel like a close call. He doesn't think it's complicated.

He says, "I am talking to all American people whether their status be white, brown or black, and regardless of the birthplaces of their grandfathers, when I say that if a majority may deprive a minority of its freedom today, contrary to the terms of the Constitution, then you may be subjected to the same ill will of the majority tomorrow."

**Adam Schrager:** They were American citizens and everything that that term held needed to remain true. There's just no other way in his mind. It was indisputable in his mind, and he couldn't understand, frankly, why people didn't get it. And so he went out to the people of Colorado and tried to convince them.

**Rachel Maddow:** Ralph Carr travels to tiny farming towns in Colorado like La Junta. He knows that his stance against the mass removal of Japanese Americans is unpopular. But he is determined to go to the people about it. To try to change their minds. To at least make his case.

**Adam Schrager:** More than 500 residents came from 15, 20, 30 miles away. And the governor jumps right in. He points at them and says, "These Japanese are protected by the same Constitution that protects us. An American citizen of Japanese descent has the same rights as any other citizen. If you harm them, you must first harm me."

**Rachel Maddow:** If you harm them, you must first harm me.

He tells these crowds, sometimes these angry crowds, that Japanese American citizens are citizens, and they should be treated as citizens. He says they will be welcome in Colorado. If they come to Colorado, he says, they will be protected by the state. They will be protected by him.

**Adam Schrager:** He tells the crowd, "In Colorado, those American citizens of Japanese descent will, quote, "have full protection." Full protection.

**Rachel Maddow:** It's hard to overstate just how much Ralph Carr stands alone on this. Every other governor of every other Western state says they will refuse to allow any Japanese Americans to move there.

The governor of Wyoming says, "People in my state don't like Orientals," and says that in Wyoming, quote, "There would be Japs hanging from every pine tree."

The governor of Kansas and the governor of New Mexico both say that they will direct police to physically block, to physically turn back any Japanese Americans who appear at their border.

The governor of Idaho says — and forgive me here — but he says, “The Japs live like rats, breed like rats, and act like rats. We don’t want them.”

Ralph Carr, governor of Colorado, he stands alone. Japanese Americans may be unwelcome everywhere else across the West. But Ralph Carr says we, as a state, we will welcome them here.

**Adam Schrager:** The public response is “Hell no.” Why would you welcome in that type of instability? We don’t know who they are, we don’t know their kind, we don’t trust them. “Hell no, we didn’t want them here.” That was the common refrain.

**Rachel Maddow:** Ralph Carr sticks to his guns. He defends Japanese Americans. He defends their loyalty and their rights. He says removing them from their homes would be wrong, would be unconstitutional. But he says if they are going to be moved, he says, let them come here.

**Adam Schrager:** To members of the Japanese American community, there’s really no one else espousing this view. There’s no one else defending them.

**Rachel Maddow:** Japanese Americans across the West hear Ralph Carr’s message. And they begin to stream into Colorado, hoping for a place where they and their families can be safe.

**Adam Schrager:** We don’t think in today’s day and age that a family driving a car into a state would generate newspaper headlines. But in 1942, if that family were of Japanese descent, they generated front-page headlines.

**Rachel Maddow:** Newspapers in Colorado started to report on what they described as “caravans” of Japanese coming into the state.

One newspaper in Fort Collins warns, “Jap Migrants En Route Here.” Another says, “California Starts Jap Exodus: Caravan of 20 Checks in Here.”

**Adam Schrager:** It was believed that their intentions were the utmost of impure. “They were out to get us, and we just were letting them come in. Thanks, Governor Carr.”

**Rachel Maddow:** The stand that Governor Ralph Carr is taking makes him a daily punching bag for the largest newspaper in the state, the very influential Denver Post.

**Adam Schrager:** The Denver Post couldn’t believe it. They couldn’t believe that this man they had supported for multiple elections would now be defending American citizens of Japanese descent. It was a daily drumbeat of “You’re wrong, governor.”

It was unyielding and constant. It would’ve been so easy to take the politically expedient path here — so much easier — and every other politician of his era did. He doubled down. Refused to bend. Absolutely line in the sand, concrete poured, would not give on this issue.

**Rachel Maddow:** Ralph Carr’s message to Japanese Americans — that they were welcome in Colorado — it is very much an unpopular message in the state. But it is clear. He defines it as a

matter of principle. He explains it. He defends it. He sticks to it. And it matters, it matters, in terms of how Colorado conducts itself as a state.

And it matters to individual people and families who are looking for safety – like the family of Herbert Inouye, who are fleeing California in the brief window when they are still allowed to.

**Herbert Inouye:** People would line up on the streets and holler at us and they'd throw things at us. And so, we thought, "Well, we're going to get the same treatment all over again that we got in Arizona and New Mexico."

**Rachel Maddow:** When Herbert Inouye and his family cross into Colorado, though — when they encounter a state trooper there at the Colorado border — the reception is different.

**Herbert Inouye:** He came over and greeted us and he said, uh, he said, "Welcome to the state of Colorado. Governor Carr and the people of Colorado welcome you." It was really heartwarming and something that I never forgot.

**Rachel Maddow:** Three Colorado universities follow the leadership of Governor Carr. They make the rare decision to agree to accept Japanese American students from the West Coast. It makes a practical difference, this stand that he takes. It has an impact.

**Adam Schrager:** Colorado's population of Japanese descent in the early part of 1942 doubles. And those people live freely through the war. And it might be Governor Carr's greatest legacy of all, that those people are not incarcerated. Those people live freely who come to Colorado. And it's because of Governor Carr.

**Rachel Maddow:** But Ralph Carr could not change minds all across the West, or even all across his own state. And he plainly could not stop this policy in its tracks.

In June 1942, U.S. Army Colonel Karl Bendetsen – the architect of Japanese American mass incarceration – he informs Governor Carr that regardless of his very public criticism of the treatment of Japanese Americans, Bendetsen tells him his state is going to be forced to do it.

Colorado is going to get a prison camp, too.

**Adam Schrager:** He knew that there was no way to stop it once the federal government determined this was the policy in order to win the war. So, it's an irony, right? That the governor of Colorado, who defends the rights of American citizens of Japanese descent, ends up finding himself overseeing a state where a relocation camp will be sited in one of the most desolate parts of the state of Colorado.

**Rachel Maddow:** Ralph Carr, the staunchest opponent of this policy, maybe in the entire country, he couldn't stop it.

And he would lose his political career over it.

1942, generally speaking, was a good year for Republicans all across the country. But not for Ralph Carr. This man who had been a political superstar in his state and with a growing national profile, he lost in 1942 and then he never again held elected office.

**Adam Schrager:** I think that what he did is among the most heroic decisions a politician could make because he dramatically went against his own self-interest.

**Rachel Maddow:** He did what he could with the power that he had. He threw himself in front of it. But he could not stop it.

The story of American elected officials — officials in high office — standing up against the mass incarceration of Japanese Americans at the time, that is a short story. It's the story of Ralph Carr, and that's pretty much it.

The mayor of Tacoma, Washington, had also objected. There was one senator and a couple of congressmen who wobbled a bit for a time, but there was really no one in high elected office who took a stand the way Ralph Carr did. It was just him.

The cavalry was not coming. The help was not there. If this policy was going to be stopped, it was going to have to come from the grit and the resourcefulness and spirit of the people this policy was targeting — of Japanese Americans themselves. They would have to do it on their own.

Which is exactly what they did.

**Adam Schrager:** It can't be overstated how heroic the actions of Japanese Americans were. Those are the true heroes of this story.

**Rachel Maddow:** I'm Rachel Maddow, and you're listening to "Rachel Maddow Presents: Burn Order."

**Gordon Hirabayashi:** If I believe in the Constitution, I've got to object to this.

**Frank Abe:** He saw the opportunity to demand the government produce evidence of why these people should be detained.

**Gordon Hirabayashi:** I just said I'm going to live like an ordinary American.

**Frank Abe:** The government knew it didn't have a strong case. That it was violating the rights of all these Japanese Americans.

**Chuck Rosenberg:** The government was afraid of her case and of her because they were going to lose.

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**Rachel Maddow:** Episode Four: "Like an Ordinary American."

On the campus of the University of Washington in Seattle, the clock is about to strike 8 P.M. And for one college senior there, that is going to be a problem.

**Gordon Hirabayashi:** I lived in a dormitory, a small one with 12 residents, and I was the only one of Japanese ancestry at the time.

**Rachel Maddow:** Gordon Hirabayashi is a 24-year-old senior finishing up his degree in sociology. His parents immigrated to this country from Japan, but Gordon and his siblings were all born here in the U.S. They're all American citizens.

Gordon is a Quaker. He's a young man of strong principles and strong religious faith.

Posters have started going up all around Seattle, ordering that anyone of Japanese ancestry has to be off the streets by 8 p.m. Get off the streets, get behind closed doors.

**Gordon Hirabayashi:** And all of the dormmates became volunteer timekeepers for me, and they'd say, if we were at the library or if we were at the coffee shop, they'd say, "Hey, Gordon, five minutes to," and I'd gather up and beat it home ahead of the others.

**Rachel Maddow:** Gordon Hirabayashi at first follows the curfew order. He rushes home from the library or wherever he is. He makes sure he's back inside his dorm room before the clock strikes 8.

He does do that for a while. But then he stops.

**Gordon Hirabayashi:** I said, "Why am I dashing back when my fellow American dormmates are continuing to do what they were doing?" And you know, the obvious factor of my Japanese ancestry, that's the only reason that differentiated me on this order, and I said to myself, "Gee, if the American Constitution means anything at all, this is wrong. And if I believe in the Constitution, I've got to object to this."

**Rachel Maddow:** If I believe in the Constitution, I've got to object to this.

Gordon Hirabayashi just decides that he can't take it, that he's just not going to do this anymore. He thinks it's wrong.

**Gordon Hirabayashi:** Well, now after the curfew, I'm just going anywhere I feel like. I was not trying to protest this. I'm not a protester. I wasn't doing it as a demonstration. I was simply, after I came to this view, simply living like the rest of them.

**Rachel Maddow:** Gordon Hirabayashi, after he comes to that view, he regularly defies the curfew, but he doesn't actually get caught — he somehow doesn't get noticed.

Which is not necessarily a good thing for Gordon. Because even though he does not think of himself as a protester, he does think this order is wrong, and so he doesn't want to sneak around. He wants to openly defy it.

**Gordon Hirabayashi:** In terms of the principle, you know, there was no question this was wrong. And if we were good citizens, we'd point this out by refusing it, as, uh, as an American responsibility. So when this thing came about, I defied the curfew and then later the exclusion order.

**Rachel Maddow:** He defied the curfew, and then later the exclusion order. By May 1942, the buses are leaving Seattle — buses taking Japanese Americans to the camps. Gordon Hirabayashi does not get on one of those buses.

**Gordon Hirabayashi:** I don't see how I could conform to it and still be the person I want to be. I have to change my philosophy and my beliefs about the American Constitution, and so on, in order to go ahead with this. And I don't want to do that. I want to keep my beliefs, so I've got to buck this.

**Rachel Maddow:** He writes a letter explaining why he is refusing to report:

He says, "This order for the mass evacuation of all persons of Japanese descent denies them the right to live. It forces thousands of energetic, law-abiding individuals to exist in a miserable psychological and horrible physical atmosphere. This order limits to almost full extent the creative expressions of those subjected. It kills the desire for a higher life. Hope for the future is exterminated. Human personalities are poisoned. The very qualities which are essential to a peaceful, creative community are being thrown out and abused. Over sixty percent are American citizens; yet they are denied on a wholesale scale without due process of law the civil liberties which are theirs. If I were to register and cooperate under these circumstances, I would be giving helpless consent to the denial of practically all of the things which give me incentive to live. I consider it my duty to maintain the democratic standards for which this nation lives. Therefore, I must refuse this order for evacuation."

Signed, "Gordon K. Hirabayashi."

**Gordon Hirabayashi:** I just took a citizen's position and felt that I'm not going to have anything more to do with it. So I just said I'm going to live like an ordinary American, and left it up to the government. I suppose I'll be charged with something and, and, uh, I'd be thrown in the jug.

**Rachel Maddow:** And that is exactly what happens.

Gordon takes his letter to authorities. He turns himself in. He says he will not be reporting for evacuation. And, by the way, he's also happy for them to know that he has also not been obeying the curfew.

**Gordon Hirabayashi:** The curfew part never would've gotten to the court if I weren't keeping a short journal. And when I gave myself up, they took my tablet. They said, "Hey, it says here that you did this and that. You ignored the curfew."

I said, "Yeah, I ignored it."

"When did you ignore it?"

I said, "Well, after about a week. Any number of times. I just lived like other Americans."

And so they tacked on the second count.

**Rachel Maddow:** All alone, all on his own say-so, guided by his own conscience and his own patriotism, his own faith, his own stubbornness, Gordon Hirabayashi defies the curfew, openly. He defies the evacuation order, openly. He turns himself in.

He spends five months in jail awaiting trial. At trial, he is convicted. The judge sentences him to 90 days in a federal work camp in Tucson, Arizona.

There's just one hitch. Literally, a hitch.

Here's writer and historian Frank Abe.

**Frank Abe:** The judge says, "Fine, here's your — you're sentenced for 90 days and you must report to the work camp in Tucson, Arizona. But we have no way of transporting you there." And Gordon said, "Well, can I — if I can get there on my own, will you let me serve my time in the work camp?" And they go, "Okay, fella, best of luck to you." So Gordon Hirabayashi, in fact, hitchhiked from the Northwest down to Arizona.

**Rachel Maddow:** He hitchhikes.

Gordon Hirabayashi is so determined to oppose what the government is doing, so determined to be jailed for refusing to go along with it, as a matter of principle, that he hitchhikes across multiple states to get himself to prison. He sleeps in ditches on the side of the road along the way.

Only to find when he arrives in Tucson that this prison, this federal work camp, they have no idea what to do with him.

**Frank Abe:** Gordon Hirabayashi showed up at the work camp in Tucson, and the authorities there had not been notified and so did not know who he was or what he was doing there.

**Rachel Maddow:** Prison officials have no record of who he is or why he's supposed to report to them. They tell him, "Hey, why don't you just get out of here? Why don't you just go home?"

Gordon tells them, "I cannot go home."

But they won't let him stay. He takes himself into town, into Tucson. He has dinner. He thinks about it, and then he goes back to the prison to insist that they must take him into custody.

**Frank Abe:** He had to, like, show his papers and argue that he had been sentenced to serve time there. And eventually they took him in.

**Rachel Maddow:** It was clear that Japanese Americans were pretty much on their own contending with this thing.

So Gordon Hirabayashi thought, "Well, why not me? I'll do it."

But he was not the only one to see it that way.

There was a young lawyer living in Portland, Oregon, a man named Min Yasui, who had served in the U.S. Army Reserve.

When the curfew order was handed down in Min Yasui's neighborhood, he refused to obey the curfew.

He was a U.S. citizen, he was a lawyer, he knew his rights. And he wanted to openly challenge what the government was doing to citizens like him.

When Min Yasui violated the curfew in Portland, he did it as ostentatiously as possible — almost literally begging to be arrested for it.

It took him longer than he thought it would.

**Min Yasui:** I walked for over three hours, and during that period, I got tired of walking up and down Third Avenue. So I did approach a police officer, and being a smart aleck and being an attorney, I pulled out the proclamation pointing out that it was in violation of a military proclamation. I had my birth certificate with me, and I proved that I was a person of Japanese ancestry. Asked the officer to arrest me, and the officer says, "Look, you'll get in trouble. Go on, run along home."

That certainly didn't serve my purposes, so I went down to the Second Avenue police station and talked to the sergeant and explained what I wanted done. The sergeant obliged me and he threw me into the drunk tank.

**Rachel Maddow:** Min Yasui had this idea on his own, in Portland. Gordon Hirabayashi had this idea on his own, in Seattle. And then there was Fred Korematsu, a 22-year-old welder in Oakland, California.

Fred Korematsu had tried to enlist in the U.S. Army — he wanted to support his country and fight for his country. He was turned away because he was of Japanese descent.

When the orders for removal of Japanese Americans then came down in his neighborhood, Fred's parents and his brothers prepared to be loaded on the trains and sent to the camps. But Fred decided — on his own — that he just would not join them. He couldn't do it.

Here's law professor Lori Bannai.

**Lori Bannai:** When the removal orders were posted in Fred's area, he decided not to report. He was with an Italian American woman he loved and planned to marry, and he wanted to stay with the woman he loved and the place that had always been his home.

**Rachel Maddow:** Fred Korematsu tried changing his name on his ID to avoid being locked up. He even had plastic surgery to try to make himself look less Japanese. But they came and got him anyway.

**Lori Bannai:** He was walking with his girlfriend down a major street in Oakland. Someone must have recognized him, and officers came up to apprehend him. He was taken to jail and charged with violating the removal order.

**Rachel Maddow:** Fred is arrested on the street. He is taken to the San Francisco County jail. They take him from there to an army stockade. When it's time for him to be arraigned for trial, the judge hearing his case actually tries to give him bail. But the military police intervene and say that if he's released on bail, they're going to take him away at gunpoint, so he doesn't get bail. He does eventually stand trial.

He's convicted. And then they take him to the Tanforan racetrack, to the horse stables there, where his mom and his dad and his brothers are all incarcerated.

**Lori Bannai:** The military police escorted him to the Tanforan racetrack. Fred talks, and many Japanese Americans talk, about the miserable circumstances there. Fred said that jail was a whole lot better than camp.

**Rachel Maddow:** Gordon Hirabayashi, Min Yasui, Fred Korematsu — all three of these young men were arrested, criminally charged, and convicted for refusing to go along with the government policy of locking up American citizens on the basis of their race.

All three of them would challenge their convictions and take those challenges all the way to the U.S. Supreme Court.

At great personal sacrifice, these three young men tried to do what the rest of the country wouldn't. They were trying to force the courts to confront this policy, to recognize its unconstitutionality, to force the government to end the mass incarceration of Japanese American citizens.

But there would be one more crucial case. And this one was from a young woman. A young woman whose challenge to this policy scared the U.S. government the most.

**Chuck Rosenberg:** The government was afraid of her case and of her because they were going to lose.

**Rachel Maddow:** That's next.

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**Rachel Maddow:** Mitsuye Endo was born in California. She graduated from public high school in Sacramento. Then she went to secretarial school. She had a brother serving in the U.S. Army. She was a practicing Christian. Her parents were immigrants from Japan, but she herself had never been to Japan. She had never left the United States.

Mitsuye worked for the state of California. She had a good job as a typist at a state agency in Sacramento.

That job lasted until California responded to the attack on Pearl Harbor by firing every person of Japanese descent who worked for the state.

Here's writer and historian Frank Abe.

**Frank Abe:** The state of California went down the list of their employees and anyone with a Japanese name, they sent them a letter. These wild, crazy allegations that she had the ability to read and write the Japanese language, subscribe to Japanese newspapers, that she's a citizen of the Empire of Japan and a subject of the Emperor of Japan, which was nonsense. And accusing her of being a member of certain Japanese organizations violently opposed to the democratic form of government of the U.S. and its principles. These charges drawn from thin air, used as a means to terminate employees of Japanese ancestry.

**Rachel Maddow:** There were several hundred people who were fired by the state that day. About 60 of them decided they would bring a lawsuit to try to get their jobs back. They hired a bit of a wildcat San Francisco lawyer named James Purcell to take their case. Their case, though, almost immediately hit a very unusual roadblock that a lawyer like James Purcell — or frankly, any lawyer — had never really had to contend with before.

**Frank Abe:** In the middle of the case, General DeWitt issued the exclusion order and all the employees were summarily removed to assembly centers.

**Rachel Maddow:** All these people had now not only been fired from their jobs, they and their families were now being sent off to prison camps.

I mean, what's the point of going to court to get your job back if you won't be allowed anywhere near that job if you're going to be stuck living behind barbed wire?

But they didn't want to drop the case. And so their lawyer, he stuck with it. And if he was going to visit with his new clients, he would have to visit with them in their new homes, in the camps.

**Frank Abe:** Purcell went to visit his client and was shocked to see the conditions of his client and his family being housed in horse stalls at the Tanforan Racetrack. James Purcell was shocked at these conditions. James Purcell was the son of a prison guard at Folsom Prison, and he says, "I grew up in prisons. I know a prison when I see one. This is a prison."

**Rachel Maddow:** Seeing his clients living in horse stalls, James Purcell realized the priority was no longer to get his clients their jobs back. It was to use this case to figure out a way to get them out of prison. To figure out a way to get the whole wartime incarceration policy in front of a judge.

The U.S. government should at least have to stand in a court of law and defend its decision to incarcerate all of these thousands of American citizens.

**Frank Abe:** He saw the opportunity to demand the government produce evidence of why these people should be detained. But he needed a plaintiff — someone who ideally had a relative in the

U.S. Army and was not a Buddhist or Shinto religious person because these were considered to be Japanese cultural religions and somehow affiliated with the emperor. He decided he needed to find the perfect plaintiff.

**Rachel Maddow:** He needed to find a plaintiff who was perfect — but also brave. Brave enough to volunteer to put their name on this case.

**Frank Abe:** Mitsuye was the only one who had agreed to be the plaintiff. And she became the named plaintiff in *Endo versus United States*.

**Rachel Maddow:** *Endo versus the United States*. Technically, *Ex Parte Endo*.

Unlike the three young men who had challenged the curfews and challenged their incarceration, Mitsuye Endo had violated no law. She hadn't protested anything or done any civil disobedience. She hadn't stood trial. She hadn't been charged with a crime.

She just filed a petition with the court contending that the way she had been treated by the government was an unconstitutional violation of her rights as a U.S. citizen. And that she, and the thousands of other Japanese Americans locked up by the federal government, they should be set free.

Here's former Justice Department official Chuck Rosenberg.

**Chuck Rosenberg:** One of the remarkable things about Mitsuye Endo is that the government realized that they had a very weak case. She was, quote-unquote, concededly loyal to the United States, and I think Justice Department litigators knew they were going to lose this one.

**Frank Abe:** As her case was winding through district court, the appeals court, and up to the Supreme Court, the government knew it didn't have a strong case. That it was violating the rights of all these Japanese Americans.

**Rachel Maddow:** The government conceded that Mitsuye Endo was a loyal American. And yet, they were still trying to defend not only firing her from her job, but locking up her and her family indefinitely. That is a hard argument to make. That is a hard case to defend. The Justice Department was so afraid they were going to lose this case that they offered Mitsuye Endo a deal. If she dropped her case, they told her they would let her out of the camps. They would set her free.

But it would just be her.

**Chuck Rosenberg:** So they came to her with an astonishing offer, that if she just dropped her case, they would release her from custody and resettle her on the East Coast of the United States. And she refused to do this.

**Frank Abe:** Mitsuye Endo said no. She said no to the government. "No, I will not drop my case. I will do what's right for everyone."

**Chuck Rosenberg:** She wanted her day in court. She wanted to press this, and she did, all the way to the Supreme Court of the United States.

**Rachel Maddow:** Four cases. All barreling toward the U.S. Supreme Court. Gordon Hirabayashi. Min Yasui. Fred Korematsu. Mitsuye Endo. These four principled young Japanese Americans who would not go along. Who put themselves in the way. They would make the government defend what they had done. It's one thing to tell the newspapers lies about Japanese Americans being saboteurs and spies when they're not. It's one thing to refuse to acknowledge the government's own findings, its own conclusions, in order to get this policy enacted.

But in court, the government has to defend its actions with facts. With facts that can be checked. Karl Bendetsen and General John DeWitt had designed the program of mass incarceration for Japanese Americans, and they'd put Bendetsen in charge of implementing it. But now, against these four stubborn, principled Japanese Americans, they were going to have to defend what they had done in court. In court, where you cannot just lie and get away with it. At least you can't get away with it forever.

**Chuck Rosenberg:** Here's the kicker: "It occurs to me that any other course of conduct might approximate the suppression of evidence."

**Aiko Herzig-Yoshinaga:** And so he called, long distance, and raised hell with him. He said, "How — you know, you can't do this."

**Frank Abe:** Bendetsen recalled all 10 copies of this printed final report and ordered that they be burned.

**Rachel Maddow:** That is next time on Rachel Maddow Presents: Burn Order.

Rachel Maddow Presents: Burn Order is a production of MS NOW. This episode was written by myself, Mike Yarvitz, and Kelsey Desiderio.

The series is executive produced by myself and Mike Yarvitz.

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Original music, including our theme music, was created by New York-based Japanese composer Miu Sato.

Special thanks to author, journalist, and professor Adam Schrager. His book on Ralph Carr, which is called “The Principled Politician: The Ralph Carr Story,” is just a great read. It’s a great book. If you want to know more about Ralph Carr and about the lonely, courageous stand that he took, go pick up Professor Schrager’s book. You will not regret it.

An enormous thanks to the organization Densho for providing archival material for the series and for everything that they do.

You can find out much more about this series at our website, [MS.NOW/BurnOrder](http://MS.NOW/BurnOrder).

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**Radio host:** Here’s another flash that’s come in from Denver. “The Colorado legislature meeting in emergency session was reported in reliable quarters today to be considering a resolution asking the impeachment of Governor Ralph Carr. Governor Carr was reported by his office to be in the lower Rio Grande Valley of Texas, where the sunshine spends the winter, soaking up some of the tropical sunshine in South Texas. The indignant legislator said they were resentful of the governor’s enjoyment of tropical sunshine while Denver was digging out of snowbanks. One legislator said he thought the governor should return home forthwith, grab the business end of a shovel, and help keep the home fires burning.”

**Gov. Ralph Carr:** That’s just the fraud and the canard because there isn’t a man in Colorado who ever thought that I ever knew what a shovel was, and I’m confirming that report [Audience laughter].