

# Establishing Mediation as Enterprise: The Career of Anna Rosenberg

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The economic challenges of the Great Depression forced the American business community to recast many of its traditional views and respond to a growing mandate of federal power under the New Deal. However, scholarly interpretation of the activities of business during the New Deal remains varied and sometimes contradictory. Until recently, the predominant story highlighted the efforts of corporate leaders to dominate the making and administration of New Deal industrial policy, often to the exclusion of labor and consumer groups. In doing so, scholars such as Ellis Hawley and Robert Himmelberg have argued that the fledgling arrangement of business-government association in the 1920s flowered under the New Deal and led to the rise of a formalized corporatist state by the end of the 1930s [6, 7].

Kim McQuaid and Colin Gordon have aptly questioned the potency of the “technocorporate” model as a manifestation of business-government relations under the New Deal [13, 4]. As neo-revisionists, McQuaid and Gordon maintain that the varied, albeit adversarial, pattern of business interests (small vs. large, protectionists vs. planners, etc.) often disabled the efforts of American executives to build a united front in response to the New Deal.

With these factors in mind, this study seeks to reveal yet another facet of the complex story of business-government relations in the 1930s. Unlike the works mentioned above, it does not focus on the behavior of business and government in an organizational sense. Instead, it breaks with tradition to investigate the role of individuals, to be more specifically, entrepreneurial consultants and experts, in facilitating dealings between business groups and the state and in formulating industrial policies during the 1930s. While their role has been largely ignored or minimized in New Deal studies, the activities of these experts provide considerable insight into the actual dynamics of business-government dealings in this era. Often, such individuals served as a vital link between large groups and their competing interests, especially in areas of conflict resolution, legislative interpretation and compliance, and labor mediation. Also, these individuals are distinctive, since they were not normally bound to any one firm or agency, and thus escaped formal confines of corporate identification and institutional bureaucracy. Nevertheless, they played an important role in relation to business as they often possessed the exclusive expertise, interpersonal skills, and professional flexibility necessary to obviate the emerging obstacles posed by New Deal legislation, particularly the National Industrial Recovery Act (NIRA) of 1933.

With the coming of the NIRA, businesses and the Federal government were forced to immediately employ individuals capable of mediating industry code agreements (and disagreements) and overseeing legislative compliance. It is at this point that the nascent state of American industrial relations and federal policymaking worked to the advantage of entrepreneurial consultants, whose professional identity, acumen and, experience were often incalculable in traditional terms [5, p. 153; 36, p. 54; 41, pp. 1-10].<sup>1</sup> As Joseph Schumpeter has noted, entrepreneurs often arise in an atmosphere of shifting economic opportunities and uncertain managerial authority. Overall, they seem to triumph in “the whole task of adaptation to ever changing situations” [38, pp. 257-259]. With these traits in mind, one can trace the rise of a new kind of entrepreneur into the emerging “marketplace” of business-government relations in the 1930s – a marketplace in which entrepreneurs gained lucrative opportunities and distinct advantages, not through the tangible means of technology, manufacture, or finance, but through such intangible factors as the lack of legal precedent, clear managerial authority, and formal administrative structures. In an attempt to probe the potency of such entrepreneurial activity under the New Deal, this study will examine the career of one such individual, Anna Rosenberg, an industrial relations consultant who also served as the chief administrator of the National Recovery Administration for the New York region from 1934 to 1935.

In 1950, a former business client praised Anna Rosenberg as the most “enterprising mediator” that he had ever encountered in his executive career [40, p. 5]. The description is fitting particularly as it depicts the inexact nature of her career. Over the course of thirty years, she was able to move from one arena of opportunity to another, seizing all the while enviable private commissions and public appointments, particularly in times of uncertain business conditions and shifting government policy. While she gained a widespread reputation for her mastery of federal regulation, especially in the area of industrial relations, she was not a lawyer, and in fact, lacked any formal education beyond a high school degree. Nevertheless, business clients and federal administrators regularly sought her advice and help, even though her expertise had been gained solely through her own

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<sup>1</sup>As noted by historian Howell Harris, federal intervention into labor disputes was rare before the 1930s and workplace conflicts were treated “inevitably as local affairs...[in which] local governmental power was usually to be found arrayed on the side of capital” [5, p. 153]. The stunted development of the U.S. Conciliation Service (USCS) also underscores the nascent state of federal mediation services prior to the New Deal. Established in 1913 as an arm of the Department of Labor, the USCS handled less than 800 labor complaints a year until the passage of the Wagner Act in 1935. Of those complaints, more than 70% pertained to the railroad industry in violation of the 1926 Railroad Labor Act. After 1935, however, the reach of the USCS into business-labor affairs expanded dramatically, and by 1944 scores of federally-trained mediators regularly had intervened in over 100,000 cases of industrial conflict [41, pp. 1-10]. By 1950 the USCS had come to dominate the field of American industrial mediation and labor arbitration services, handling three out of every four union agreements forged in fourteen leading industries including steel, textiles, automobile manufacturing, rubber, aircraft, industrial chemicals, electrical machinery, and meat-packing. In all, USCS-mediated agreements covered approximately 83% of all workers involved in such industries [36, p. 54].

personal experiences and self-advancement. Rosenberg's case is particularly striking as she was also a woman in a time when public power and business position was largely a realm held by men. How then did major company executives, as well as government officials and labor leaders, come to accept Rosenberg and ask her to manage the volatile New York agency of the NRA? A brief examination of her early career sheds greater light on this question and others.

Like many New Deal officials, Anna Rosenberg was both a social and political activist before assuming leadership of the NRA for New York in November 1934. In the decade previous to her appointment, she had gained a reputation as an outstanding manager of local political campaigns, most notably business mogul Nathan Straus, Jr.'s bid to capture the presidency of the New York Board of Alderman in 1933 [32]. While the Straus campaign suffered a defeat, it nevertheless proved an important one for Rosenberg, as it solidified her growing fame as a savvy political advisor, public strategist, and astute intermediary of competing local groups in New York.

More importantly, the campaign showcased the considerable clout that Rosenberg had amassed with the New York business community since the 1920s. Following in the footsteps of such industrial relations pioneers as Frederick W. Taylor, John R. Commons, and Elting Mayo [9, pp. 54-62], she had opened a consulting firm in 1922 with the intention of aiding businesses in their attempts to adapt to the mounting challenges posed by labor unrest, union organization, and media scrutiny. Like other experts, she worked largely for private companies, which were suspicious, if not hostile, toward unionism and its presence in the American workplace. However, Rosenberg differed from many industrial relations consultants in that she advocated neither punitive measures, e.g. yellow-dog contracts, open-shop, strike-breaking, etc. nor greater corporate welfarism as strategies to end the labor problems of her clients. She shrewdly rejected the notion that an industrial mediator must choose a side when negotiating between two conflicting parties, yet she also realized that her clients would resist any intrusion by labor into the management of their companies. As a result, she actively promoted accommodation through increased internal mediation as an alternative route by which firms could retain managerial authority in the face of labor disputes and union challenges.

Despite her controversial methods, Rosenberg was able to build a profitable mediation practice during the 1920s in which she earned over \$20,000 a year aiding a wide spectrum of New York companies, including department stores, garment factories, and retail outlets in liberalizing their industrial relations policies and practices [37]. By the start of the Great Depression, she had developed warm and lasting friendships with many top New York business leaders, including R.H. Macy, David Sarnoff, and Nelson Rockefeller. Her status as a friend, advisor, and confidante to many executives in the New York business community was confirmed in March 1934 when Nathan Straus Jr., in his newly-acquired position as head of the NRA for the New York region, named Mrs. Rosenberg as his chief administrative officer and director of state compliance [2].

Rosenberg did not attain her appointment solely on the basis of her corporate contacts nor her extraordinary success as a business entrepreneur. Throughout the 1920s, she had also developed a strong relationship with several of New York's leading labor leaders and union organizers. She counted among her labor supporters such heavy-hitters as William Green of the AFL, Joseph Ryan of the New York Building Trades Unions, David Dubinsky of the ILGWU and Sidney Hillman of the Amalgamated Union of Clothing Workers. Over the years, they had voiced their

appreciation for Rosenberg's refusal to adopt an adversarial position against labor when mediating on behalf of her corporate clients [3]. While such public expressions of labor sympathy might be seen as daring (or even foolish) in light of her business interests, Rosenberg nevertheless, managed to maintain into the 1930s an active clientele of New York firms, as well as to gain the confidence and respect of local unions.

The election of New York "people's mayor" Fiorello LaGuardia in 1933 also boosted Rosenberg's status as a public powerbroker and accomplished industrial mediator. While the origins of their relationship is unclear, Rosenberg and LaGuardia forged a quick political partnership in which she served as one of his closest advisors on labor and public relations matters. True to her form as an enterprising mediator, she took advantage of LaGuardia's patronage and by 1934 was seen as the city's leading arbitrator of labor problems and disputes [2]. With the coming of the NRA then, Anna Rosenberg had positioned herself perfectly to become one of its chief administrative "engineers" upon its arrival in New York. Unlike other industrial experts, she possessed a rare set of credentials as an executive able to strike an equitable balance between the interests of local businesses, government and labor. While she had profited handsomely from her mediation activities, she nonetheless had also cleverly crafted a reputation as an individual willing to place the greater public good before private gain. After a brief stint as a coordinator of WPA work projects, Rosenberg landed the job that she seemed born to do: to bridge the traditional differences that had separated business and labor groups and build a new collectivist structure for industrial recovery, managed by the Federal government through the NRA.

From its start in early 1934, the NRA in New York was burdened with special pressures not felt by other states. As a former governor, Franklin Roosevelt had a vested interest in the successful start-up of the NRA in his home state and encouraged NRA Director Hugh Johnson, Mayor Fiorello LaGuardia, and other top local and federal officials to start an agency that would serve as a model for other states. Roosevelt's expectations ran high as New York City had already served as a showcase for such early New Deal programs as the CWA and PWA. Since 1933, cooperation had flourished between city, state, and federal officials involved in the administration of over \$50 million in public relief aid for New York City [11, pp. 292-99].

Nevertheless, implementation efforts for the NRA would require a different type of "team building" in which the active participation and support of private business and labor groups also had to be secured. As NRA officials soon found out, this configuration of private and public cooperation proved very difficult (if not impossible) to mount. Despite the exhaustive efforts of its first two directors, Grover A. Whelan and Nathan Straus Jr., the New York arm of the NRA was floundering badly by the summer of 1934 in its bid to join local business and labor groups together and gain compliance for the newly-enacted federal industrial codes. By the fall, the New York office was plagued by the many problems emanating from federal indecision and inertia in clarifying lines of bureaucratic authority for the NRA. The situation was also magnified by the outbreak of frequent, highly-publicized disagreements between the NRA's federal administrator, General Hugh Johnson and its New York head Nathan Straus Jr. The volatile, ego-eccentric nature of their clashes soon negated any chances for effective negotiation, and in turn created greater public and business confusion over the NRA and its administration

[6, pp. 104-110]. In the end, both Johnson and Straus resigned from their positions, leaving the directorship of the NRA in New York state open by September 1934 [32].

At this point, the Roosevelt Administration desperately needed to install a well-known public figure capable of providing stable administrative leadership for the New York NRA, and one also able to diffuse political conflict, inspire private cooperation, and achieve business compliance. With these factors in mind, the appointment of a woman as the agency's next director seemed highly unlikely, if not unthinkable. The announcement that Anna Rosenberg had been named as Nathan Straus' successor generated more public praise than concern, however, when it appeared in New York newspapers on September 15, 1934. Under such headlines as "Straus Post Given [To A] Woman" [20], the New York press cited Rosenberg's "efficient manner," "wide experience in public affairs," and expertise in "the reorganization of several business houses" in support of her appointment [32]. One paper went as far as to predict that she would prevail in her new job as "Rosenberg [has] mastered the old-fashioned technic [sic], hitherto highly masculine" of "hot political battles" [28]. When asked to offer his appraisal of New York's new NRA chief, Fiorello LaGuardia later told the press that "Anna is a very energetic woman who has an intelligent grasp of the situation... She will make a great success of her ... position" [22].

In many ways, Rosenberg had already laid the groundwork for her leadership of the state NRA offices. While serving as Nathan Straus' aide, she had hired the personnel and set up the administrative structure for the NRA's three main state offices in Buffalo, Albany and New York City [15]. Of greater importance, however, were her efforts in securing business and union representatives for the NRA's Regional Industry and Labor Boards. As these boards were responsible for the drafting of the state's NRA codes, it was crucial that their membership reflect an equitable balance of large and small business interests as well as that of organized labor. Throughout the summer of 1934, Rosenberg waged a high profile campaign to put Straus in contact with a multitude of industry associations and labor groups. While negotiations were rocky at time, she and Straus ultimately prevailed over business suspicion and resistance as several notable executives, including Cyrus S. Ching of U.S. Rubber, David Sarnoff of RCA, and Peter Smith of the Silk Textile Association, agreed to join William Brennan and George Meany of the AFL on the NRA boards [16]. Along the way, she gained the considerable respect and admiration of the New York business community for her careful handling of the NRA in its tumultuous first days. As Straus' aide and later as director, Rosenberg regularly received letters from businessmen expressing their "deep appreciation" for her "courteous service" as they struggled to cope with the NRA [16].

The greatest test of her authority and management of the NRA lay ahead, however, as Rosenberg moved forward to uphold the drafted industry codes under New York's enabling act, the so-called "Shackno Act." From its start in 1934, many local businesses had refused to comply with the act, culminating in an early court challenge launched by a New York automobile sales association against price-fixing provisions outlined by the Motor Vehicle Retail Code [21]. Upon taking office, Rosenberg immediately took steps to calm business ire and misunderstanding over the Shackno Act. She set up a "code authorities speakers bureau" as an information clearinghouse for businesses and arranged to meet personally with as many industry and retail associations as possible [8, p.3]. In doing so, she quickly created an atmosphere in the New York offices of conciliation and empathy towards business concerns and complaints over the NRA.

Despite her outstanding efforts on behalf of business, Rosenberg was often confronted with the unsolvable problem of having to deal with distrustful executives, already in a state of agitation over the NRA, who also resented her presence as a woman administrator. Faced with such a daunting challenge, she nevertheless demonstrated over and over again her mastery in allaying business opposition and gaining command of several of her meetings with executives. In one such instance, she arranged for a hearing of cigar manufacturers and jobbers at the NRA headquarters in New York City in October 1934.

At question was the proposed regulation by the NRA Manufacturers' Code Authority that limited the discount purchase rate for "two for five" cigars at 10%. Unable to negotiate higher discount rates for bulk sales, small cigar distributors and sub-jobbers had protested the code and threatened to turn their "efforts ... toward higher priced products" which would, in turn, create a "demand cessation" for low-cost cigars [39, p. 10]. Such a threat by distributors to boycott the sale of low-priced cigars was not an idle one. As Colin Gordon has noted, mass manufactured "economy brands" had increasingly been on the rise during the Great Depression and comprised ten percent of the total sales market in an industry previously dominated by hand-crafted batch production [4, pp. 78-81]. Despite the potential loss of important bulk sales, manufacturers and cigar moulders unions had banded together to insist on the retention of the proposed discount limits. Declaring the "problem" to be "unsolvable," code authorities chose to "abandon the '2 for 5 Plan'" without negotiating a new solution [39, p. 10]. Fearful that the situation might lead to an entire breakdown of the Manufacturers' Code, Rosenberg quickly moved to meet with members of the local Tobacco Association.

From the start, the evening was highly charged, with distributors lobbing scathing rhetorical attacks aimed at the assembled manufacturers' representatives and the code authorities. After listening to an hour of speeches made by code officials on the "functions and enforcement of NRA policies," Rosenberg finally rose to address the crowd. As one representative noted later:

A seismoscope was not necessary to register the anticipatory rumble which stirred through the audience... Thus far Mrs. Rosenberg hadn't made much of an impression. One wondered how she had come to hold such a position. But now she really came to life [39, p. 10].

In addressing the remarks of one small business-owner on whether she thought that "one percent is enough to make a living," Rosenberg quickly "answered him in such a way that he had no reply to make" expertly countering his "impassioned speech" by "a mere statement of facts." Over and over, she disarmed speakers who "became too animated" through "a... reprimand" and, in one case, silenced a protesting individual by stating "now little man, let's hear your pretty little speech." Instead of enraging the crowd, one commentator maintained that Rosenberg's cool, tough manner "made the usual mud-slinging seem mean and petty." She also impressed the gathered businessmen by her "alert" action in directing the sub-jobbers to attend a separate complaint hearing. In a report on the meeting, the Tobacco Association's newsletter applauded Rosenberg's performance as she had "awed" distributors and sub-jobbers "into smiling submission." While the newsletter praised Mrs. Rosenberg for her triumph over an all-male business forum, it did so through several allusions to her femininity rather than leadership prowess. Highlighting one participant's opinion that she "moved like a goddess and looked like an angel," the article

concluded that “certainly only one possessing the powers of a goddess could have controlled such a group as she did” [39, p. 10].

As in the case of the Tobacco Association, Rosenberg managed to strike other cooperation agreements with several important New York business groups including grocery retailers, furriers, garage owners, and textile manufacturers. In the case of the garage owners, she averted a mass “revolt” by over 100 firms which threatened to turn in their “blue eagle” insignias unless they could return their employees to a seventy-two hour week as opposed to a fifty-four hour week imposed by the NRA [24].

The fine balance that Rosenberg had struck between business cooperation and her pursuit of NRA code compliance was irreversibly upset, however, on February 3, 1935 when the New York State Supreme Court moved to invalidate the Shackno Act. While several newspapers reported that, upon hearing the decision, she had “scoffed at the rule” and “refused to take [it] seriously,” Rosenberg took immediate steps, along with NRA federal administrator W. Averell Harriman and New York Governor Herbert Lehman to shore up the shaky legal foundation of the NRA in the state [18]. On February 19, Harriman announced a new administrative set-up for the NRA which shifted compliance prosecutions out from under the authority of Washington officials into the hands of eight regional officers. In the case of New York, over 35,000 complaints were transferred from the National Compliance Division to the newly-created New York NRA regional office by March 1934 [16].

Under the new regional framework for the NRA, Rosenberg was now able to wield far more power over firms in terms of code compliance, but by doing so she also risked destroying the fragile cooperative alliance she had built with business groups since the fall of 1934. By early March, Rosenberg found herself increasingly at the center of public controversy as she attempted to carry out the prosecution of offending businesses, many of which were in violation of the NRA’s controversial Section 7a. Almost daily, the New York press profiled her vigorous pursuit of business violators, but not always in the glowing terms she had come to enjoy in the past. Many of the articles implied that Rosenberg was showing a strong bias in favor of labor, especially in her efforts to recover back wages from businesses prosecuted under the NRA. She began countering such allegations by emphasizing in news interviews that, while painful for the businesses involved, the rulings were “just” as they had restored \$500,000 in lost wages to deserving workers [27].

As a result of her remarks, Rosenberg continued to lose business support and on March 1, 1935 she suffered the first major business challenge to her authority at the hands of the Grocery Chain Store Executives Association. The Association had condemned the NRA’s prosecution of the James Butler Grocery Company which had refused to raise its employee wages and lower work hours to meet the \$15 and forty-eight hour a week minimum set by the state code authority. In addition, it threatened to mount a “sympathy strike” involving stores unless the ruling was reversed [23, 32]. Frustrated in her attempts to negotiate a compliance agreement with Butler executives and the Association, Rosenberg tried to shore up her eroding relations with the New York business community by calling for a “good-will” meeting of “nearly 1000 executives and members of the code authorities” set for March 7. In doing so, she voiced the hope that business executives would stop obstructing the NRA and help her “pave the way for the immediate disposal of compliant cases pending in the [NRA] offices” [24].

Clearly, Rosenberg saw the March 7 gathering as an opportunity to forge a another cooperative summit with the New York business community over the NRA. To her great disappointment, however, only 350 executives attended the meeting, of whom “two-thirds...were paid code group representatives and about one-third represented industries” [33]. Despite such a poor showing, she tried to rally the gathered executives and gain their support for the new regional set-up of the NRA as it had “particular significance in New York.” “It will serve as a guide to code authorities throughout the United States,” she declared, as 475 of the 600 national code authorities were located in the state. As a result, the regional office would have to “solve a tremendous percentage of NRA industrial and labor problems” [24]. This time, however, Rosenberg’s impassioned remarks failed to move the business leaders towards cooperation and, instead, inspired a resolution from the floor to “throw the NRA overboard.” Unable to gain back control of the crowd, she finally agreed to work for “substantial modifications” to the NRA codes [33].

Despite her pledge, Rosenberg failed to work for changes in the state codes and thus was never able to recover business confidence (if it was ever achieved) for the NRA in New York. Instead, she continued to aggravate business anger by actively pursuing code violators and ushering in judgments against several key industries in New York including fur manufacturers, freight and shipping companies, lumber retailers, pharmaceutical distributors, coal companies, and textile and dye processing firms. At the urging of W. Averell Harriman, Rosenberg also worked closely with New York Governor Herbert Lehman to hammer out a new set of hard-line amendments intended to revive the Shackno Act and increase its enforceability [1]. Whatever political favor Rosenberg may have gained with the Roosevelt Administration in her bid to preserve the NRA for New York, she ultimately lost on a local level as businesses refused in greater numbers to comply with the newly-enacted measures. In response, she finally abandoned mediation in favor of legal enforcement and moved to collect fines from (and in some cases arrest) business owners convicted under the NRA. In late March, she further alarmed the New York business community by forcing the Inter-Triborough Transportation Company to comply with Section 7a of the NRA and permit employees to join other unions besides its own [12, p. 226]. Businesses were particularly concerned over the Triborough case as previous violations prosecuted under Section 7a had been confined to wage and hour disputes, not the legality of company unions or open shop labor practices.

On May 15, the growing stand-off between Rosenberg and the New York business community came to an abrupt halt as the U.S. Supreme Court struck down the NRA through the Schecter “sick chicken” case. In the chaotic days following the Schecter ruling, Rosenberg and her staff worked feverishly to convince businesses not to abandon “fair wage and hour standards” established by the NRA. Their efforts were to no avail, however, as reports streamed into the New York office of firms, especially small businesses and retail stores, who had immediately cut their employees wages from the \$15 a week minimum set by the NRA to \$8 or less [30]. On May 29, 1935, Rosenberg finally ended any confusion over the status of the NRA in New York by admitting in a press conference that she was “no longer legally authorized to enforce the codes” and announced that “all action had been suspended in 5,000 labor cases” pending before the regional office [19].

While the NRA died a certain death in 1935, Rosenberg’s career as a federal expert and business entrepreneur did not. In fact, it flourished in the 1940s as she went on to serve as the first Regional Director of the New York Social Security

Board, a long-time member of Mayor LaGuardia's Business Advisory Committee and as a frequent advisor to the Roosevelt White House on wartime labor and industrial matters [2].

Along with her growing reputation as a federal policy expert, Rosenberg also continued to run her private consulting firm. While astonishing in light of her ill-fated tenure as NRA chief, she managed to expand the profitability of her private firm to such a level that her earnings became the target of an investigation by the House Appropriations Committee in May 1942. When pressed by Michigan Republican Albert J. Engel to give up her "private work" as it posed a "conflict in interest" with her federal position, Rosenberg countered with a written agreement that she had reached with the Social Security Administration "before taking her... post [which] stated that she would accept the Federal job only on condition that she could keep...her private work" [10, 31].

An entrepreneur to the end, Rosenberg had demonstrated once again her extraordinary savvy in determining and acting on a new economic opportunity, in this case the chance to simultaneously derive income from both federal and private sources. Also, she carried off her dealings with the House Committee in such a capable manner that she was able to preserve well into the future her marketability as a federal expert, as well as a respected consultant to private business. The apex of her government career came in 1950 when she survived a brutal attack by Senator Joseph McCarthy to become the first civilian (and woman) to serve as Assistant Secretary of Defense for Manpower. Her consulting firm also thrived and by 1969, it took in an annual profits of \$425,000 based on contracts with such prestigious firms as Lazard Freres, the Blue Cross insurance companies, Xerox, Encyclopedia Britannica, and Litton industries [37].

In conclusion, the career of Anna Rosenberg exemplifies the new breed of business-government "expert" that emerged in the 1930s. Like others of her kind, she managed to overcome the barriers imposed by traditional professions and established a credible need for entrepreneurial consultants who could move freely across the often static institutional frontiers of government, business, and labor. Ultimately, Rosenberg's success, and that of other such experts, rested in her creation of a network of personal associations, rather than her possession of specialized knowledge or professional status. Nevertheless, she profited handsomely from her incalculable ability to facilitate cooperative relations between competing groups, without forcing unwanted political alliances or legal association. In doing so, she helped to pioneer, along with others, the modern state of American government-business relations – a system marked by traditional lines of separation and authority as well as increased interaction, association, and accommodation.

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