

**The Benefit Corporation:  
A Business Corporation Committed  
to Creating Public Benefit**  
(presentation current as of April 28, 2010)

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- B Lab has undertaken an initiative seeking amendments to state corporation laws to authorize “benefit corporations” as a form of business corporation.
- B Lab is a nonprofit organization that has developed the B Impact Assessment, which is a tool for measuring the performance of socially and environmentally responsible businesses.
  - A corporation that meets the required minimum score is licensed to call itself a “certified b corporation”™ and use the b corporation logo.
- Note that “benefit corporation” and “certified b corporation”™ are independent concepts.

the change we seek™ A Supplement to Sustainable Industries

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## 2009 B Corporation™ Annual Report

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*Building  
a New Sector  
of the Economy*

Certification Plus

A New Kind of Corporation

Impact Investing

Profiles of Impact

Profiles of Innovation

An Invitation

B Corp Directory

Contractors, Consulting, Legal Services, Marketing, Communications, Private Equity, Wealth Management, Retail, Restaurant, Real Estate, Pharmaceuticals, Home, Architecture, Personal Care, Banks, Footwear, Apparel, Arts, Food, Hospitality, Biotechnology, Media, Education, Telecom, Clean Tech, Renewable Energy, IT, Financial Services, Building Industry, Developing World, 52B, B2C

**Certified**

**Corporation™**

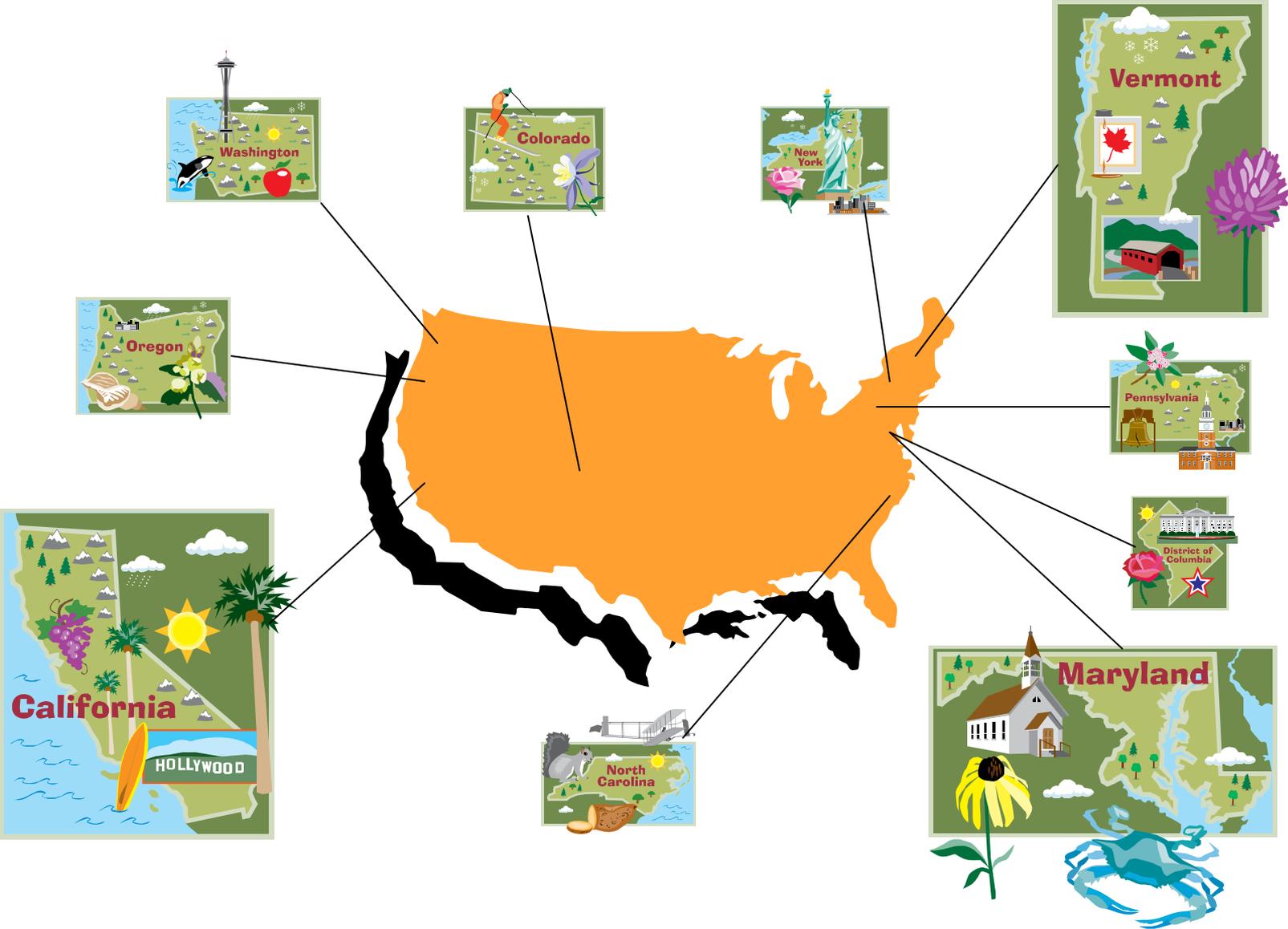
bcorporation.net

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legislation is in various stages in several states

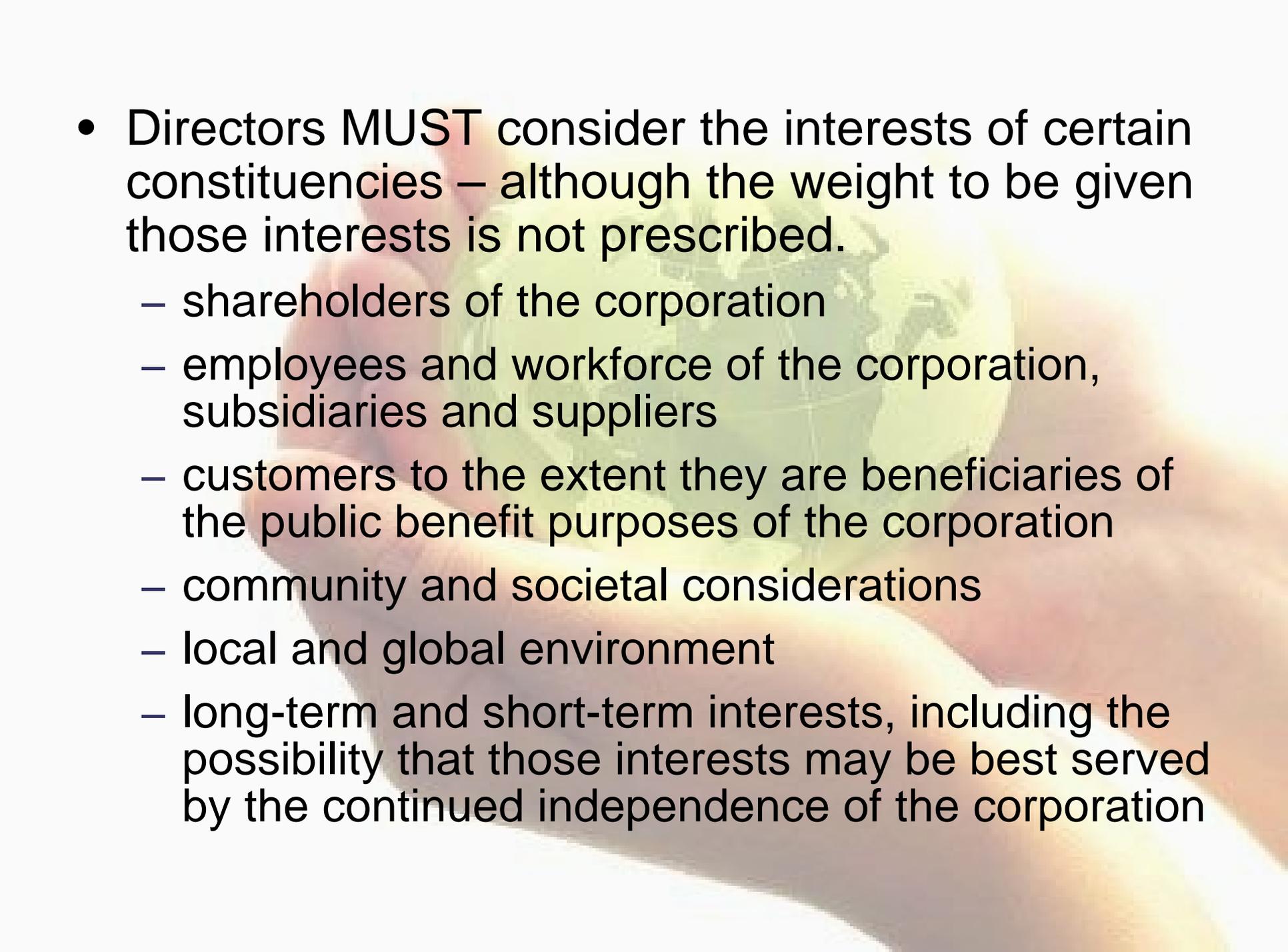


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- **Maryland**
    - law takes effect October 1, 2010
  - **California**
    - Senate Bill 1463
  - **Vermont**
    - Senate Bill 263

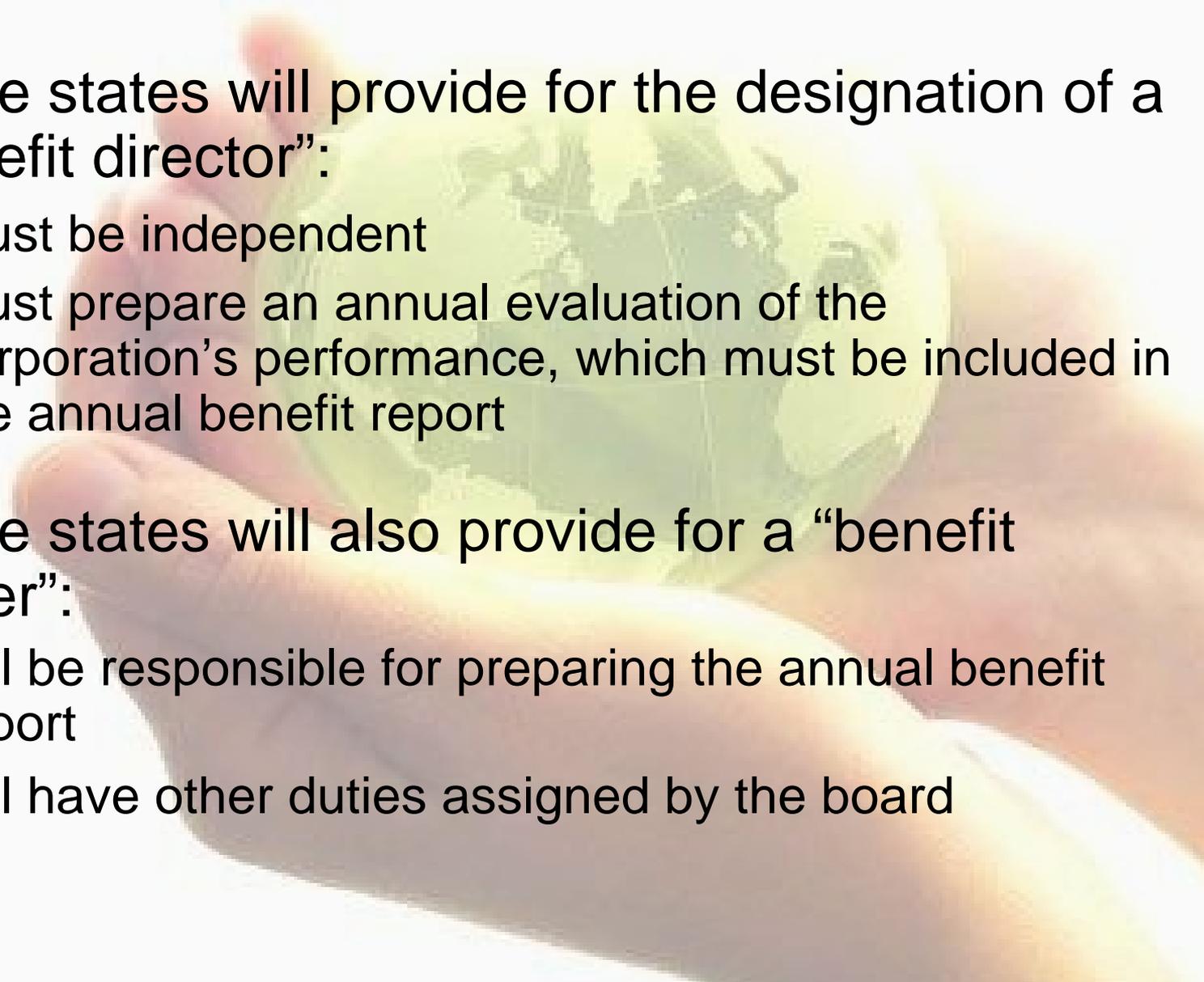
# Benefit Corporations

- One of the purposes of a benefit corporation is to create general public benefit as measured by an independent third-party standard.
- The corporation may also elect to create specific public benefits.
- Creation of public benefit is defined as being in the best interests of the corporation.
- Note that benefit corporations are a type of business corporation and are for-profit.

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- The specific public benefits that a benefit corporation may elect to create include:
    - providing low-income or underserved individuals or communities with beneficial products or services
    - promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business
    - preserving the environment
    - improving human health
    - promoting the arts, sciences or advancement of knowledge
    - increasing the flow of capital to entities with a public benefit purpose
    - accomplishment of any other particular benefit for society or the environment

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- A background image showing a hand holding a globe of the Earth. The hand is positioned in the center, with fingers wrapped around the globe. The globe is slightly out of focus, and the background is a soft, warm-toned gradient.
- Directors **MUST** consider the interests of certain constituencies – although the weight to be given those interests is not prescribed.
    - shareholders of the corporation
    - employees and workforce of the corporation, subsidiaries and suppliers
    - customers to the extent they are beneficiaries of the public benefit purposes of the corporation
    - community and societal considerations
    - local and global environment
    - long-term and short-term interests, including the possibility that those interests may be best served by the continued independence of the corporation

- An officer must also consider those interests when:
  1. the officer has discretion to make a decision, and
  2. the decision will have a material impact on the creation of public benefit
- The corporation must prepare an annual benefit report on its creation of public benefit:
  - report must be given to the shareholders
  - report must be filed with the Secretary of State or, in states where the Secretary of State cannot handle the processing of the report, the report must be given to a member of the public on request
  - report must be posted on the public portion, if any, of the corporation's website

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- Some states will provide for the designation of a “benefit director”:
    - must be independent
    - must prepare an annual evaluation of the corporation’s performance, which must be included in the annual benefit report
  - Some states will also provide for a “benefit officer”:
    - will be responsible for preparing the annual benefit report
    - will have other duties assigned by the board

# Evolution of a capitalist businessman

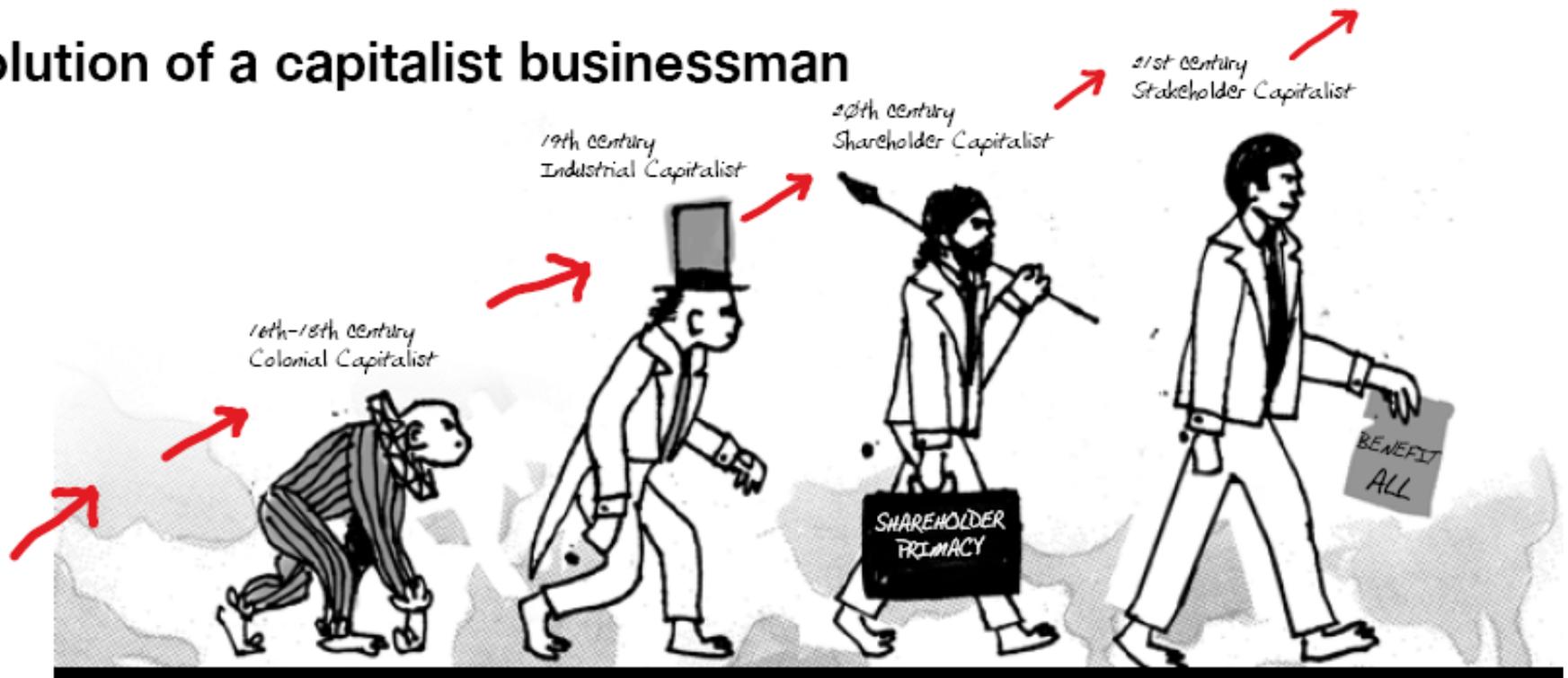


Illustration by: Tim Gough

colonial

industrial

shareholder

stakeholder

## postscript: an irony of corporate law

- In 1983, Pennsylvania was the first state to authorize directors to consider interests other than those of the shareholders.
  - Was purely discretionary.
  - Purpose was simply to provide for excuses to reject hostile takeovers.
- Since 1983, 30 other states have followed Pennsylvania and adopted “constituency statutes.”
  - Like Pennsylvania, all are permissive.
  - Maryland is actually honest enough to provide that its constituency statute only applies in the takeover context.



- The benefit corporation statutes will make the consideration of other interests mandatory.
- What began as a purely self-interested protection of management has become the basis for an outward focus on the interests of others.

